



Strasbourg, 16 November 2009

CDMC(2009)025

**STEERING COMMITTEE ON  
THE MEDIA AND NEW COMMUNICATION SERVICES**

**(CDMC)**

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**11th meeting  
20 to 23 October 2009  
Agora Building, Meeting Room G01  
Council of Europe**

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**Meeting report**

Executive summary

During the meeting, the CDMC:

- finalised a Draft declaration on measures to promote the respect of Article 10 of the European Convention on Human Rights and submitted it to the Committee of Ministers for adoption;
- adopted comments on Parliamentary Assembly Recommendation 1878(2009) on the funding of public service broadcasting;
- agreed on the lists of experts to submit to the Secretary General for its ad hoc advisory groups on Public Service Media Governance (MC-S-PG) and Cross-border Internet (MC-S-CI) and decide to pursue work on the elaboration of a Council of Europe convention for the protection of neighbouring rights of broadcasting organisations;
- as regards making gender equality a reality, decided to present gender statistics prominently in its reports and to consider at a later date concrete proposals for mainstreaming gender issues into CDMC work, including gender budgeting and procedures to test compliance of its output with Council of Europe gender standards;
- held a hearing on multistakeholder participation and decided to pursue efforts to open its work to various stakeholders;
- re-elected its Chair, Vice-chair and two Bureau members and elected a new Bureau member;

- decided in favour of requests for observer status with the CDMC and/or its subordinate bodies by the Permanent Conference of the Mediterranean Audiovisual Operators (COPEAM), Community Media Forum Europe (CMFE), European Digital Rights (EDRI) and European Youth Forum.

## **1. Opening of the meeting**

1. The Steering Committee on the Media and New Communication Services (CDMC) held its 11th meeting from 20 to 23 October 2009 at the Council of Europe's Agora Building in Strasbourg.

2. The gender distribution of the 60 participants in the meeting was as follows: 16 women (26.7%) and 44 men (73.3%). Following elections, the CDMC Bureau is made up of 3 women (42.9%) (including the Chairperson) and 4 men (57.1%) (including the Vice-Chairperson). Proposed lists of experts for its subordinate bodies include 3 women (33.3%) and 6 men (66.7%) in the MC-S-PG and zero women (0%) and 5 men (100%) in the MC-S-CI; in light of the latter, the CDMC asked a female Bureau member to be closely associated to the work of the ad hoc advisory group concerned.

3. The meeting was chaired by Ms Delia Mucică (Romania). The Chairperson welcomed, in particular, those participants attending a CDMC meeting for the first time. She also conveyed a message from Ms Ivana Moric to the effect that, for personal reasons, she will no longer represent Croatia in the CDMC. The list of participants is set out in Appendix I.

4. Mr Jan Kleijssen, Director of Standard-Setting in the Directorate General of Human Rights and Legal Affairs, made opening remarks addressing recent developments in the Council of Europe (election of Secretary General, 60th anniversary of the Council of Europe, situation in the European Court of Human Rights, upcoming Swiss Chairmanship of the Committee of Ministers, ongoing work on a convention on preventing and combating violence against women and domestic violence, and budget discussions). He thanked the Icelandic authorities and congratulated them for the successful organisation of the Reykjavik Ministerial Conference. He also referred to the Madrid Committee of Ministers Declaration: Making Gender Equality a Reality, and complimented the CDMC for engaging with the subject promptly and seriously. He emphasised that the CDMC is also a Council of Europe pioneer in (multistakeholder) participation, a relevant factor for its success.

## **2. Adoption of the agenda**

5. The CDMC adopted the agenda, as set out in Appendix II, and the order of business (document CDMC(2009)OT3) subject to certain changes.

### 3. Decisions of the Committee of Ministers of interest to the work of the CDMC

#### *Texts noted or adopted by the Committee of Ministers*

6. The CDMC noted that, on 8 July 2009, the Committee of Ministers adopted the Recommendation CM/Rec(2009)5 on measures to protect children against harmful content and behaviour and to promote their active participation in the new information and communication environment. Upon the suggestion of the CDMC, the Committee of Ministers invited “*the Secretary General to examine ways in which the Council of Europe could facilitate the implementation of Recommendation CM/Rec(2009)5 and to report back to their Rapporteur Group on Human Rights (GR-H) in due course*”. The CDMC also noted that, to that end, the Deputy Secretary General intended to call a meeting with various bodies of the Council of Europe to identify means for enhanced cooperation with, and the facilitation of cooperation among, member states for the implementation of the recommendation.

7. During the same meeting, the Committee of Ministers adopted the terms of reference of the bodies reporting to the CDMC, namely:

- Committee of Experts on New Media (MC-NM)
- Ad hoc Advisory Group on Public Service Media Governance (MC-S-PG)
- Ad hoc Advisory Group on Cross-border Internet (MC-S-CI)
- Ad hoc Advisory Group on Protection of Neighbouring Rights of Broadcasting Organisations (MC-S-NR)

8. The Committee of Ministers also took note of the abridged reports of the 9th and of the 10th meetings of the CDMC.

#### *Texts from the Parliamentary Assembly of the Council of Europe*

- *PACE Recommendation 1878(2009) on the funding of public service broadcasting*
- *Draft comments by the CDMC on PACE Recommendation 1878(2009)017*

9. The CDMC adopted comments on the PACE Recommendation 1878(2009). It paid particular attention to and highlighted the importance of the wording in paragraph 7 stating that “public value in respect of public service broadcasters or more broadly public media services can only be assessed if they are considered as an integral whole, rather than as discrete and disconnected features of public service” and that “public service media cannot be confined to the subsidiary role, characterised by offering services that do not feature highly on the agenda of commercial broadcasters”.

The Steering Committee agreed on the necessity to pursue consideration of this matter further, in the first instance by organising a consultation on the subject (see paragraph 24).

- *PACE Recommendation 1882(2009) on The promotion of Internet and online media services appropriate for minors*

10. The CDMC examined draft comments on PACE Recommendation 1882(2009) and, in principle, agreed to them subject to certain changes. However, given the need expressed by certain delegations to consult with other national competent authorities, it decided that a revised version be circulated after the meeting for adoption by e-mail exchange.

