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EUROPEAN COMMITTEE ON DEMOCRACY AND GOVERNANCE (CDDG)

ACTIVITIES OF THE COMMITTEE OF MINISTERS AND OTHER COUNCIL OF EUROPE BODIES

(from April to October 2021)

Secretariat Memorandum
prepared by the
Directorate General of Democracy
Democratic Governance Division

1. Introduction

This document aims to update the CDDG on recent Council of Europe work in the field of democracy and governance, as well as in areas of particular relevance for activities of the committee or the Centre of Expertise for Good Governance, since the 13th meeting in April.

2. Secretary General of the Council of Europe

In May, Secretary General Marija Pejčinović Burić released her latest [annual report on the state of democracy, human rights and the rule of law across the continent](#), entitled “A democratic renewal for Europe”. In her preface, she refers to the democratic backsliding in the context of the pandemic and to the danger that our democratic culture will not fully recover. It is also stressed that democracy is essential for maintaining human rights and the rule of law and that the three pillars are inseparable “If one weakens, so do the others”.

3. Committee of Ministers

On 31 March, the Ministers’ Deputies adopted Recommendation **CM/Rec(2021)1 of the Committee of Ministers to member States on the development and strengthening of effective, pluralist and independent national human rights institutions**.

Hungary took over the **Presidency of the Committee of Ministers** from Germany in May 2021. The [priorities](#) of the Hungarian Presidency are 1) promoting the effective protection of national minorities, 2) interreligious dialogue, 3) “next generation”: children’s rights, youth participation, and Roma inclusion, 4) technological challenges and 5) environmental challenges. Italy is taking over the Presidency as from November (17 November 2021 - May 2022). Further information is available on the [chairmanship webpages](#).

On 5 May, the Ministers’ Deputies adopted i.a. **Guidelines of the Committee of Ministers of the Council of Europe on upholding equality and protecting against discrimination and hate during the Covid-19 pandemic and similar crises in the future** ([link to further information](#)).

On 21 May, at their annual session, the Foreign Affairs Ministers i.a. agreed on a **Strategic Framework for the Council of Europe for the next four years**. They underlined the organisation’s role and responsibility for ensuring the implementation of its conventions, developing new legally-binding standards in response to new challenges, and providing assistance to member states through its co-operation programmes. They also recalled the importance of co-operating with the main international partners and - when it comes to unresolved conflicts - working together towards political solutions in conformity with the norms and principles of international law. According to the strategy, the organisation’s objectives will focus on strengthening the effectiveness of the European Convention on Human Rights; a review of Council of Europe monitoring mechanisms with a view to enhancing their efficiency; pursuing the ongoing consideration of the European Social Charter system; vigorously pursuing the participation of civil society in Council of Europe activities ([link to further information](#)).

In the beginning of November, the Committee adopted a Recommendation aiming to respond to the **radical changes in profiling techniques** in the last decade and to the consequent need for additional safeguards to protect personal data and private life of individuals. The text, which updates a previous recommendation on the same topic adopted in 2010, aims to align its provisions with the modernised data protection "Convention 108", known as "Convention 108+". ([link to further information](#))

3.1 Requests for input to the CDDG

It is recalled that:

1) At their 1402nd meeting on 28 April 2021, the Ministers' Deputies agreed to communicate, for information and possible comments, to the CDDG, Recommendation 453 (2021) - "Ensuring the respect of the European Charter of Local Self-Government in major crisis situations", adopted by the Congress on 24 March 2021 (see [document CG\(2021\)40-07final, explanatory memorandum](#)). In this recommendation, the Congress invites the Committee of Ministers to encourage the competent authorities of the member states, in managing the Covid-19 health crisis and its consequences, to take greater account of local authorities and their needs, interactions between the national and the local level and citizen participation, in particular. The CDDG adopted comments by written procedure (see annex 1 to this document) which were subsequently submitted to the Committee of Ministers.

2) At their 1403rd meeting on 5 May 2021, the Ministers' Deputies agreed to communicate to the CDDG (and the Venice Commission), for information and possible comments, Recommendation 2200 (2021) - "Urgent need for electoral reform in Belarus", adopted by the Parliamentary Assembly on 21 April 2021; see <https://pace.coe.int/en/files/29173>. The CDDG adopted comments by written procedure (see annex 2 to this document) which were subsequently submitted to the Committee of Ministers.

3) At their 1409th meeting on 7 July 2021, the Ministers' Deputies decided to communicate to the CDDG (as well as to other committees and bodies), for information and possible comments:

- Recommendation 2204 (2021) - "Media freedom, public trust and the people's right to know" (see <https://pace.coe.int/en/files/28361>). It is worth emphasising that this text recommends entrusting other committees with certain tasks which are of primary importance to the CDDG itself (transparency, public accountability etc), but without even naming the CDDG.
- Recommendation 2208 (2021) - "Transparency and regulation of donations to political parties and electoral campaigns from foreign donors" (see <https://pace.coe.int/en/files/25290>),

which were both adopted by the Parliamentary Assembly on 22 June 2021. The CDDG adopted comments by written procedure (see annex 3 hereinafter) which were subsequently submitted to the Committee of Ministers.

