



Strasbourg, 13 November 2020

GT-DT(2020)10

**EUROPEAN COMMITTEE ON DEMOCRACY AND GOVERNANCE  
(CDDG)**

**WORKING GROUP ON DEMOCRACY AND TECHNOLOGY  
(GT-DT)**

**MEETING REPORT**

**VIDEOCONFERENCE MEETING**

**22-23 October 2020**

**1. Opening of the meeting and adoption of the agenda**

The Chair, Mr Almir Šahović (Bosnia and Herzegovina), welcomed the members of the Working Group. The list of participants can be found in Appendix I. The agenda was adopted as it appears in Appendix II.

**2. Information on recent activities and developments**

The Secretariat informed the group of ongoing activities with regards to digital technologies in other Council of Europe bodies. The Secretariat mentioned two upcoming events under the German presidency of the Committee of Ministers: a high-level event on artificial intelligence (AI) in January and a conference on online hate speech in February.

The meeting report of the 11<sup>th</sup> CDDG plenary had been presented to the Rapporteur Group on Democracy (GR-DEM). Some members at the GR-DEM had mentioned the need to ensure coordination with the Ad hoc Committee on Artificial Intelligence (CAHAI), especially with regards to the AI issues.

The Enlarged Standing Committee of the Parliamentary Assembly was meeting on 22 and 23 October. It would debate several reports on the challenges of artificial intelligence, among others the report by Ms Bergamini on the need for democratic governance of AI. The recordings of the debate and the adopted texts would be available on the PACE website.

The Inclusion and Anti-discrimination Programme was currently piloting online trainings on AI and discrimination in the public sector in the UK and Poland.

Relevant documents from the Council of Europe would be uploaded onto the shared webspace.

### **3. Study on the impact of digital transformation on democracy and good governance (task i.)**

The Secretariat presented a revised draft of the study based on the presentations and comments made during the September meeting of the Working Group. The study now also included a section on the impact of Covid-19 on the acceleration of digitalisation in the public sector as well as relevant developments at EU level.

In addition, the chapter on democracy was further developed, in particular the section on the impact of digital transformation on elections (especially microtargeting), participation (new forms of engagement) and democratic oversight had been elaborated further. The chapter on governance would be further developed on the basis of the expert paper by Ms Mergel.

In the discussion, members expressed satisfaction with the way the study evolved. Members suggested that the study should include practical examples of the impact of the Covid-19 pandemic on the acceleration of digitalisation in the public sector. The chapter on governance should also elaborate the aspects of trustworthiness and security of digital tools; convenience and usability for citizens; participation and accessibility to all.

Members suggested that the study should aim at having immediate utility for member States. In the conclusions it should develop a clear position and not merely summarise the content. The main message should be that digital tools needed to respect core democratic values, including the 12 principles of good democratic governance. The conclusions should address how digital technologies had supported and/or undermined core democratic values and highlight what actions governments could take to take advantage of the benefits of digital technologies and mitigate their risks.

Overall, additional case studies should be included to reflect geographical diversity. The Secretariat encouraged the members to share case studies on the shared webspace.

The Working Group heard presentations from:

- Ms Ines Mergel, Professor of Public Administration in the Department of Politics and Public Administration at the University of Konstanz, on "Digital Transformation of Public Administrations: as necessary conditions"
- Mr Hans Kundnani, Senior Research Fellow, Chatham House
- Ms Marjorie Buchser, Executive Director, Digital Society Initiative, Research Leadership Team at Chatham House
- Ms Barbara-Chiara Ubaldi, Digital Government Lead, OECD

In her presentation Ms Mergel focussed on the competencies public administration needed to be effective in the digital age, and how to assess digital maturity.

Ms Mergel highlighted eight competencies that were essential for public administration. To develop those competencies some governments recently had established internal digital academies (e.g. the UK or Denmark). It was important to consider overall digital readiness and capacity of organisations.

In her conclusions, Ms Mergel stressed that digital transformation was a continuous process. To develop digital maturity, it was important to understand digital trends, create an enabling culture to be able to work in the open and to avoid conceptualising digital transformation as a technology problem. In addition, policy making for digital transformation and its implementation should be integrated from the start.