*PACE Recommendation 1884 (2009) on cultural education: the promotion of cultural knowledge, creativity and intercultural understanding through education.*

11. The Chairperson offered general remarks on PACE Recommendation 1884 (2009) suggesting the general tone of comments that the CDMC might make. The CDMC agreed to consider by E-mail exchange a draft text to be prepared by the Chairperson.

*Texts from the Committee of Ministers*

*- Declaration: Making gender equality a reality, adopted on 12 May 2009, and letter of the 7 July 2009 from the Director General of Human Rights and Legal Affairs to the CDMC Chairperson*

12. The CDMC paid considerable attention to this important matter during a debate introduced by Elfa Ýr Gylfadóttir (Iceland). It noted developments in a number of Council of Europe member states and concrete examples of how gender equality is pursued (e.g. parliamentary quotas, equal representation on lists of candidates submitted for appointment, gender reporting) and gender issues dealt with (e.g. gender mainstreaming and budgeting in policy development, gender equality proofing of legal instruments).

Some of the examples provided by CDMC members showed clearly that, in this area, policy driven change renders positive tangible results.

The Steering Committee concluded that there is significant room for action towards making gender equality a reality in the context of its own work both in terms of process and content. It noted that some industry players and public service media operators have already adopted pertinent policies (e.g. equal representation in editorial boards or in public service media's governing bodies) and civil society organisations (e.g. the European Federation of Journalists) have elaborated related guidance. Some participants acknowledged that some of the CDMC output might have been different should its composition have been more gender sensitive or the gender distribution more balanced among the persons entrusted with the first examination of the issues in question.

13. As regards process, it observed that gender balanced expertise within the CDMC's remit needs to be developed. It may be desirable to review CDMC previous standard setting output from a gender perspective and mainstream gender issues into texts it prepares, also considering the gender budgeting perspective; this could be done by a separate specially mandated group of women from within the CDMC. Gender equality assessment might be conducted systematically before submission of texts for Committee of Ministers' adoption. Given possible impact on content, more detailed statistics should be provided with due prominence in respect of CDMC work (participation in meetings, composition of bodies reporting to the Steering Committee). Finally, the question could also have an impact on discussions concerning an architecture for participation (see paragraph 22).

14. As regards content, if appropriate, new standard setting documents might be produced adding a gender perspective to existing Council of Europe standards in the media and freedom of expression fields. Standard setting instruments could be developed in respect of some of the abovementioned matters; particular attention should be paid to gender matters when elaborating any policy documents concerning public service media governance.

15. With one delegation expressing reservations as regards these matters, the CDMC decided to seek to incorporate gender equality issues in its works, both in process and content

on the basis of more concrete proposals. To this end, the CDMC asked Elfa Ýr Gylfadóttir (Iceland) and Karl Jagdis (United Kingdom) to submit suggestions (concrete proposals and road map for implementation) in time for their consideration at the next Bureau meeting. It also decided, as a first step, to include at the very outset of its meeting reports statistics of the gender distribution of participants in CDMC meetings and other gender-related data. The bodies reporting to the CDMC should follow the same approach.

*Texts from the Congress of Local and Regional Authorities*

- *Recommendation 261 (2009) of the Congress of Local and Regional Authorities on intercultural cities*

- *Comments by the Steering Committee on the Media and New Communication Services (CDMC) on Recommendation 261 (2009) of the Congress of Local and Regional Authorities on intercultural cities - CDMC(2009)013*

- *Recommendation 263 (2009) of the Congress of Local and Regional Authorities on the digital divide and e-inclusion in the regions*

- *Comments by the Steering Committee on the Media and New Communication Services (CDMC) on Recommendation 263 (2009) of the Congress of Local and Regional Authorities on the digital divide and e-inclusion in the regions - CDMC(2009)014*

16. The CDMC noted that its comments on these Congress recommendations, which were finalised through E-mail consultation, were duly transmitted to the Committee of Ministers.

**4. Work programme for the CDMC in 2010 and beyond – Implementation of the decisions taken at the Council of Europe Conference of Ministers responsible for the Media and New Communication Services (Reykjavik, 28-29 May 2009)**

17. The CDMC welcomed the Committee of Ministers' decisions upon consideration of the Secretary General's report of the Ministerial Conference, in particular that the Deputies:

*1. supported the implementation of the action mentioned in the texts adopted by the Ministerial Conference and decided to transmit them to relevant steering and other committees (Steering Committee for Education (CDED), European Committee on Legal Co-operation (CDCJ), Steering Committee for Human Rights (CDDH), Steering Committee on the Media and New Communication Services (CDMC), Committee of Legal Advisers on Public International Law (CAHDI), Committee of Experts on Terrorism (CODEXTER)) for information and action within their respective fields of competence;*

*2. invited, in particular, the CDMC to seek to ensure multistakeholder participation in the implementation of relevant parts of its terms of reference and to give priority attention in that work to the elaboration of legal instruments designed (i) to preserve or reinforce the protection of the cross-border flow of Internet traffic and (ii) to protect resources which are critical for the ongoing functioning and borderless nature and integrity of the Internet (i.e. critical Internet resources);*

*3. invited the Secretary General to make arrangements for the regular organisation of a European Dialogue on Internet Governance (EuroDIG) or pan-European Internet Governance Forum (IGF), in co-operation with interested stakeholders and in partnership with European Union institutions, providing it with Council of Europe Secretariat services;*

4. supported the Secretary General's efforts to identify the best possible way to ensure enhanced in-house and external coordination in respect of Council of Europe information society and Internet governance work;
5. invited the Secretary General to explore ways to strengthen Council of Europe efforts to promote media literacy and encouraged a Council of Europe transversal approach to this work under the stewardship of the Directorate General of Education, Culture and Heritage, Youth and Sport;
6. invited the Secretary General to make technical assistance available to member states wishing to review their national legislation and/or practice in light of their undertaking in the Resolution "Developments in anti-terrorism legislation in Council of Europe member states and their impact on freedom of expression and information".

18. CDMC members expressed the view that the EuroDIG secretariat and the information society and Internet governance coordination (items 3 and 4 of the decisions quoted above) should remain close to the Steering Committee's own Secretariat, i.e. where these work streams started.