4) At their 1412th meeting on 22 September 2021, the Ministers' Deputies agreed to communicate to the CDDG, for information and possible comments, Recommendation 455 (2021) "Recurring issues based on assessments resulting from Congress monitoring of the European Charter of Local Self-Government and elections observations missions (reference period 2017-2020)", adopted by the Congress during its 40th Session (15-17 June 2021); see [https://www.coe.int/en/web/congress/adopted-texts#%2258558568%22:\[0\]](https://www.coe.int/en/web/congress/adopted-texts#%2258558568%22:[0]). The CDDG's comments adopted by written procedure appear in annex 4)

5) At their 1416th meeting on 3 November 2021, the Ministers' Deputies agreed to communicate to the CDDG, for information and possible comments, Recommendation 2212 (2021) "More participatory democracy to tackle climate change", adopted by the Parliamentary Assembly on 29 September 2021; see <https://pace.coe.int/en/files/29516>. The draft comments, to be considered by the CDDG, appear in a specific document of the present 14th CDDG meeting.

3.2 Responses of the Committee of Ministers to Recommendations of the Parliamentary Assembly

The Committee of Ministers has responded to the following earlier Recommendations of the Parliamentary Assembly, in respect of which it had sought comments from the CDDG:

- Parliamentary Assembly Recommendation 2179 (2020) "Democracies facing the Covid-19 pandemic": the response published on 28 April 2021 makes ample use of information which had been submitted by the CDDG and references to its work – [link to the response](#)
- Parliamentary Assembly Recommendation 2181 (2020) "Need for democratic governance of artificial intelligence": the reply was published by the Committee of Ministers on 7 July 2021 – [link to the response](#)

4. Parliamentary Assembly of the Council of Europe (PACE)

Apart from the activities mentioned under the previous chapter on the Committee of Ministers, which concerned the CDDG directly, the following can be highlighted for the period under review.

In its [Resolution 2386\(2021\)](#) of June 2021 **“Enhancing participation of women from under-represented groups in political and public decision making”**, PACE calls on Council of Europe member States, observers and partners for democracy i.a. to work towards the implementation of the Council of Europe Gender Equality Strategy 2018-2023 and raise awareness of the added value of inclusive political environments; to ensure that all public institutions apply zero tolerance for violence, discrimination and abuse; to repeal discriminatory legislation against all under-represented groups, which hinders their participation in political and public decision making; to implement Committee of Ministers Recommendation No. R (2003) 3 on balanced participation of women and men in political and public decision making; to collect disaggregated data and support research on the participation of women from under-represented groups in political and public decision making, and analyse the composition of parliaments at national and regional levels with an intersectional perspective. The Assembly also encourages political parties to take a series of similar initiatives.

In relation to the **COVID-19 pandemic and the management of its consequences**, PACE adopted also in June Resolution 2384 [“Overcoming the socio-economic crisis sparked by the Covid-19 pandemic](#) (leading to Recommendation 2205 (2021)), as well as Resolution 2383 [“Covid passes or certificates: protection of fundamental rights and legal implications”](#) in which the Assembly calls on the Member States to, i.a., ensure that measures such as Covid passes that exempt their holders from certain restrictions on protected rights and freedoms are applied in such a way as to maintain effective protection against the spread of the SARS-CoV-2 virus and avoid discrimination. More concretely: to ensure that vaccination is available to everyone equally; that different categories of Covid passes are available to groups of people with different characteristics that are proven to reduce their risk of transmitting the SARS-CoV-2 virus; that the availability of Covid passes based on recent negative tests is not limited to those with the ability to pay, on account of tests being unduly expensive etc.

In September 2021, PACE adopted **a set of Guidelines on the scope of the parliamentary immunities enjoyed by members of the Parliamentary Assembly** for these to serve their institutional purpose, while preventing the possible misuse of privileges by parliamentarians for personal purposes (see <https://pace.coe.int/en/files/29484>). It has also amended its rules of procedure **to promote gender balance in the Assembly** (see <https://pace.coe.int/en/files/29495>).

On 21-22 October, **the European Conference of Presidents of Parliaments** was held (hosted by Greece). Three issues were debated: Democracies facing the Covid-19 public health crisis: sharing experiences; '#EnvironmentRightNow': national parliaments and the right to a healthy and sustainable environment; The common future of all European citizens.

Work in the PACE committees

Committee on political affairs: it has adopted a report containing a draft resolution for the Assembly to promote assemblies of citizens as these represent a way to “tap into collective wisdom, restore trust in politics and allow citizens to reclaim the public space which has been taken over by social media”.

See <https://pace.coe.int/en/news/8384/citizens-assemblies-to-tackle-climate-change>

Further reports under consideration by the committee concern the following subjects, for instance: “Fostering healthy democracies in Europe”; “Relationship between the parliamentary majority and the opposition in a democracy”; “Protecting the pillars of democracy during health crises”. ([link to full list](#))

Committee on Legal Affairs and Human Rights: rapporteurs of the Committee have recently expressed concerns with regard to reports that CIA officials discussed assassinating Wikileaks founder Julian Assange; a new anti-NGO campaign in Belarus; recent developments in the Russian Federation in the case of certain activists and persons considered as political prisoners; the general situation in Azerbaijan of persons considered as political prisoners. PACE’s General Rapporteur on the abolition of the death penalty has welcomed the announcement of the United States Attorney General, in the beginning of July, to temporarily halt federal executions until the US Department of Justice reviews its policies and procedures on the death penalty.

Reports currently being prepared by the Committee are dealing with such subjects as: “Fighting corruption – General principles of political responsibility”; “Fighting and preventing excessive and unjustified use of force by the law enforcement officers”; “The impact of the Covid-19 restrictions for civil society space and activities”; “Political prisoners in the Russian Federation”; “Ensuring accountability for the downing of flight MH 17” ([link to full list](#)).

The **Committee on the Honouring of Obligations and Commitments** by Member States of the Council of Europe (Monitoring Committee) has conducted activities and issued assessments concerning national developments (e.g. justice reforms, the situation of opposition leaders, constitutional reforms, the party system, sub-regional conflicts, general obligations and commitments to the Council of Europe etc) in Ukraine, Turkey, the Russian Federation, Serbia, Georgia, Montenegro, the Republic of Moldova, Armenia and Azerbaijan, Poland. ([link to full list of reports](#) under preparation).

