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Strasbourg, 27 March 2018

GT-CACL(2018)3

**CDDG WORKING GROUP ON THE REVISION OF
RECOMMENDATION No. R(98)12 OF THE COMMITTEE OF
MINISTERS TO MEMBER STATES ON
SUPERVISION OF LOCAL AUTHORITIES' ACTION
(GT-CACL)**

**Report on the first meeting of the Working Group
19-20 February 2018, Council of Europe, Strasbourg**

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

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Introduction

The European Committee on Democracy and Governance (CDDG), under its terms of reference 2018-2019, shall "*Revise Committee of Ministers' Recommendation [Rec\(98\)12 on the supervision of local authorities' action.](#)*" - specific task (i).

The Secretariat recalled the decision by the CDDG, at its meeting on 4-5 December 2017, to set up a working group for the revision of Recommendation No. [R \(98\) 12](#) and the approval of the procedures for its composition and operating modalities. In accordance with its terms of reference (document GT-CACL(2018)1), the working group, at this first meeting, was asked to:

- identify the required scope and type of the revision as well as any additional elements to be taken into consideration;
- formulate the general orientation and broad outlines for the revision.

The working group elected Mr Paul Rowsell (United Kingdom) as Chair and Ms Marta Panera Fernandez (Spain) as Vice-Chair and adopted the agenda as set out in Appendix I. The list of participants appears in Appendix II.

Following an exchange on various aspects of supervision and developments in member States, the expert, Prof. em. Robert Hertzog, presented elements for consideration in revising the Recommendation on the basis of his report on practices and trends in supervision of local authorities' action as well as the responses to the questionnaire sent out to member States (document GT-CACL(2018)2).

Having examined Dr Hertzog's report and Recommendation No. R (98) 12, the working group agreed that several areas of the Recommendation needed revision in respect of its substance, structure and wording in light of:

- substantial developments in practices and requirements in relation to supervision across Europe, including a strengthening of internal control;
- the ever increasing complexity of the legislative and regulatory environment in which authorities operate and the related need for specialist knowledge and expertise;
- the shift towards an advisory and consultative role of various supervisory authorities and instances and the need to strengthen dialogue;
- the need to reflect standards, norms and instruments adopted by the Council of Europe over the last 20 years;
- increasing involvement of different stakeholders (civil society, private public partnerships, the public at large...).

A revised recommendation, which should be seen in the light of the European Charter of Local Self-Government, should address:

- the purpose and scope of the recommendation;
- the objective and role of supervision and its contribution to delivering good governance;
- principles that apply to supervisory bodies or instances and their competencies;
- the types of powers exercised at local (regional) level and the distinction to be made between own and delegated powers;
- the different types of supervision - general administrative, financial, democratic;
- the evolution in doctrine as regards public management, the role of evaluation and scrutiny and the increased emphasis of financial controls since the crisis;
- the need for supervision to be independent and proportionate;
- the findings by the Congress of Local and Regional Authorities on the basis of its monitoring activities of the European Charter on Local Self-Government.

The working group instructed the Secretariat to prepare by the end of March, in cooperation with the expert, a draft revised text. This should reflect the considerations expressed by the working group in relation to the nature and scope of the revision and the structure and wording of the revised Recommendation as well as, amongst others, the different legal frameworks in member States, the provisions of the European Charter of Local Self-Government, flexibility, effectiveness, evaluation of and follow-up given to decisions by supervisory bodies, the role of the judiciary and judicial remedies.

Following consideration and comments by the working group and the CDDG Bureau, a second revision should be sent to the working group in time for its next meeting on 17-18 September 2018.

APPENDIX I

AGENDA

1. **Opening of the meeting by the Secretariat**
2. **Election of the Chair and the Vice-Chair**
3. **Adoption of the agenda** [GT-CACL(2018)OJ1 rev.]
4. **CDDG working group: Terms of reference** [GT-CACL(2018)1]
5. **Scope of the revision of Recommendation No. R (98) 12** [GT-CACL(2018)2]
 - Critical Analysis of the Recommendation
 - Current rules, practice and trends in the supervision of local authorities' action, report by Dr Robert Hertzog, Professor em, University of Strasbourg, France
 - Input by member States

Contributions by the working group members

Exchange of views
6. **Conclusion: broad lines of the revision**
7. **Other business**
8. **Date and place of the next meeting**

APPENDIX II

LIST OF PARTICIPANTS

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