19. The CDMC also held an exchange of views on the Secretary General's suggestion for the Committee of Ministers to designate from among the Deputies a Thematic Coordinator on Information Society and Internet Governance, which reproduces a suggestion already made in the Progress Review Report for 2008. Noting that the Deputies had not yet taken a decision, certain CDMC members considered that further consideration should be given to this matter.

In this connection, the Steering Committee noted that the information society and the issue of Internet governance are pervasive topics that are scattered across the Council of Europe (e.g. freedom of expression, building a Europe for and with children online, privacy in social media/networks, democratic participation, cybercrime, the sale of counterfeit medicines on the web, access to the Internet for persons with disabilities).

Information society and Internet governance can have both positive and negative impact on the Organisation's core values. They provide opportunities to promote the full exercise and enjoyment of rights and freedoms. For example, over the last three years, the CDMC has trebled the number of its deliverables with regard to the freedom of expression and information on the Internet. In contrast, one would miss an important opportunity by not embracing information society and Internet governance related issues (e.g. online privacy, persons with disabilities).

There is no one Committee of Ministers rapporteur group dealing with information society and Internet governance related matters; these are scattered across rapporteur groups. The intergovernmental and other Council of Europe bodies dealing with these subjects report to GR-H, GR-J, GR-DEM, GR-C and GR-SOC.

A Committee of Ministers Thematic Coordinator would contribute to ensuring consistency and providing an overview for this type of work, without creating a new rapporteur group. A Thematic Coordinator would provide oversight, leadership and vision to an increasingly important aspect of work, while ensuring the protection and promotion of the Organisation's core values. The contrary could entail fragmentation and lack of consistency, making it difficult for the Committee of Ministers to decide and act effectively. More governmental involvement is also desirable in this growing area of work, in particular by ensuring suitable

Council of Europe member states' representation at relevant European (e.g. EuroDIG) or global fora (e.g. IGF).

The hope was expressed that the Committee of Ministers discuss the merits of this proposal in due course.

20. The CDMC also discussed priorities for its future work and examined a preliminary list of deliverables which was prepared in light of discussions of the first – including preliminary – meetings of its subordinate groups, as set out in the document CDMC(2009)023. It approved the list, subject to changes flowing from item 2 of the Committee of Ministers' decisions set out in paragraph 17 above. The CDMC agreed that, as appropriate, additions should be made to that list following developments in its area of work and the outcome of further meeting of its subordinate groups.

21. *Letter sent by NGOs to the Secretary General of the Council of Europe on the follow-up of the resolution on developments in anti-terrorism legislation*

The CDMC considered the letter in question and took note of the concerns expressed by its authors. It considered too early for the CDMC to engage anew with the issue. It further considered that the commitment of member states to review their national legislation and/or practice on a regular basis to ensure that any impact of anti-terrorism measures on the right of freedom of expression and information is consistent with Council of Europe standards might be a matter for Committee of Ministers follow-up. The Steering Committee decided to place this item on the agenda of its next meeting and consider whether any further CDMC action is called for in light of developments.

## **5. Working methods / Architecture for multistakeholder participation**

22. The CDMC held a hearing on the topic of an architecture for multistakeholder participation (see also items 2 of the Committee of Ministers decisions quoted in paragraph 17), prepared by Garegin Chugaszyan (Armenia) together with other CDMC members, and involving representatives of the European Commission, the European Youth Forum, the Department of Youth in the Directorate General of Education, Culture and Heritage, Youth and Sport of the Council of Europe, DiploFoundation, as well as civil society representatives. Elfa Ýr Gylfadóttir introduced the gender perspective (see paragraph 12 above).

Its conclusion was that participation is a long, iterative process to be undertaken by small steps, that the CDMC should review its own practices and that some concerns need to be addressed. Participation is not only technical, but also strategic and needs to be addressed in consultation with stakeholders. There is a need for new initiatives to widen its work community.

23. The CDMC decided that reflection on the subject should be pursued. The team that prepared the hearing was asked to prepare a report, including a structured synthesis of its work and of the discussions that followed concrete proposals and a roadmap for implementation. The CDMC also supported the suggestions to open up to more observers and to organise more frequent hearings during CDMC meetings. Information on discussions and decisions concerning participation should be brought to the attention of interested stakeholders.

24. It further decided that the next hearing – to be organised during the 12th CDMC meeting – should be on the highly topical issue of the public value test and market impact assessment of new services which public service media propose to offer. This matter, not unrelated to existing Council of Europe standards on public service broadcasting and public service media, is very important for member states. Suggestions are welcome from CDMC members for themes for future hearings; proposals will be considered in the first instance by the Bureau and then submitted to the CDMC for final decision.

## **6. Request for observer status**

25. The Steering Committee considered requests for observer status with the CDMC and/or its groups of specialists from four organisations. It heard a presentation by and held an exchange of views with the representatives of those organisations. It decided in favour of requests for observer status, which the Committee of Ministers is invited to approve, amending the relevant terms of reference accordingly, as follows:

- European Youth Forum with the CDMC;
- Conference of the Mediterranean Audiovisual Operators (COPEAM) with the CDMC;
- Community Media for Europe (CMFE) with the CDMC and the Committee of Experts on New Media (MC-NM);
- European Digital Rights (EDRI) with the Committee of Experts on New Media (MC-NM) and the Ad hoc Advisory Group on Cross-border Internet (MC-S-CI); EDRI should also be invited to attend a forthcoming consultation on neighbouring rights.

## **7. Draft instruments or texts for consideration by the CDMC**

*Draft Declaration on measures to promote the respect of Article 10 of the European Convention on Human Rights (see also point 10 below)*  
(This item was examined in conjunction with item 10).

26. The CDMC approved the draft declaration subject to certain amendments and decided to forward it to the Committee of Ministers for adoption. It also insisted on the importance of considering, as a package, the declaration together with the technical proposals designed to promote the respect of Article 10 of the European Convention on Human Rights.

The CDMC finalised these proposals that should be transmitted together with the draft declaration and noted by the Committee of Ministers. Once adopted, the declaration would provide these proposals with the necessary political backing by member states as well as their commitment to cooperate when appropriate with the Council of Europe in order to improve the situation

The Steering Committee thanked warmly its ad hoc working group which prepared these proposals under the leadership of Matthias Traimer (Austria).