Committee on Equality and Non-Discrimination: in May, it adopted a report condemning so-called “honour crimes” and in September, it adopted a report which expresses concern at the increase in hate speech, violence and hate crimes against LGBTI people in Council of Europe member States, among other new developments.

5. Congress of Local and Regional Authorities (CLRAE)

5.1: 40th session (June 2021)

The Congress adopted a series of general texts, country monitoring reports and other specific reports (see [link](#) for the full list), including those mentioned hereinafter.

In **Resolution 465 (2021) “2021-2026 Priorities of the Congress of Local and Regional Authorities”**, the Congress has decided to enshrine as its core mission the monitoring of local and regional democracy; the observation of local and regional elections; substantial thematic contributions to address current, future but also persisting challenges; the implementation of co-operation programmes in specific member States.

Regarding its thematic priorities, the Congress will focus on: a) effective local and regional responses to public health crises; b) the quality of representative democracy and citizen participation; c) reducing inequalities in the field; d) environmental issues and climate action in cities and regions; e) digitalisation and artificial intelligence in the local context.

In a **report on “Recurring issues based on assessments resulting from Congress monitoring of the European Charter of Local Self-Government and election observation missions”** (reference period 2017-2020), which will be released in future every three years, the following patterns already observed in the past are pointed out as remaining relevant: the inadequacy of financial resources available to local and regional authorities; the restricted definition, allocation and exercise of local competences; the lack of consultation and of direct applicability of the Charter; the accuracy of voters’ lists; the misuse of administrative resources; the politicisation of the electoral administration and low public confidence in electoral processes. In addition, the member States have become increasingly confronted with systematic shortcomings in meeting the requirements of Article 7 of the Charter on the conditions of office of local elected representatives; compliance with the principle of equal level playing field for all candidates including independents has increasingly become an issue.

In a **Recommendation 452 (2021) “The status of capital cities”** the Congress invites the governments and parliaments of member States to: a) promote a better understanding of the role of a capital city as a symbol of the whole country and of their specific realities; b) provide substantial procedural safeguards to guarantee capital cities’ autonomy and minimise the risk of interference from other levels of government.

The Recommendations lists a series of measures to be taken a) with regard to capital city administration (e.g. refraining from splitting the capital's territory into a number of municipalities); b) with regard to competences and responsibilities (e.g. divide these between the capital city, the city districts where applicable, and the higher levels of government, in line with the subsidiarity principle); c) with regard to financial resources; d) with regard to intergovernmental co-operation (e.g. formalising the co-operation of capital cities both horizontally, with neighbouring municipalities, and vertically, with higher levels of government including the regional tier (where applicable)); e) with regard to citizens' participation.

In a **Recommendation 453(2021) "Ensuring respect of the European Charter of Local Self-Government in major crisis situations"** the Congress invites the Committee of Ministers to encourage the respective authorities of Council of Europe member States to:

a) consider in their crisis-management and recovery policies the differential impact of the COVID-19 pandemic on local governments by placing a particular focus on those hit hardest by the crisis. Recovery and crisis prevention plans should be (re)designed in effective consultation with local authorities. This will ensure local ownership of policies needed for their successful implementation at grassroots' level in the common interest of all levels of government and citizens;

b) make sure that the short-term centralisation which was applied in some cases to speed up and simplify decision-making, is only a temporary measure, and avoid the long-term centralisation of competences and the related financial resources. The decisions on continuation or discontinuation of crisis-related centralisation should be measured against the principles of necessity, proportionality, and temporariness;

c) continue to support local authorities in their efforts to tackle the public health, societal and economic challenges posed by COVID-19. This can be achieved through allocating to local authorities adequate financial resources to fulfil their new functions, refraining from excessive supervision, ensuring coordination and systematic information on national and regional measures, exchanging good and bad practices in crisis management both within and across national borders, supporting intermunicipal cooperation;

d) seek to increase local authorities' own revenues and diversify local revenue sources to make municipalities crisis-proof and make sure that the conditions of financial transfers give local authorities leeway to determine their own spending priorities;

e) promote public participation online as complementary to more traditional forms of citizens participation in local affairs while respecting the principle of equality regarding internet access;

f) pursue their cooperation and strengthen the political dialogue with the Congress to improve local and regional democracy through the application of the Charter, and make use of the Congress hub on the COVID-19 to share good practices of responses at local and regional levels in times of major crisis.

In a **Recommendation 457(2021) "Territorial solidarity: the role regions can play"**, the Congress i.a. requests that the Committee of Ministers invite the respective national authorities of member States of the Council of Europe to:

a) involve regions in the policies of territorial solidarity by delegating part of the competencies to the regional authorities in order to implement tailored financial equalisation procedures or equivalent measures as the conventional method of assistance for weaker territories, in line with the European Charter of Local Self-government and notably the provisions contained in Article 9;

b) protect financially weaker territories by introducing a system of financial support for specific local and regional authorities under certain conditions, through financial equalisation procedures based on clear and transparent criteria as provided by Article 9.5 of the Charter;

c) promote policies of territorial solidarity by consulting with local and regional authorities, as provided by Article 4.6 of the Charter in conjunction with Article 9.6, namely on common visions of territorial solidarity and the best strategies of achieving greater territorial solidarity between and within regions, putting into perspective interdependence and cooperation between the various territories;

d) support the strengthening of regional capacities to devise and implement territorial solidarity measures to bridge gaps in wealth and access to public services between and within territories, thus laying the basis for a sustainable model of development.