The ensuing discussion centred around the effectiveness and scope of digital academies and internal digital training programs; the level of readiness of public administration to use AI systems for decision making; the need to also re-assess budgetary decisions and processes with regards to digital technologies (outsourcing v. in-house); the impact of Covid-19 as a catalyst of digitalisation; mitigation of risks by working in the open; examples of successful digital strategies Estonia, Denmark, Singapore and Israel.

In his contribution, Mr Kundnani, author of the report "The Future of Democracy in Europe. Technology and the Evolution of Representation", stressed that it was vital to look first at the concept of democracy. Many argued that liberal democracy was in crisis. However, there was no consensus about the causes of the crisis, neither how a 'good democracy' should look like, nor what role digital technologies played with regards to the crisis. It was also argued that social media exacerbated polarisation, assuming that polarisation was a bad thing. While this might be the case in the US, it was not clear whether this applied in Europe. In fact, one of the causes of the current crisis of liberal democracy, at least in Europe, was that lack of polarisation in the last 20-30 years. Furthermore, there was no conclusive evidence that social media had negative impact on democracy.

Ms Kundnani touched upon the question how digital technology could help to reinvigorate democracy, in particular the role of political parties. While traditional parties had continuously lost members and influence, new digital parties had effectively mobilised citizens and gained power. Digital parties had interesting ways to use digital technologies, especially internally, thus shifting decision making online.

Ms Kundnani also mentioned experiments with alternative forms of representative democracy: direct democracy (referenda) and deliberative democracy (citizens assembly). Deliberative democracy sought compromise; direct democracy was about taking sides and led to polarisation. The question was: What issues were suited for which form?

Ms Marjorie Buchser addressed the question how to regulate digital technologies in a democracy and highlighted that the dilemma was that digital technologies evolved very fast while law making was slow. Nonetheless, Ms Buchser argued that more regulation was needed.

Ms Buchser offered three thoughts: 1) In order not to play catch-up all the time, policy makers should shift towards upstream, anticipatory policy making; 2) Technology regulation was centred around state interest and strategies, while the internet was global. This fragmentation should be overcome. 3) There was a need for greater maturity of the debate on digital transformation and more awareness and understanding of digital technologies on behalf of ordinary people.

The discussion centred around the relationship between liberalism and democracy (liberal democracy; illiberal democracy; undemocratic liberalism; democratic illiberalism); how to restore the balance between the liberal / constitutional element and the democratic / popular element of democracy, or in other words how to strike a balance between responsive and responsible government; how to measure the success of democracy; what the role of AI systems in government should be and how to ensure fair, transparent and accountable processes. Shall we give AI systems decision making powers? Voting recommendation – Mr Kundnani warned about outsourcing decisions to machines.

In the discussion it was also highlighted that manipulation and surveillance through digital tools could come from both the public and the private sector. To counter government surveillance, the private sector could offer solutions; while to curtail surveillance capitalism, government could regulate the private sector. At the same time, there was the danger that the private and public sector work together. In the latter case, it was unclear how an effective response to protect democratic values would look like.

Ms Barbara Ubaldi presented the OECD Digital Government Index, which has the following six dimensions: Digital by design, Data-driven, Government as a platform, Open by default, User-driven and Proactiveness. It assessed the maturity of digital government, which was a process with no one fits all solution.

It was essential for digital processes to respect core democratic values e.g. non-discrimination/inclusion, transparency, accountability, privacy. Digital processes should complement in-person process, not replace them. In addition, participation – digital or otherwise – rested on citizens' ability to be informed about the issues that mattered to them and participate in an open debate. Last but not least, Ms Ubaldi stressed that for digital governments to be effective it was of utmost importance for governments to find synergies and integrate different national policies (e.g. open government policies, participation strategies, digitalization strategies etc.).

The discussion centred around various risks associated with the use of digital technologies in the public sector, e.g. how to bridge the digital divide and reach those who were not connected; what were the risks for democratic values; risk of alienation resulting from engaging online; building capacity especially of youth to understand how they behaved online, privacy. The discussion also touched upon the differences between EU and UN indexes on e-government and the new OECD index on digital government. Ms Ubaldi highlighted that people seemed to trust less public authorities than private sector actors. From a democratic perspective this posed challenges as the responsibilities of public sector and the private sector were different.