## **8. Implementation of Council of Europe standards on media and freedom of expression prepared under the authority of the CDMC**



27. CDMC members reported orally on steps and measures taken to incorporate into their national legislation and practice standard setting texts on media and freedom of expression prepared under the authority of the CDMC. It noted that impact is wide ranging and sometimes – but not always – acknowledged. It also heard a number of examples, such as:

- Austria is drawing on the draft amending protocol to the European Convention on Transfrontier Television in the context of the transposition of the related European Union Directive into national legislation;
- Finnish law recognising an enforceable right to broadband Internet service is consistent with Recommendation CM/Rec(2007)16 on measures to promote the public service value of the Internet;
- German legal provisions on short reporting took account of Recommendation No. R (91) 5 on the right to short reporting on major events where exclusive rights for their television broadcast have been acquired in a transfrontier context;
- Icelandic media legislation currently under review is inspired on a range of (up to 15) Council of Europe recommendations (e.g. some language proposed is almost identical to that of Recommendation Rec(2004)16 on the right of reply in the new media environment); this inspiration is acknowledged in the recitals that precede the law;
- Romanian audiovisual media law was inspired on and took account of relevant Council of Europe standards;
- Slovak policy on Internet and children was developed paying close attention to Council of Europe recommendations and other work / output;
- Spanish draft audiovisual law is consistent with pertinent Council of Europe standards.

28. The CDMC decided to keep this item on the agenda of its future meetings for the purpose of sharing information on a regular basis. It requested that the Secretariat updates the chart of CDMM / CDMC instruments and follow-up action in order to facilitate examination of further follow-up possibilities by the CDMC. The updated chart should be circulated to CDMC members at the earliest opportunity and made available on the Media and Information Society Division's website.

## **9. Work of CDMC subordinate bodies**

### *Committee of Experts on New Media (MC-NM)*

29. The CDMC took note of the report of the first MC-NM meeting held on 29 and 30 September. Thomas Schneider (Switzerland), Chairperson of the Committee of Experts, informed the CDMC about the discussions during the first MC-NM meeting, the agreed working methods (in sub-groups) and deliverables, i.e. inter alia:

- a policy document on new media;
- guidelines for social networks;
- guidelines for search engines;
- examination of network neutrality

### *Ad hoc Advisory Group on Public Service Media Governance (MC-S-PG)*

30. The CDMC took note of the report, presented by Bissera Zankova (Bulgaria), on a public service media governance consultation meeting held on 17 and 18 September.

It also considered the Bureau's proposals presented by Garegin Chugaszyan (Armenia) for the composition of the group. These proposals took account of expertise, past and present involvement in public service, participation and media matters, as well as actual participation in the consultation meeting. It agreed on a list of experts to submit to the Secretary General of the Council of Europe; although there will be eight reimbursed participants, nine experts are included in this list given that the first agreed to take part at his own expense:

- Mr Pascal ALBRECHTSKIRCHINGER, ZDF, European Affairs Office, Germany;
- Nuno CONDE, State Department for Media Policy, Portugal;
- Lizzie JACKSON, Deputy Head of the Faculty of Communications Media, Ravensbourne College of Design and Communication, United Kingdom;
- Karol JAKUBOWICZ, Chairman, Intergovernmental Council, Information for All Programme (UNESCO), former Director, Strategy and Analysis Department, the National Broadcasting Council of Poland (although he was not able to take part in the consultation meeting);
- Ewan KING, Director of Research, Office for Public Management, United Kingdom;
- Andra LEURDIJK, TNO Information and Communication Technology, the Netherlands;
- Christian S. NISSEN, Independent advisor on media and management, Denmark;
- Tim SUTER, Managing Director, Perspective Associates Limited, United Kingdom (chairperson of the consultation meeting);
- Bissera ZANKOVA, State Agency on Information Technologies and Communications, Bulgaria.

The CDMC recalled the possibility, as stated in the group's terms of reference, for all member states to send at their own expense representatives to MC-S-PG meetings. Further, other persons or representatives of relevant organisations can be invited on an ad hoc basis. As regards youth and in line with discussions at the Reykjavik meeting, CDMC members considered their participation important. The CDMC therefore confirmed that youth representatives should also be invited to MC-S-PG meetings on an ad hoc basis.

*Ad hoc Advisory Group on Cross-border Internet (MC-S-CI)*

31. The CDMC took note of the report by Elfa Ýr Gylfadóttir (Iceland) on the preliminary or consultation meeting on cross-border Internet held on 8 and 9 October. It considered the Bureau's proposals for the composition of the group. These proposals took account of expertise, the ability to convey current thinking and research on Internet governance, international law and human rights law, and also to include government and industry representation. It agreed to submit to the Secretary General of the Council of Europe the following list of experts:

- Mark Kelly, human rights lawyer and consultant, Director of the Irish Council for Civil Liberties;
- Wolfgang Kleinwächter, professor, University of Aarhus, International Association for Media and Communication Research (IAMCR);
- Christian Singer, Director Department III/PT2 Telecommunications Law, Federal Ministry of Transport, Innovation and Technology of Austria;
- Michael Yakushev, Chairman of Board, Coordination Centre for the Russian Federation's ccTLD (.ru);
- Rolf Weber, Professor, Faculty of Law, University of Zurich.

Given that this proposal does not include any women, the CDMC asked Elfa Ýr Gylfadóttir to follow closely the work of the Ad hoc Advisory Group on Cross-border Internet on behalf of the CDMC and its Bureau.

*Ad hoc Advisory Group on Protection of neighbouring rights of broadcasting organisations (MC-S-NR)*

32. The CDMC took note of the letter from Charlie McGreevy, European Union Commissioner for Internal market and services, indicating among other things that the European Commission would like to remain associated to Council of Europe work on the protection of the neighbouring rights of broadcasting organisations. The CDMC also noted discussions within the European Union Council's working party on intellectual property, conveyed by Jukka Lieddes, Finnish expert appointed as special advisor on the subject to the Swedish European Union presidency. A majority of EU member states considered it desirable that this work be pursued within a Council of Europe framework. These developments suggest the possibility that the European Commission receive a mandate to negotiate a Council of Europe convention on the subject of protection of neighbouring rights of broadcasting organisations.

33. The European Broadcasting Union (EBU), which was at the origin of the project, and the Association of Commercial Television (ACT) welcomed these developments and reaffirmed the importance of the work to be pursued by the Council of Europe.