In a **Recommendation 459(2021) "Holding referendums at local level"**, the Congress invites the Committee of Minister to call on member States to:

a) implement existing guidelines and good practices regarding the holding of referendums, in particular as defined by the Venice Commission in the Code of Good Practice in Electoral Matters and in the Revised Guidelines on the Holding of Referendums, at the national level and, when applicable, also to the local level;

b) make more use of citizens' assemblies and similar deliberative democracy tools to accompany the holding of local referendums in order to alleviate tensions and enhance citizens' informed decisions;

c) by analogy with the provisions on participation in local elections as contained in the Convention on the Participation of Foreigners in Public Life at Local Level, to grant the right to vote in local referendums to foreigners who have been residing legally in their country for a period of five years.

Monitoring reports assessing conformity with the Charter of Local Self-Government were adopted on Armenia, Azerbaijan, Bulgaria and Hungary.

5.2 - 41st Session (26-28 October 2021)

At this session (see <https://www.coe.int/en/web/congress/41st-session>), the Congress:

- adopted Recommendation 464 (2021) on "Home sharing platforms: challenges and opportunities for municipalities"
- adopted monitoring reports in respect of: Albania, Cyprus, Netherlands, North Macedonia, Spain
- held thematic debates: Working conditions of local elected representatives in times of hate speech and fake news on the internet; Inter-regional and cross-border co-operation for better territorial integration in Europe; COVID: the road to recovery?

6. European Court of Human Rights

[Case law guides](#) were updated in the reporting period, including those on data protection, mass protests, right to a fair trial (civil and criminal limb), freedom of expression, freedom of assembly and association, derogation in time of emergency, right to free elections.

In April and July 2021, new periodic compendia of selected court cases were released, in relation to the above and other subject matters ([link](#) to all compendia). In connection with the list of Grand Chamber¹ judgements rendered during the reporting period, the following cases are worth highlighting:

- Centrum för rättvisa v. Sweden: insufficient **safeguards in bulk signals-intelligence gathering**, published on 25/05/2021
- Big Brother Watch and Others v. the United Kingdom: UK **surveillance regime** - some aspects contrary to the Convention, published on 25/05/2021
- Case Carter v. Russian Federation: Russian **responsibilities in the assassination of Aleksandr Litvinenko** in the United Kingdom), published on 21/09/2021

The Press service of the Court released in July a **new factsheet "Covid 19 health crisis"**, on applications relating to the Covid-19 health crisis before the European Court of Human Rights which raise(d) questions under a number of provisions of the European Convention on Human Rights, e.g. in terms of the right to life, the right to liberty and security, freedom of expression, freedom of reunion, freedom of movement ([link](#) to all factsheets).

¹ The Grand Chamber hears cases i.a. which raise a serious question affecting the interpretation of the Convention or if there is a risk of inconsistency with a previous judgment of the Court.

7. European Commission for Democracy through Law (Venice Commission)

Apart from the release of a number of legal opinions on specific issues in individual requesting countries ([link](#) to all opinions), the following relevant developments can be highlighted:

- publication of a [revised compilation](#) of Venice Commission opinions and reports concerning Election Dispute Resolution (revised in August 2021);
- Preparation of the 13th UniDem Med Regional Seminar for senior public officials "Public administration facing the COVID 19 pandemic: modernisation and digital innovation" videoconference, Palestine, 5-6 October 2021 - [Programme](#)

8. Group of States against Corruption (GRECO)

In the reference period, GRECO published the following evaluation reports and compliance reports (which assess follow-up action in response to the evaluation):

Evaluation topic	Evaluation reports	Compliance reports
Criminalisation of corruption; transparency of political financing See table with links to the reports concerning round 3		Denmark (26/05/2021) Switzerland (10/06/2021)
Integrity / corruption concerning members of parliament, judges and prosecutors See table with links to the reports concerning Round 4		Armenia (30/09/2021) Azerbaijan (19/05/2021) Belgium (05/05/2021) Georgia (12/04/2021) Germany (10/05/2021) Iceland (26/04/2021) Lithuania (06/05/2021) Malta (31/05/2021) Monaco (08/10/2021) Poland (27/09/2021) Portugal (12/04/2021) Romania (05/05/2021) Spain (30/09/2021) Switzerland (10/06/2021) United States of America (09/04/2021)
Integrity / corruption concerning central governments (top executive functions) and law enforcement authorities See table with links to the reports concerning Round 5		Netherlands (06/07/2021) North Macedonia (27/04/2021) Poland (27/09/2021) Slovenia (05/10/2021) United Kingdom (28/05/2021)

Special reports under the “Ad hoc Procedure” were also published in respect of: Poland (27/09/2021) and Romania (05/05/2021)

9. Conference of International Non-Governmental Organisations (CINGO)

On 28 April, Mr Gerhard Ermischer was elected President of the Conference of INGOs, for a three year mandate, taking over from Ms Anna Rurka.

CINGO’s Expert Council on NGO law ([link](#)) released in May a thematic study “Young Environmental Defenders and Their Rights (2021)”. During the reference period, the President(s) of the Conference of INGOs issued statements expressing worries on certain national developments regarding civil society in Belarus and in Turkey.

10. Elections and civil participation

At an informal meeting on 13 April 2021, delegations from the Council of Europe’s 47 member States held an **informal exchange of views with civil society representatives operating in the area of electoral assistance**. The aim was to find out more about civil society’s work on the ground during the current pandemic and consider how co-operation in this field could possibly be stepped up ([link](#) to programme and concluding remarks).