The information provided was uploaded to the shared webspace and would be used in the preparation of the study.

#### **4. Developing standards on new technologies and the different stages of the electoral process (including voter registration, transmission and tabulation of results, etc.) in the form of a Committee of Ministers' recommendation or guidelines (task ii.)**

The Secretariat recalled the discussions held during the first meeting of GT-DT, in January 2020, when the preparation of task (ii) had been discussed. As agreed by the Working Group, a questionnaire on the use of digital technologies had been drafted with the help of the expert consultant, Ms Ardita Maurer. With the support of the Venice Commission, it could be sent to Election Management Bodies, as previously recommended by the Working Group.

The Secretariat pointed out that Recommendation (2017)<sup>5</sup> did not cover the use of digital solutions in stages of the electoral cycle other than e-voting. Thus, several e-solutions in the electoral process were excluded from its scope of application and would be covered by the new recommendation/guidelines. The underlying principles, however, were likely to be the same.

In the discussion, the members expressed a preference for developing Committee of Ministers' guidelines as opposed to a recommendation. The guidelines should not promote the use of digital tools as such but recommend safeguards that member States should implement when introducing digital solutions in the electoral cycle, with a view to enhancing public trust in the electoral process.

It was suggested to establish a smaller structure to assist with drafting the guidelines, with the participation of external electoral experts as well as members of Election Management Bodies. The secretariat pointed out that this proposal would be submitted to the CDDG, provided there were sufficient budgetary resources for its implementation.

As regards the questionnaire, it was agreed that members of the Working Group had two weeks of time to send comments to the Secretariat. After this deadline, the questionnaire would be sent out through two channels: via members of the CDDG, who would transmit it to competent ministries and other authorities; and via the network of Election Management Bodies, with the help of the Venice Commission.

The Working Group heard presentations from:

- Ms Ardita Driza Maurer, University of Zurich/Zentrum for Demokratie Aarau
- Mr José Luis Vargas Valdez, Judge at the Federal Electoral Tribunal, Venice Commission
- Mr Gael Martin-Micallef, Division of Elections and Political Parties, Venice Commission

Ms Ardita Driza Maurer briefly presented two expert papers: New technologies in the electoral cycle and Digital technologies in elections: Questions, lessons learned, perspectives. The latter had been prepared for an event in Ukraine.

Ms Maurer stressed that the same principles applied to e-voting and to the use of digital tools in the electoral cycle. Prior to introducing digital tools in the electoral cycle, regulators should consider among others: how to identify the goal to be achieved in order to choose the appropriate solution; how to enable multi-disciplinarity for the development of tools; how to find a balance between conflicting values (privacy v. transparency); how to ensure risk assessments; and how to ensure usability.

Mr José Luis Vargas Valdez presented a confidential draft on the principles for a fundamental rights-compliant use of digital technologies in electoral processes by the Venice Commission. It had to be taken into account that the internet, digital tools and social networks had opened up new opportunities for political participation and had become essential in the electoral process. At the same time, the use of digital tools in the election process posed challenges to democracy, including privacy and cybercrime, and was further complicated by the borderless nature of the internet and the private ownership of information. Therefore, a legal response would be called for that respected fundamental freedoms, in particular, freedom of expression, economic freedom, the right to privacy and social rights.

Mr Vargas explained the following eight principles: 1) The principles of freedom of expression implying a robust public debate must be translated into the digital environment, in particular during electoral periods; 2) During electoral campaigns, a competent impartial EMB or judicial body should be empowered to require private companies to remove third-party content from the internet, based on electoral laws; 3) The open internet and net neutrality need to be protected; 4) Personal data needs to be effectively protected, particularly during the crucial period of elections; 5) Electoral integrity must be preserved through permanently reviewed rules and regulations on political advertising and on the responsibility of internet intermediaries; 6) Guarantee electoral integrity by the adaptation of specific international regulations and the development of institutional capacities to the new technological context to fight cyberthreats; 7) The international cooperation framework and public-private cooperation should be strengthened; and 8) The adoption of self-regulatory mechanisms should be promoted. The draft would be adopted by the plenary in Venice Commission in December.