Consequently, the CDMC decided to pursue this work and, as regards the composition of the Ad hoc Advisory Group on Neighbouring Rights, decided to follow the same approach as for the other advisory groups. The group should, in principle, draw from among the experts that took part in the informal stocktaking group, although further candidates suggested by CDMC delegations should also be considered. The Steering Committee agreed that the possibility to suggest experts (by sending suggestions to the Secretariat) be re-opened until 9 November. A preliminary or consultation meeting should permit to draw up a list of five experts to be submitted in due course to the Secretary General.

## **10. Light means to promote compliance with Article 10 of the European Convention on Human Rights**

34. This item was examined in conjunction with item 7 (see paragraph 26 above).

## **11. Internet Governance and implementation of WSIS action lines**

### *European Dialogue on Internet Governance (EuroDIG)*

35. The CDMC welcomed the organisation of the second EuroDIG that took place in Geneva on 14 and 15 September, hosted by the EBU and co-organised by the Swiss OFCOM. CDMC members, observers and Secretariat who attended the event provided information on discussions and conclusions. EuroDIG is good example of IGF-inspired multi-stakeholder exchange and involvement from which topics for future CDMC work could emerge.

The CDMC expressed the view that EuroDIG should continue to be organised and that the Council of Europe should provide the Secretariat (see also paragraph 17 above). The objective should be to ensure that EuroDIG remains a truly pan-European forum with wide stakeholder and geographic representation. Gender and youth representation should also be given due consideration in this context.

The Steering Committee further considered that it might be possible for it to organise or co-organise a workshop or session at the next EuroDIG in order to present and discuss with other stakeholders its work or projects.

*Internet Governance Forum (IGF)*

36. The CDMC took note of the Secretariat's written contribution to the 2009 Internet Governance Forum. The Secretariat provided further information on the preparation of the Council of Europe's participation to this year's IGF, in Sharm Al Sheikh (Egypt) from 15 to 18 November.

It is expected that over 100 workshops will be organised as well as several main sessions. Council of Europe secretariat and invited experts will take part in 7 events which it is organising or co-organising and will act as panellists in the approximately 13 workshops organised by other bodies. The Council of Europe will also organise an Open Forum in which the relation between freedom of expression and management of critical Internet resources and its international law aspects will be discussed

## **12. Standing Committee on Transfrontier Television (T-TT)**

37. The CDMC took note of the following developments in the revision of the European Convention on Transfrontier Television: during its 44th meeting (11 and 12 June 2009), the T-TT finalised the revision of the European Convention on Transfrontier Television (ECTT). The T-TT agreed on the draft text of the second amending protocol to the ECTT and its explanatory report, on the Explanatory report to the revised ECTT, on the Report of the Standing Committee on the revision of the ECTT and on its comments to the Committee of Ministers on the follow up given to Recommendation 1855 (2009) of the Parliamentary Assembly on the regulation of audiovisual media services. The T-TT decided to forward the above mentioned texts to the Committee of Ministers with a view, in particular, to the adoption and opening for signature of the second amending protocol to the European Convention on Transfrontier Television at the earliest possible date.

The CDMC thanked and congratulated the T-TT Secretary for the good work done in this respect.

## **13. Information on the work of, and co-operation with, other Council of Europe bodies, of interest to the CDMC**

The CDMC took stock of relevant activities of other Council of Europe bodies, in particular:

*Committee of Experts on Terrorism (CODEXTER)*

38. Bissera Zankova (Bulgaria) reported on her participation representing the CDMC in the 16th CODEXTER meeting and a conference on "Terrorism and Cyber Security" organised by the Council of Europe and the Organisation of American States Inter-American Committee against Terrorism (OAS/CICTE) both held in El Escorial, Spain, on 15 and 16 as well as 16 and 17 April respectively. The committee warmly thanked Ms Zankova for her availability to participate in these and other activities (see also paragraph 44 below) and for her reports thereon. She was asked to continue to represent the CDMC in event relating to the above-mentioned subjects, while the Steering Committee noted that participation should be

decided on case by case basis having regard to each event's agenda and the availability of budgetary resources.

*European Committee on Legal Cooperation (CDCJ)*

39. The CDMC noted that the CDCJ is finalising a draft recommendation on profiling for Committee of Ministers adoption. The CDMC would welcome it if the draft were to be made available to members.

*Forum for Future of Democracy*

40. The CDMC asked to be informed in due course of the outcomes of the forum that took place in Kiev at the time of its own meeting.

*Intercultural dialogue*

41. The CDMC noted ongoing work on the implementation of the White Paper on Intercultural Dialogue and the relevance in this respect of the CDMC's "Living together" project and publication. It noted, more particularly, the proposed activity to be organised in 2010 within the framework of the Council of Europe annual exchanges on the religious dimension of intercultural dialogue on "The role of the media in fostering intercultural dialogue, tolerance and mutual understanding: freedom of expression of the media and respect towards cultural and religious diversity". The dates being considered are 5 and 6 July 2010. The event will either be held in Strasbourg or hosted by the authorities of "the former Yugoslav Republic of Macedonia". If invited, the CDMC should send a representative to the event, which could inspire future standard setting work (e.g. building on work on a new notion media or media-like mass communication services).

*Cooperation activities in the media field*

42. Ivan Nikoltchev, from the Directorate of Cooperation, informed the CDMC about Council of Europe country or region-specific corporation activities in the media field. He drew attention to the very limited ordinary Council of Europe budget funding for these activities and current difficulties to raise additional funding (joint programmes with the European Commission and voluntary contributions from member states). As a result, not all requests from member states can be met and some activities are under threat of discontinuation in 2010. It remains open to member states to make voluntary contributions towards the funding of these activities.

While recognising the continuing importance of less recent instruments, the CDMC encouraged increased attention in the context of country or region-specific corporation activities to the newer standards it has developed. It requested that an information document with past current and future cooperation activities be regularly prepared for its meetings. It also requested further information regarding projects open for voluntary contribution funding.

#### **14. Other information of interest to the work of the CDMC**

*Presidency of the European Union: on-going and future activities related to Media and Information Society*

43. The CDMC took note of information provided by Artus Rejent (Czech Republic) on activities undertaken during the Czech presidency of the European Union, who also referred to the website of the ministry of culture for information ([www.mkcr.cz/en/media-a-audiovize/default.htm](http://www.mkcr.cz/en/media-a-audiovize/default.htm)). It also took note of information provided by Martin Persson (Sweden)

on activities undertaken and planned during the present, Swedish, presidency of the European Union.