In the reference period, cooperation activities (workshops, public discussions, e-learning courses, campaign activities etc) implemented in cooperation with programme countries (Albania, Bosnia and Herzegovina, Georgia, Moldova and Ukraine) focused on such subjects as combating discrimination and sexism, gender equality in political participation, voter education, training for election observers, training for media representatives, the handling of electoral complaints, countering the misuse of administrative resources in electoral periods, capacity-building of election management bodies and so on.

The Elecdata database, which collects electoral data of the 47 Member States of the Council of Europe, continues to be updated with [information on the impact of Covid-19 on elections and referenda in Europe](#).

11. World Forum for Democracy (WFD)

As mentioned in previous updates of this document, the 9th edition of the WFD “Can democracy save the environment?” launched in November 2020 closed on 10 November 2021 in Strasbourg, situation permitting, is ongoing. [Link](#) to further information including the calendar of the campaign, recordings of webinars etc. [Link](#) to the closing session.

The Democratic Governance Division and CDDG members contributed to the following events:

Webinar “The 15-Minute City: Lockdown Daydreaming or a Model for Sustainable Urban Living?” (29 April)

Webinar “Public Administration as a green leader” (23 September)

12. Other developments

In May 2021, the Committee of Ministers adopted **Guidelines for the 47 member states to help them in upholding equality and protecting against discrimination and hate during the Covid-19 pandemic and similar crises in the future**. These guidelines, prepared by the Steering Committee on Anti-Discrimination, Diversity and Inclusion (CDADI), focus on information, protection, access to services and benefits, combating hate speech and violence, prevention of discrimination, digitalisation and artificial intelligence ([link to further information](#)).

A [Guidance Note on Content Moderation](#) was adopted by the **Steering Committee on Media and Information Society** (CDMSI) at its 19th plenary meeting on 19-21 May 2021. Its purpose is to provide practical guidance to member States, taking into account existing good practices, for policy development, regulation and use of content moderation in the online environment in line with their human rights obligations under the European Convention on Human Rights. The Guidance note is also addressed to internet intermediaries who have human rights responsibilities of their own.

On 10-11 June 2021, the **Ministers responsible for Media and Information Society held a conference on “Artificial Intelligence – Intelligent Politics; Challenges and opportunities for media and democracy”**. The event led to the adoption of various resolutions on freedom of expression and digital technologies; on the safety of journalists; on the changing media and information environment; on the impacts of the COVID-19 pandemic on freedom of expression; as well as to a final declaration in which, *inter alia*, participants commit to hold such ministerial conferences at regular interval in future ([link to the various texts](#)).

In the end of June 2021, the Secretariat of the **Steering Committee on anti-discrimination, diversity and inclusion (CDADI)** contacted the Secretariat of various bodies including the CDDG, to invite for possible comments on the appendix to a draft Recommendation on multi-level policies and governance for intercultural integration. Comments – mostly of a technical nature – were prepared, presented to the Bureau member and submitted under the name of the Chair of the CDDG

The **Steering Committee on Media and Information Society (CDMSI)** has prepared a Draft Recommendation for the Committee of Ministers on the protection of individuals with regard to the processing of personal data in the context of profiling. In September 2021, the draft was being examined by the Committee of Ministers for possible adoption at one of the forthcoming meetings of the Ministers' Deputies ([link](#) to the draft). Further work currently conducted by the CDMSI include the drafting of Recommendation for the Committee of Ministers to member States on electoral communication and media coverage of election campaigns, as well as a Guidance note on the prioritisation of public interest content on online platforms.

After having adopted in 2020 a feasibility study on a legal framework on AI design, development and application, the **Ad Hoc Committee on Artificial Intelligence (CAHAI)** is currently elaborating a document on "Possible elements of a legal framework on artificial intelligence, based on the Council of Europe's standards on human rights, democracy and the rule of law", to be adopted at CAHAI 5th plenary meeting on 30 November – 2 December 2021.

The justice ministers' conference held on 5 October, under the Hungarian presidency of the Committee of Ministers, focused on "Digital Technology and Artificial Intelligence – New Challenges for Justice in Europe". ([link to additional information](#), incl. the conclusions).

APPENDIX 1

Comments of the CDDG for a response of the Committee of Ministers to Congress Recommendation 453 (2021) - "Ensuring the respect of the European Charter of Local Self-Government in major crisis situations" (24 March 2021)

Adopted by the CDDG by written procedure

Context

At their 1402nd meeting on 28 April 2021, the Ministers' Deputies agreed to communicate, for information and possible comments - before 15 June - to the European Committee on Democracy and Governance (CDDG), Recommendation 453 (2021) - "Ensuring the respect of the European Charter of Local Self-Government in major crisis situations", adopted by the Congress on 24 March 2021 (see [document CG\(2021\)40-07final, explanatory memorandum](#)). They also invited their Rapporteur Group on Democracy (GR-DEM) to prepare a draft reply for adoption at one of their next meetings.

In this recommendation, the Congress invites the Committee of Ministers to encourage the competent authorities of the member states, in managing the Covid-19 health crisis and its consequences, to take greater account of local authorities and their needs, interactions between the national and the local level and citizen participation, in particular.

CDDG comments

The CDDG and its member delegations take note of Congress Recommendation 453 (2021).

The CDDG, whose responsibility extends to the European Charter of Local Self-Government and its additional protocol by virtue of its terms of reference, has had the opportunity, through its own [work on democratic governance and Covid-19](#) (creation of dedicated webpages, collection of information through a questionnaire, elaboration of a special report) to stress the fundamental importance of several factors in the management of the crisis, which echo concerns of the Congress: the necessary checks and balance, multi-level governance, the role of local authorities in the front line, horizontal co-operation including in a cross-border context, civil participation, and lessons to be learned in these and other areas from the management of the crisis and its resolution.