The discussion centred among others around the question of net neutrality; how to ensure freedom of expression and avoid intimidation and hate speech; how to strike a balance between responsibilities of private actors (as gatekeepers and content moderators) and role of government; and how to ensure a level playing field – especially in the context of campaign finance.

Mr Gael Martin-Micallef of the Venice Commission Secretariat informed the Working Group of the upcoming Conference of Election Management Bodies which would take place on 12 and 13 November online (<https://www.coe.int/en/web/electoral-management-bodies-conference/emb-2020>). The programme would soon be published online. This year, one of the topics would be the impact of the state of emergency on elections.

In replying to questions, Mr Martin-Micallef agreed that a member of the CDDG could follow the Conference and confirmed the Venice Commission's availability to transmit the questionnaire to the network of Election Management Bodies.

## **5. Other issues**

Mr Peter Andre, CDDG Rapporteur on Democracy and Technology, informed the group on the recent activities of the Ad Hoc Committee on Artificial Intelligence (CAHAI). The CAHAI progress report had been adopted by the Committee of Ministers in September and could be found on the CAHAI website. CAHAI had established its working groups. The Policy Development Group (PDG) was tasked with drafting the feasibility study and had started its work. The preliminary draft feasibility study should be presented to the member States at the next CAHAI plenary meeting on 15-17 December by videoconference.

Mr Andre gave a brief overview of some of the chapters of the feasibility study, e.g. a chapter on opportunity and risks arising from design, development and application of AI systems; a chapter mapping and reviewing existing legally binding and non-binding instruments with regards to the design, development and application of AI systems; and a chapter exploring options for a legally binding instrument in the form of a framework convention or another.

Overall, the feasibility study would need to expand and better highlight the impact of AI systems on democracy. In this respect, Mr Andre mentioned the importance of ensuring meaningful civil participation in the life cycle of AI systems in order to enhance trust in AI systems by users and protect minorities and vulnerable groups; the need to ensure effective democratic oversights (openness, transparency, accountability) as well as free and fair elections.

In wrapping up, the Secretariat explained the next steps with regards to task (i): The Secretariat would update the revised version of the study in the light of the comments. A consolidated draft would then be presented at the 12<sup>th</sup> CDDG meeting at the end of November for further comments. The study would be completed in the first half of 2021, ideally during German presidency.

The Secretariat clarified that the timeline for task (ii) was longer.

The Secretariat informed the Working Group that the Centre of Expertise for Good Governance was preparing a toolkit on teleworking. A survey has been developed and would be sent to CDDG members. Members of the Working Group were invited to participate.

## **6. Date and place of next meeting**

The date would be communicated in due course.



**APPENDIX I****LIST OF PARTICIPANTS****1. MEMBERS OF THE WORKING GROUP****CHAIR / PRESIDENT**

Ambassador Almir ŠAHOVIĆ, Assistant Minister for Multilateral Affairs, Ministry of Foreign Affairs of Bosnia and Herzegovina, Sarajevo

**AUSTRIA / AUTRICHE**

Mr Gregor WENDA, Deputy Head of Electoral Affairs Department, Directorate General of Legal Affairs, Federal Ministry of the Interior, Vienna

**FINLAND / FINLANDE**

Mr Markku MÖLLÄRI, Ministerial adviser, Department for Local Affairs and Regional Administration, Ministry of Finance, Helsinki

**GREECE / GRECE**

Mr Georgios CHRYSAFIS, Directorate of Organisation and Functioning of Local Government, Ministry of the Interior, Athens

**ITALY / ITALIE**

Mr Francesco GIUSTINO, Presidenza del Consiglio dei Ministri, Ufficio Attività Internazionali, Roma

**NETHERLANDS / PAYS-BAS**

Ms Amber MECHELSE, Senior Policy Officer Democracy, Democracy Department, Democracy and Governance Division, Ministry of the Interior and Kingdom Relations, The Hague