*EFJ annual meeting in Varna: “Managing change: journalists respond to the media crisis”, 15-17 May, 2009*

Bissera Zankova, who attended the meeting on behalf of the CDMC, reported on the debates which, inter alia, were dedicated to the impact of the new communications service on the journalistic profession, the efforts of the European branch of the IFJ in favour of better working and living conditions of journalists and free media and to the preparation of the Varna declaration which was distributed during the ministerial conference in Reykjavik.

*Expert Workshop on Public-Private Partnerships: Engaging with the Media in Countering Terrorism*

44. The CDMC noted that the Council of Europe was invited to take part as speaker on “Public-private partnership initiatives with the media in preventing terrorism and promoting tolerance” organised by the OSCE in Vienna on 19 October. The CDMC was represented by Dunja Mijatovic.

## **15. Elections**

45. The CDMC re-elected Delia Mucica (Romania) as its Chairperson, Andris Mellakauls (Latvia) as its Vice-Chairperson. It also re-elected Garegin Chugaszyan (Armenia) and Luís Santos Ferro (Portugal) for a second term of office as members of its Bureau. It elected Maja Rakovic (Serbia) for a first term of office as member of its Bureau. The remaining members of the Bureau are Elfa Yr Gylfadóttir (Iceland) and Emir Powlakic (Bosnia Herzegovina).

The CDMC warmly thanked Frédéric Riehl for his highly productive contribution to the work of the Bureau CDMC during two consecutive terms of office.

## **16. Administrative and budgetary matters**

46. The CDMC took note of relevant issues and developments relating to administrative and budgetary matters (see also paragraph 2).

## **17. Items to be included on the agenda of the 12th meeting of the CDMC**

47. The CDMC approved the preliminary list of items to be included in the agenda for its 12th meeting (CDMC(2009)019), with the following additions:

- Hearing on the public value test and market impact assessment of new services which public service media propose to offer
- Possible follow up to the commitment of member states to review their national legislation and/or practice on a regular basis to ensure that any impact of anti-terrorism measures on the right of freedom of expression and information is consistent with Council of Europe standards

## **18. Dates of next meetings**

48. The CDMC took note of the dates of CDMC and its subordinate bodies' meetings to be organised in 2010 and of the erratum concerning the 12th meeting of the CDMC, from 8 to 11 June 2010, that will take place in Strasbourg and not in Paris as mentioned in the document.

## **19. Other Business**

*Discussion on the European Convention on the Legal Protection of Services based on, or consisting of, Conditional Access (ECCA)*

49. The Parties to the European Convention on the Legal Protection of Services based on, or consisting of, Conditional Access (ECCA, CETS 178) had their second multilateral consultation meeting on Thursday, 22 October. The CDMC held an exchange of views with the Chair of this meeting, Mr Tomislav JELIC (Croatia) as well as with other ECCA delegates (from Bulgaria, Cyprus, Romania and Switzerland as well as an observer delegate from the European Commission).

50. The CDMC took note in particular of the outcome of an inquiry conducted by the Secretariat in 2008 on the application and appropriateness of this Convention, opened for signature in 2001, which aims to make illegal on the territory of the parties a number of activities which give unauthorised access to protected broadcasting and information society services. The initiative for this inquiry, consisting of two distinct questionnaires, one sent to the Parties to the Convention and a second to the 39 other Council of Europe member States, resulted from the concern for the poor level of ratifications (8) and the difficulty encountered in reaching the quorum of half of the Parties for holding the biannual consultation meetings. The inquiry among States parties to the Convention revealed (with 5 answers out of 8 Parties) that the legislation required by the Convention was in place but that Parties had little information about the effects and/or the appropriateness of the convention. The fact that this convention is implemented by at least two, usually more, different government agencies might explain this as well as the difficulty of contracting states in appointing delegates to attend the ECCA consultation meetings. The inquiry among member States who did not ratify the Convention revealed that a overwhelming majority out of the 22 (out of 39) replies, indicated that the Convention was necessary and appropriate. However, only a minority indicated that they were concretely considering ratification of the Convention.

In conclusion, the observer delegate of the Association of Commercial Television in Europe, indicated he would try and mobilise the industry and stakeholders concerned in attracting the attention of member states to the importance of ratifying the convention.

## **20. Abridged report**

51. The CDMC adopted the draft abridged report on the meeting to be submitted to the Committee of Ministers (cf. document CDMC(2009)020).

**ANNEXE I****LIST OF PARTICIPANTS****MEMBER STATES / ETATS MEMBRES****Albania/Albanie**

Mr Ralf GJONI, Chief adviser to the Deputy Prime Minister and Minister of Foreign Affairs of the Republic of Albania, Spokesperson of the Ministry of Foreign Affairs of the Republic of Albania

**Andorre/Andorra**

*Apologised/Excusé*

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Mr Matthias TRAIMER, Head of Department, Media Affairs and Information Society, Federal Chancellery

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Mr Araz Aliyev, Consultant for “Azellsh” Ltd

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*Apologised/excusé*

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\* \* \*

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\* \* \*

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**Article 19****Youth Forum**

Mrs Letizia GAMBINI, Relations publiques

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Mrs Alessandra PARADISI, Secrétaire Générale

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#### **INTERPRETERS / INTERPRETES**

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Jennifer GRIFFITH  
Sheherazade HOYER  
Marie-José HALT

**APPENDIX II**  
**MEETING AGENDA**

- 1) Opening of the meeting
- 2) Adoption of the agenda
- 3) Decisions of the Committee of Ministers of interest to the work of the CDMC
- 4) Work programme for the CDMC in 2010 and beyond – Implementation of the decisions taken at the Council of Europe Conference of Ministers responsible for the Media and New Communication Services (Reykjavik, 28-29 May 2009)
- 5) Working methods / Architecture for multistakeholder participation
- 6) Request for observer status
- 7) Draft instruments or texts for consideration by the CDMC
- 8) Implementation of Council of Europe standards on media and freedom of expression prepared under the authority of the CDMC
- 9) Work of CDMC subordinate bodies
- 10) Light means to promote compliance with Article 10 of the European Convention on Human Rights
- 11) Internet Governance and implementation of WSIS action lines
  - EuroDIG
  - IGF
- 12) Standing Committee on Transfrontier Television (T-TT)
- 13) Information on the work of, and co-operation with, other Council of Europe bodies, of interest to the CDMC
- 14) Other information of interest to the work of the CDMC
  - Presidency of the European Union: on-going and future activities related to Media and Information Society
- 15) Elections
- 16) Administrative and budgetary matters
- 17) Items to be included on the agenda of the 12th meeting of the CDMC
- 18) Dates of next meetings
- 19) Other business