As indicated above, one of the outcomes of this work was the adoption of a report on democratic governance and Covid-19 at its 12th plenary meeting in November 2020. Considering that the crisis deserved continuous attention and that relevant national experience should be gathered throughout the different stages of the response to the pandemic, the CDDG decided to pursue this work and update the report by the end of 2021.

The CDDG supports the proposals of the Congress. In particular, with regard to the lessons to be learned from this crisis for the future, the CDDG is in favour of launching work to develop guidelines on the democratic management of major crises. At its 13th plenary meeting on 15-16 April, the CDDG had the opportunity to discuss this in an exchange of views on possible priorities for the work and the terms of reference for 2022-2025. The possible inclusion of the elaboration of such guidelines in the list of specific tasks under the future terms of reference will of course remain to be confirmed during the discussion and adoption of the latter. Should the Committee of Ministers decide to pursue this course of action, the CDDG would be ready to take it up.

Similarly, as the steering committee with primary responsibility in the field of democracy and governance, the CDDG has discussed the desirability of drafting a Committee of Ministers' recommendation on principles of good democratic governance of general application at all levels of government, building on the 12 Principles of Democratic Governance at local level. If this project were to materialise, it would address some of the above-mentioned concerns.

Finally, in the light of its work in the field of civil participation and democratic governance, the CDDG stands ready to prepare a report on new forms of deliberative democracy, based on a collection of practices and case studies, with a view to complementing the Committee of Ministers' Recommendation (2018)⁴ on the participation of citizens in local public life and taking into account its own work on e-democracy as well as the relevant work of the Congress of Local and Regional Authorities.

APPENDIX 2

Comments of the CDDG for a response of the Committee of Ministers to Recommendation 2200 (2021) - "Urgent need for electoral reform in Belarus", adopted by the Parliamentary Assembly on 21 April 2021

Adopted by the CDDG by written procedure

Context

At their 1403rd meeting on 5 May 2021, the Ministers' Deputies agreed to communicate to the European Committee on Democracy and Governance – CDDG (and the Venice Commission), for information and possible comments by 15 June, Recommendation 2200 (2021) - "Urgent need for electoral reform in Belarus", adopted by the Parliamentary Assembly on 21 April 2021; see <https://pace.coe.int/en/files/29173>.

In this recommendation the Assembly invites the Committee of Ministers:

- to continue to closely follow the situation in Belarus;
- to adopt measures to complement the Council of Europe [Action Plan for Belarus 2019-2021](#) with targeted action of primary importance for constructing transparent and democratic institutions in Belarus, including an electoral reform with a view to putting the electoral legislation in line with European and international electoral standards, with the involvement of the Venice Commission and the Assembly;
- to implement the above-mentioned measures as soon as it becomes feasible following a clear commitment of the Belarusian authorities to engage in a democratic transition process.

CDDG comments

The CDDG and its member delegations take note of Assembly Recommendation 2200 (2021).

As the steering committee with primary responsibility in the field of democracy and governance, the CDDG stands ready to contribute through appropriate input to a revision of the Action Plan for Belarus, especially in the field of transparent and democratic institutions and participation of civil society, should the Committee of Ministers decide to pursue this course of action.

For the time being, the possibilities of technical support through the CDDG's Rapid Response Service and Peer Reviews are available to member States only. That said, upon request from the country and provided that dedicated funding was made available, specific cooperation projects with Belarus could be designed and implemented by the Centre of Expertise for Good Governance in the field of democratic institutions and good governance (such projects with Belarus existed until 2017), and in the field of elections and civic participation specifically by the Division of Elections and Civil Society of DG II.

APPENDIX 3

Comments of the CDDG for a response of the Committee of Ministers to

- Recommendation 2204 (2021) - "Media freedom, public trust and the people's right to know",
- Recommendation 2208 (2021) - "Transparency and regulation of donations to political parties and electoral campaigns from foreign donors"

adopted by the Parliamentary Assembly on 22 June 2021

Adopted by the CDDG by written procedure

Context

At their 1409th meeting on 7 July 2021, the [Ministers' Deputies decided](#) to communicate to the European Committee on Democracy and Governance – CDDG (as well as to other committees and bodies), for information and possible comments by 24 September:

- a) Recommendation 2204 (2021) - "Media freedom, public trust and the people's right to know",
- b) Recommendation 2208 (2021) - "Transparency and regulation of donations to political parties and electoral campaigns from foreign donors"

adopted by the Parliamentary Assembly on 22 June 2021; see <https://pace.coe.int/en/files/28361> and <https://pace.coe.int/en/files/25290>.

1. Recommendation 2204 (2021) - "Media freedom, public trust and the people's right to know"

In this Recommendation, the Assembly welcomes the entering into force of the Convention on Access to Official Documents (CETS No. 205, the "Tromsø Convention"). However, it believes that the right of access to information should be broadened further, and that a strong and comprehensive set of transparency measures giving full effect to the right of access to information should be delivered, to advance toward a wide-ranging right to know. It therefore recommends that the Committee of Ministers instructs the Steering Committee on Human Rights (CDDH), in collaboration with the Steering Committee on Media and Internet Society (CDMSI) as required to:

- 2.1. evaluate compliance by member States with Recommendation CM/Rec(2017)2, Recommendation CM/Rec(2018)1 and Recommendation CM/Rec(2020)1, and to identify further action required for their effective implementation;
- 2.2. prepare a comprehensive report on the models for independent monitoring and oversight of the right of access to information in the member States, also bearing in mind the dimension of democratic culture developed by DGII in the Reference Framework of Competences for Democratic Culture;
- 2.3. launch a study to identifying good practice in the ecology of policy instruments that provide accountability throughout the policy-making and administrative process, considering in particular the conditions under which consultation, impact assessment of proposed legislation, freedom of information, the Ombudsman, ex-post legislative review, and administrative judicial review generate accountability;
- 2.4. draft, also based on this study, one or more soft law instruments, containing guidelines on:
 - 2.4.1. proactive publication of information of public interest with a transparency by design approach; this should also regard private bodies that have a public mandate or operate in domains of high public interest, such as defence of human rights, environmental protection and combating corruption;
 - 2.4.2. monitoring the implementation and identifying good practice in developing policy instruments that provide accountability throughout the policy-making and administrative process;

2.4.3. public access to information relating to the legislative and judiciary branches, including parliamentary question mechanism and debate rules, as well as free access to all judicial decisions, provided proper balance between the right of access and the protection of privacy is respected;
 2.4.4 transparency of lobbying by private actors;
 2.4.5 public access to company registers, specifying the types of data and documents that should be published.

3. The Assembly also recommends that the Committee of Ministers develop co-operation with relevant regional and international bodies such as UNESCO, the World Bank and the Organization for Security and Cooperation in Europe on monitoring the right of access to information under the United Nations Sustainable Development Goals Indicator 16.10.2, aiming for a strong connection between transparency, open access, sustainable development, and defence of democratic and just societies.

Comments by the CDDG

The CDDG takes note of the above Recommendation and the supporting report which aim to further promote the subject of freedom of information through additional initiatives in the field of human rights and media freedom.

The CDDG agrees with the Assembly that a multifaceted approach, involving dedicated policies in the field of transparency, accountability, publication of information etc. – in addition to an effective right of access to information – is instrumental to achieving progress at all levels of government and administration, including private sector entities providing services to the public.

As the steering committee with primary responsibility in the field of democracy and good governance, the CDDG is already responsible for the elaboration of relevant standards and guidelines which concern various subject-matters addressed by the Assembly, including specifically a study to identify good practice in the ecology of policy instruments that provide accountability throughout the policy-making and administrative process (point 2.3), soft law instruments containing guidelines on proactive publication of information of public interest with a transparency by design approach (point 2.4.1), and monitoring the implementation of such standards (item 2.4.2).

For instance, the “Guidelines for civil participation in political decision making” (document CM(2017)83-final), Recommendation CM/Rec(2018)4 “participation of citizens in local public life”, as well as the 12 Principles of Good Governance from 2008² refer to a large extent to openness, transparency, effectiveness, sound financial management, accountability of public institutions, good governance, ethical conduct etc. The draft terms of reference for the next quadrennium currently examined by the Committee of Ministers provide, *inter alia*, that the CDDG elaborates a draft Recommendation on principles of good democratic governance, that concerns all levels of governance and administration, building on the above-mentioned 12 Principles. Moreover, the CDDG is currently finalising a draft Recommendation on the democratic accountability of elected officials and bodies at local and regional level, in which subjects such as transparency and information of the public, access to information, as well as the importance of public consultation, impact assessment of major decisions and policies, proactive information, political controls, judicial or administrative review mechanisms feature prominently.

² These are used in particular as benchmarks for the design of cooperation projects by the Centre of Expertise for Good Governance, and for awarding the European Label of Governance Excellence (ELoGE)

Should the Committee of Ministers decide to pursue the avenues recommended by the Assembly and entrust such new tasks to the CDDH and the CDMSI, the CDDG would of course stand ready to share its experience and to support this work in the appropriate manner.

Incidentally, the CDDG wishes to point out that various other Council of Europe bodies may have already accumulated valuable experience in areas addressed by the Assembly such as, for instance, transparency of legislative processes, transparency of lobbying, access to company registers (e.g. the Group of States against Corruption – GRECO and the European Committee on Legal Cooperation – CDCJ). Their experience could equally be useful in any new work to be initiated in those fields.

2. Recommendation 2208 (2021) – "Transparency and regulation of donations to political parties and electoral campaigns from foreign donors"

In this recommendation, the Assembly, *inter alia* :

- expresses concern with reported attempts to interfere improperly or illicitly in democratic decision making in member States through financial contributions by foreign States or State-linked entities to political parties and electoral campaigns
- calls upon the Committee of Ministers to:
 - consider carrying out further work in the field of foreign financing of political parties and electoral campaigns, building on relevant existing standards,
 - ask the Group of States against Corruption (GRECO) to consider focusing on the specific area of foreign financing of political parties and electoral campaigns in its forthcoming evaluation

Comments by the CDDG

The CDDG takes note of Assembly Recommendation 220[8] (2021) and the supporting report, which contains valuable information on various recent problematic trends and recurring loopholes in domestic political financing laws. The CDDG shares the concerns of the Assembly regarding the risks of political interference from abroad posed by the above factors. It concurs with the Assembly's observations that it would be timely to examine the current situation across Europe in the light of updated information and to carry out further work with regard to this specific risk - especially as the Council of Europe has played a leading role up until now in the development of international standards and guidelines on political financing.

Obviously, such work could also contribute to the elaboration of guidelines and criteria to differentiate political interference from legitimate forms of support (e.g. where it contributes to democracy building and an active civil society).

The fair conduct of elections is an essential foundation of democracy and as such, it is part of the first of the 12 Principles of Good Democratic Governance which – as mentioned before – would serve as a basis for the elaboration of a new draft Recommendation for the Committee of Ministers according to the CDDG's draft terms of reference for the next quadrennium. Should these plans materialise, the CDDG will bear in mind the above-mentioned work of the Assembly.