Mr Guillaume HONSBEEK, Democracy Department, Democracy and Governance Division, Ministry of the Interior and Kingdom Relations, The Hague

**POLAND / POLOGNE**

Ms Justyna PRZYWOJSKA, Expert for methodology of public services research National Institute of Local Government

**SWITZERLAND / SUISSE**

Mr Bertrand BISE, Chef suppléant de l'unité Projets législatifs I, Département fédéral de justice et police DFJP, Office fédéral de la justice OFJ, Domaine de direction Droit public, Berne

**UNITED KINGDOM / ROYAUME-UNI**

Mr Paul ROWSELL, Head of Governance Reform and Democracy Unit, Ministry of Housing, Communities and Local Government, London

Ms Siobhan SMYTH, Senior Policy Adviser, Governance Reform and Democracy Unit, Ministry of Housing, Communities and Local Government, London

Ms Gurpal CHEEMA, Policy Adviser, Governance Reform and Democracy Unit, Ministry of Housing, Communities and Local Government, London

**RAPPORTEUR ON DEMOCRACY AND TECHNOLOGY / RAPPORTEUR SUR LA DÉMOCRATIE ET LA TECHNOLOGIE**

Mr Peter ANDRE, Senior Expert for Legal Affairs, Ministry of Interior, Wien, Austria

**2. SPEAKERS AND EXPERTS**

Ms Marjorie BUCHSER, The Royal Institute of International Affairs, Chatham House, United Kingdom

Mr Hans KUNDNANI, The Royal Institute of International Affairs, Chatham House, United Kingdom

Ms Ardita DRIZA MAURER, Juriste, LI.M., Consultante indépendante, Droits politiques et nouvelles technologies de vote, Suisse

Ms Prof. Dr. Ines MERGEL, University of Konstanz, Department of Public Administration Germany

Ms Barbara-Chiara UBALDI, Digital Government Lead, OECD

Mr José Luis Vargas VALDEZ, Judge at the Federal Electoral Tribunal of Mexico, Substitute member of the Venice Commission

**3. SECRETARIAT OF THE WORKING GROUP**

Ms Sonia SIRTORI, Head of the Democratic Governance Division / Cheffe de la Division de la gouvernance démocratique – Secretary of the CDDG / Secrétaire du CDDG - Directorate of Human Dignity, Equality and Governance / Direction de la dignité humaine, de l'égalité et de la gouvernance, Directorate General of Democracy / Direction générale de la démocratie

Ms Judith ORLAND, Democratic Governance Division / Division de la gouvernance démocratique – Directorate of Human Dignity, Equality and Governance / Direction de la dignité humaine, de l'égalité et de la gouvernance, Directorate General of Democracy / Direction générale de la démocratie

Ms Isabelle ETTER - Assistant / Assistante

#### **4. OTHER SECRETARIAT PARTICIPATING IN THE MEETING**

##### **DEMOCRACY AND GOVERNANCE DEPARTMENT (DGII)**

Mr Daniel POPESCU, Head of Democracy and Governance Department / Chef du Service de la démocratie et de la gouvernance – Directorate of Human Dignity, Equality and Governance / Direction de la dignité humaine, de l'égalité et de la gouvernance - Directorate General of Democracy / Direction générale de la démocratie

Ms Alina TATARENKO – Head of the Centre of Expertise for Good Governance / Cheffe du Centre d'expertise pour la bonne gouvernance - Democratic Governance Division / Division de la gouvernance démocratique - Directorate of Human Dignity, Equality and Governance / Direction de la dignité humaine, de l'égalité et de la gouvernance - Directorate General of Democracy / Direction générale de la démocratie

Mr Guillaume LOISEAU, Election and Civil Society Division / Division des élections et de la société civile / Directorate of Human Dignity, Equality and Governance / Direction de la dignité humaine, de l'égalité et de la gouvernance, Directorate General of Democracy / Direction générale de la démocratie

##### **CONGRESS OF LOCAL AND REGIONAL AUTHORITIES OF THE COUNCIL OF EUROPE / CONGRES DES POUVOIRS LOCAUX ET REGIONAUX DU CONSEIL DE L'EUROPE**