20) Abridged report

### **APPENDIX III**

#### **Draft Declaration on measures to promote the respect of Article 10 of the European Convention on Human Rights**

Freedom of expression and information and freedom of the media are indispensable for genuine democracy and democratic processes. When those freedoms are not upheld, accountability is likely to be undermined and the rule of law can also be compromised. All Council of Europe member states have undertaken to secure to everyone within their jurisdiction the fundamental right to freedom of expression and information, in accordance with Article 10 of the European Convention on Human Rights.

The enforcement machinery provided for in the European Convention on Human Rights, namely the European Court of Human Rights, operates in relation to alleged violations of Article 10 brought before the Court after exhaustion of domestic remedies. This machinery, together with the execution procedure, has achieved considerable results and continues to contribute to improve respect for the fundamental right to freedom of expression and information.

In addition to redress for violations, other means for the protection and promotion of freedom of expression and information and of freedom of the media are essential components of any strategy to strengthen democracy. The Council of Europe has adopted a significant body of standards in this area which give guidance to member States. It is important to strengthen the implementation of those standards in the law and practice of member States. The promotion of the respect of all the provisions of Article 10 of the European Convention on Human Rights is therefore a priority area for Council of Europe action. It requires the active support, engagement and cooperation of all member states.

Various Council of Europe bodies and institutions are able, within their respective mandates, to contribute to the protection and promotion of freedom of expression and information and freedom of the media. The Committee of Ministers, the Parliamentary Assembly, the Secretary General and the Commissioner for Human Rights and other bodies are all active in this area. The action taken by other institutions, such as the OSCE Representative on Freedom of the Media, as well as civil society organisations, must also be acknowledged and welcomed.

The Committee of Ministers takes note of proposals made by the Steering Committee on the Media and New Communication Services (CDMC) to increase the potential for Council of Europe bodies and institutions to promote, within their respective mandates, respect of Article 10 of the European Convention on Human Rights.

In line with those proposals, the Committee of Ministers invites the Secretary General to make arrangements for improved collection and sharing of information and enhanced coordination between the secretariats of different Council of Europe bodies and institutions, without prejudice to the respective mandates and independence of those bodies and institutions.



The Committee of Ministers reaffirms all member States' commitment to cooperate with the Council of Europe in ensuring compliance of national law and practice with the relevant standards of the Council of Europe, guided by a spirit of dialogue and cooperation.

The Secretary General is invited to implement these proposals, by putting into place the information collection and coordination arrangements mentioned above.

The Secretary General is further invited to report to the Committee of Ministers and to the Parliamentary Assembly on the implementation of these arrangements and to conduct within three years an evaluation on their functioning and effectiveness.

## APPENDIX IV

### **Proposals for enhancing the means available to the Council of Europe to promote respect of freedom of expression and media freedoms in the member States prepared during the consultation meeting on the subject**

(to be considered together with the draft Declaration on measures to promote the respect of Article 10 of the European Convention on Human Rights)

Member States' respect of freedom of expression, media freedoms and access to information (Article 10 ECHR) is crucial for the realisation of the core objectives of the Council of Europe which are to promote and protect human rights, pluralist democracy and the rule of law. The CDMC is therefore of the opinion that promoting compliance with Article 10 ECHR should be regarded as a priority area of action for the Council of Europe and benefit from appropriate budgetary resources. Having examined the current situation and existing structures, the CDMC has arrived at the following conclusions and proposals for enhancing the means available to the Council of Europe to promote respect of freedom of expression and media freedoms in the member States:

1. **Enhanced information collection:** it would be important to **designate a dedicated focal point** (small unit) within the Secretariat where information about relevant developments would be collected from various sources, including Council of Europe bodies and organs, international organisations as well as civil society and other stakeholders. Such a focal point could also play an important role in sharing such information both with relevant services of the Council of Europe (Private Office of the Secretary General, Office of the Commissioner for Human Rights; secretariats of the Committee of Ministers and of the Parliamentary Assembly, different services of the Directorate General of Human Rights and Legal Affairs, etc) and with other international organisations, in particular the OSCE Representative on Freedom of the Media.
2. **Enhanced coordination:** it would be important for the relevant services of the Council of Europe (brought together in a liaison group) to exchange information regularly about any actions initiated, dialogue established and their follow-up. It is understood that this would be without prejudice to the independence of action of any of the bodies or institutions involved. The objective is not coordination in any formal way, but ensuring that, in appropriate cases, at least one organ of the Council of Europe takes up the issue and initiates action and that all actors involved are aware of action being taken. Where applicable and appropriate, exchange of information and coordination should also concern the arrangement and outcome of technical and political follow-up as outlined below. It would be desirable to associate in this liaison group the relevant services of the Council of Europe mentioned in the previous paragraph, for example by designating a contact person in each of the relevant offices and secretariats. Appropriate liaison with the office of the OSCE Representative should be ensured. The liaison group could be asked to provide, as and where appropriate, regular information on issues raised, activities undertaken and good practices identified. This could be done, for example, by the creation of a dedicated

website. In addition, annual reports could be prepared for the Secretary General in view of their presentation in his annual statements to the Committee of Ministers and the Parliamentary Assembly. As these reports may be a possible source of inspiration for future intergovernmental work they would also be brought to the attention of the CDMC for consideration or possible action within its mandate.