Moreover, the CDDG has recently adopted a study³ on the impact of digital transformation on democracy and good governance. The report explored *inter alia* the role played by political micro-targeting⁴ in electoral campaigns and its impact on the democratic process. It deplored the lack of transparency in this complex matter and stressed the need for further research and the importance of introducing transparency requirements so as to be able to assess how much is being spent on electoral campaigns and by whom, especially also in the context of social networks. This study could therefore provide some additional information for any new work agreed upon by the Committee of Ministers.

³ It can be found [here](#)

⁴ Instead of one central message for all, campaigners can disseminate a multiplicity of targeted messages in various formats and channels to carefully chosen audiences.

APPENDIX 4

Comments of the CDDG for a response of the Committee of Ministers to

Recommendation 455 (2021) "Recurring issues based on assessments resulting from Congress monitoring of the European Charter of Local Self-Government and elections observations missions (reference period 2017-2020)" of the Congress, adopted on 15-17 June 2021

Adopted by the CDDG by written procedure

Context

At their 1412th meeting on 22 September 2021, the Ministers' Deputies agreed to communicate to the European Committee on Democracy and Governance – CDDG, for information and possible comments before 3 November, Recommendation 455 (2021) "Recurring issues based on assessments resulting from Congress monitoring of the European Charter of Local Self-Government and elections observations missions (reference period 2017-2020)", which was adopted by the Congress of Local and Regional Authorities during the part session of the 40th Session of the congress (15-17 June 2021). Report CG(2021)40-10, Recommendation 455 (2021) and Resolution 467 (2021) of the Congress [can be found here](#).

In its Recommendation the Congress invites the Committee of Ministers to call on the authorities of the members States to:

- a. pursue their efforts to fully implement the ratified provisions of the Charter in particular as regards the identified recurring issues;
- b. implement Congress recommendations related to cross-cutting electoral issues at local and regional level as well as soft law instruments issued by other Council of Europe bodies, notably the European Commission for Democracy through Law, in order to ensure that local and regional elections are in compliance with European standards in electoral matters;
- c. strengthen their political dialogue with the Congress, including in the framework of post-monitoring and post-electoral procedures, with a view to setting up roadmaps to comply with their commitments under the Charter.

CDDG comments

As the steering committee with primary responsibility for democracy and governance as well as for the European Charter of Local Self-Government (CETS 122) and its Additional Protocol (CETS 207), the CDDG takes note that

- the Congress reiterates that the Charter, ratified by 47 member States of the Council of Europe, as an international treaty should be applied in member States also in crisis situations such as the COVID-19 pandemic;

- the Congress has observed the continued relevance of the recurring issues identified in the context of its monitoring of the Charter and elections observation in the period 2010-2016 – in particular the inadequacy of financial resources available for local and regional authorities (Article 9); restricted definition, allocation and exercise of local competences (Article 4); shortcoming in consultation by central government (Articles 4.6, 9.6); lack of direct applicability of the Charter; accuracy of voters' lists; misuse of administrative resources during electoral campaigns; politicisation of election administration; public confidence in electoral processes;
- new recurring issues identified in the period 2017-2020: conditions of office of local elected representatives (Article 7 of the Charter); equal level playing field for all election candidates including independents.

In relation to complying with the Charter even in a crisis situation such as a pandemic, the CDDG too reflected on such issues as the importance of good multi-level governance and cooperation, and the need for adequate resources for local authorities in its special report on "Democratic governance and Covid-19" adopted in November 2020.

The draft terms of reference of the CDDG for the period 2022-2025, currently considered by the Committee of Ministers, would include – if adopted – new activities which would further build on the above, in particular two reports on multilevel governance and response to emergencies, and on delivering social services at local level. The draft also refers to the preparation of two Recommendations for the Committee of Ministers on multilevel governance and on principles of good democratic governance of general application. These could support some of the desirable improvements signalled by the Congress since 2017 as regards the implementation of the Charter.

The CDDG wishes also to point out that new challenges and opportunities have emerged with regard to the development of information and communication technologies in the field of public governance and electoral activities, and are increasingly important, for instance from the perspective of consultation processes and multi-level governance, and of public confidence in electoral processes. The CDDG has recently published a Study on the impact of digital transformation on democracy and good governance and it is currently finalising draft Guidelines on "The use of information and communication technologies (ICT) in electoral processes in Council of Europe member states".

As regards the conditions of office of local elected representatives, identified by the Congress as a new recurring issue, the CDDG is finalising in 2021 a draft Recommendation for the Committee of Ministers on the accountability of elected representatives and bodies and local and regional levels. Should the Committee of Ministers adopt it, several of its provisions would address specific concerns expressed by the Congress in its report CG(2021)40-10 (need for clear rules on responsibilities and the liability of elected officials; need for adequate measures to protect the holder of an elected office against abusive proceedings and various forms of violence in daily tasks etc.).

The CDDG will bear in mind recurring issues identified by the Congress including through the observation of local elections, also when discussing with the Centre of Expertise for Good Governance and the Division of Elections and Participatory Democracy, their plans for future activities and possible beneficiary countries. The latter is already running cooperation projects aiming at strengthening the transparency, integrity and inclusiveness of electoral practice and processes in several countries. These projects are based on Art 3 of Protocol 1 of the Convention on Human Rights and its case law, on election observation reports of PACE / the Congress / OSCE-ODIHR and on the Code of Good Practice in Electoral Matters adopted by the Venice Commission, and they thus address issues identified in those sources. Currently, the projects deal with such subjects as the misuse of public and administrative resources, the need to reinforce the capacity building of electoral management bodies, to enhance participation of women in political and public life, and to improve the electoral complaints mechanisms, to name just a few.