Mr Kjartan MAGNUSSON, Secretariat of the Governance Committee / Secrétariat de la Commission de la gouvernance

Mr Adam DRNOVSKY, Co-Secretary of the Governance Committee / Co-Secrétaire de la Commission de la gouvernance

##### **VENICE COMMISSION / COMMISSION DE VENISE**

Mr Gaël MARTIN-MICALLEF, Division of Elections and Political Parties – Secretariat of the Venice Commission

Mr Michael JANSSEN, Division of Elections and Political Parties – Secretariat of the Venice Commission

Ms Sophia WISTEHUBE, Division of Elections and Political Parties – Secretariat of the Venice Commission

##### **INTERPRETERS / INTERPRETES**

Ms Elisabetta BASSU-RIGHI  
Ms Bettina LUDEWIG-QUAINE

**APPENDIX II****AGENDA****Thursday, 22 October 2020**

<b>10.30</b>	<b>1.</b>	<b>Opening of the meeting and adoption of the agenda</b>	[GT-DT(2020)OJ3]
	<b>2.</b>	<b>Information on recent activities and developments</b> <ul style="list-style-type: none"> <li>Oral information by the Secretariat as regards recent developments in other Council of Europe bodies</li> </ul>	
	<b>3.</b>	<b>Study on the impact of digital transformation on democracy and good governance (task i.)</b>	
		<p>Presentation: "Digital transformation of public administration: best practice and trends"</p> <p>by Ms Ines Mergel, Professor of Public Administration in the Department of Politics and Public Administration at the University of Konstanz</p> <ul style="list-style-type: none"> <li>Consideration of a preliminary draft report</li> <li>Tour de table: contributions from the members of the working group</li> </ul>	<p>[expert paper]</p> <p>[GT-DT(2020)7rev]</p>
<b>1-2.30</b>		Lunch break	
<b>2.30</b>	<b>4.</b>	<p>Developing standards on new technologies and the different stages of the electoral process (including voter registration, transmission and tabulation of results, etc.) in the form of a Committee of Ministers' recommendation or guidelines (task ii.)</p> <ul style="list-style-type: none"> <li>Consideration of background documents, including an expert paper by Ms Ardita Driza Maurer, Lawyer, LL.M, Independent consultant</li> <li>New technologies in the electoral cycle, expert paper by expert paper by Ms Ardita Driza Maurer, Lawyer, LL.M, Independent consultant</li> </ul>	<p><a href="#">Elections, digital technologies, human rights - compendium</a></p> <p><a href="#">Digital technologies in elections: Questions, lessons learned, perspectives</a></p>

		<ul style="list-style-type: none"> <li>• Consideration of a questionnaire</li> <li>• Tour de table: contributions from the members of the working group</li> </ul>	[GT-DT(2020)9]
<b>3.15</b>		<p><b>Exchange of views with the Venice Commission</b></p> <p>Draft principles for a fundamental rights-compliant use of digital technologies in electoral processes. Presentation by Mr José Luis Vargas Valdez, Judge at the Federal Electoral Tribunal, Venice Commission</p> <p>Intervention by Mr Gaël Martin-Micallef, Division of Elections and Political Parties, Venice Commission</p>	Restricted document to be distributed in Kudo only
		<b>Continuation of the discussion on task ii</b>	
<b>5</b>		End of the first day	

### Friday, 23 October 2020

10.30		<p><b>Continuation of the discussion on the study on the impact of the digital transformation on democracy and good governance (task i.)</b></p> <p>The future of democracy in Europe. Presentation and exchange of views with Mr Hans Kundnani and Ms Marjorie Buchser, Chatham House</p>	<a href="#">The Future of Democracy in Europe: Technology and the Evolution of Representation</a>
11.30		<p><b>Exchange of views with the OECD</b></p> <p>12 Principles of Digital Government. Presentation by Ms Barbara-Chiara Ubaldi, OECD</p>	
12.00		Update on developments at the CAHAI by Mr Peter Andre, CDDG Rapporteur	
1-2.30		Lunch break	
2.30		<b>Continuation of the discussion on task i</b>	
5		End of meeting	