3. **Enhanced technical follow-up (expert assistance):** it would be important that, whenever a Council of Europe body (whether it be the Secretary General, the Commissioner for Human Rights, the Parliamentary Assembly or the Committee of Ministers) draws a member state's attention to a specific question of respect of Article 10 ECHR, the Council of Europe has the necessary resources to provide the country with prompt assistance in finding a solution compatible with Council of Europe standards. In order to be effective, such expert assistance should be rapid, sustainable, based on independent expertise, dialogue with the national authorities and stakeholders and sharing of good practice. It could take (a combination of) various forms (expert opinions on draft legislation, policy advice, dialogue/round table meetings between national experts and Council of Europe experts, etc). In accordance with current working methods of the Directorate of Cooperation, it would seem advisable to use a pool of high-level media experts with various specialisations from which a tailor-made selection is made in each case depending on the specific issue at hand. The existing Council of Europe's cooperation programmes are not sufficiently flexible to ensure funding in all cases. Given the priority of action with regard to issues related to freedom of expression, the CDMC is of the opinion that sufficient funding should be allocated to finance such targeted cooperation activities as much as possible from the ordinary budget of the Council of Europe. In addition, member States should be invited to make voluntary contributions. The Human Rights Trust Fund as well as other sources might also be asked to consider funding possibilities. In any event, funding arrangements should offer adequate flexibility to allow for rapid availability of resources as and when needed.
4. **Enhanced political follow-up:** in case of reluctance to cooperate with the Council of Europe or if the dialogue does not lead to a satisfactory solution, it will be important for the relevant bodies of the Council of Europe, each within the scope of their competences, to take any further action deemed appropriate.
5. **Evaluation:** the Secretary General could be invited to present an evaluation on the implementation of the above proposals after a period of three years.

## APPENDIX V

### **Comments by the Steering Committee on the Media and New Communication Services (CDMC) on Parliamentary Assembly Recommendation 1878 (2009) on the funding of public service broadcasting**

1. The CDMC warmly welcomes Parliamentary Assembly Recommendation 1878 (2009) on the Funding of Public Service Broadcasting. The Recommendation is well-timed, coinciding as it does with the revision of the European Convention on Transfrontier Television and the recently published European Commission Communication on the Application of State Aid Rules to Public Service Broadcasting.

2. The timing of the Recommendation is particularly apt given the current global financial crisis and recession. In member states where there is either mixed funding or the public service broadcasters rely solely on state subsidies, governments may be tempted to see public service broadcasters as fair game for cuts in their subsidies and indeed, in some member states this has already happened.

3. The CDMC appreciates the Assembly's reinforcement of the importance of public service broadcasting and the vital role it plays in a democratic society through the maintenance of a plurality of opinion, the provision of unbiased information, educational and cultural content that private broadcasters could not be expected to provide without public funding.

4. Similarly, the CDMC notes the Assembly's recognition of the need for public service broadcasters to make full use of all the technologies and platforms currently available and those of the future in order to provide high quality programming to the widest audience possible.

5. The Recommendation rightly points out the need for public service broadcasters to provide value for money and for them to be fully accountable to the public they serve.

6. The reference to developments in the EU with regard to public service broadcasting (paragraphs 10 and 11) is a poignant reminder of the essential difference between the two organisations (Council of Europe and European Union). Although not specifically mentioned in the Recommendation, the European Commission Communication on the Application of State Aid Rules to Public Service Broadcasting has, in the drafting process, highlighted the friction between public services and private media and was seen by some as a concerted attempt to weaken the position of public broadcasters and an encroachment on the member states' right to determine their own media policy. Paragraphs 10 and 11, while tactfully formulated, are, nevertheless, an unambiguous exposition of the problems faced by those Council of Europe member states that are also bound by EU rules.

7. Having regard to the CM Recommendation Rec(2007)3 on the remit of public service media in the information society, the CDMC considers that public value in respect of public service broadcasters or more broadly public media services can only be assessed if they are considered as an integral whole, rather than as discrete and disconnected features of public service. More particularly, public service media cannot be confined to a subsidiary role, characterised by offering services that do not feature highly on the agendas of commercial broadcasters.

8. The assertion in paragraph 12 that “public acceptance of funding public service broadcasting is decreasing” in view of greater content becoming available on other platforms is, perhaps, to overstate the case. It might be truer to say that the public has become more demanding in terms of quality programming and value for money when it comes to paying either indirectly through taxes or directly through licence fees. However, this does not detract from the message of the paragraph in that public service broadcasting is of particular importance in smaller states.

9. Paragraph 16 calling for action by member parliaments is not only a useful reminder of what member states have already subscribed to by way of various instruments but also points out that part of the public service remit may be allocated to commercial broadcasters as is already the practice in some member states. Indeed, commercial organisations may also enjoy the status of being public service broadcasters, as noted in the explanatory memorandum.

10. The CDMC notes the Parliamentary Assembly’s endorsement of the Ministerial Conference (Reykjavik, 28-29 May 2009) Action Plan (paragraph 17) and the invitation to ministers to reaffirm their commitment to it at the national level. The CDMC would, however, draw attention to part 3, which speaks of Europe-wide co-ordination of national policies for public service broadcasting. Neither the Council of Europe nor the CDMC is responsible for co-ordinating national policy and indeed this runs counter to the spirit of paragraph 10 of the Recommendation. The CDMC fully supports international co-operation in the setting of standards but it is the role of the member states themselves to determine national policy.

11. The Action Plan does not foresee the co-ordination of national policies but speaks of the possible elaboration of “a policy document containing guidance for member states on governance approaches for public service media”. (This task is also within the terms of reference of the CDMC Ad hoc Advisory Group on Public Service Media Governance (MC-S-PG). With a view to preparing the work of the latter, a consultation meeting on the matter was held in Strasbourg on 17 and 18 September 2009. One of the main conclusions of the meeting was that governance approaches for public service media should respond to technological and socio-cultural changes; at the same time, principles of openness, transparency and accountability should be fully respected).

12. The Assembly rightly calls on the Committee of Ministers to forward the Recommendation to the institutions it concerns (ministries, regulators and the broadcasters) and it might be assumed that the reference to requesting assistance from the European Audiovisual Observatory (paragraph 18.2) is the follow-up action or future review of developments in the funding of public service broadcasters that is very necessary. The Observatory has recently published a most valuable edition of IRIS Plus “The public service remit and the new media” with much information that directly concerns this Recommendation.

13. Finally, the CDMC considers this Recommendation to be a timely and useful addition to the arsenal of instruments elaborated by the Council of Europe in support of public service broadcasting.