

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 28 November 2017

CDDG(2017)22
Item 5 of the agenda

EUROPEAN COMMITTEE ON DEMOCRACY AND GOVERNANCE (CDDG)

TERMS OF REFERENCE OF THE EUROPEAN COMMITTEE OF DEMOCRACY AND GOVERNANCE 2018-2019

For discussion and action

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

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Introduction

The Committee of Ministers, at the 1300th meeting of the Ministers' Deputies (21-23 November 2017), adopted the budgets and the Programme of the Council of Europe including the Terms of Reference of the European Committee on Democracy and Governance (CDDG) for 2018-2019.

The new terms of reference (presented in Appendix I) set out the various tasks of the Committee. The overall aim of the CDDG "is to contribute to strengthening democratic institutions, public administration reform, decentralisation, good governance, in particular participation, public ethics, and e-governance, e-democracy and e-voting at all levels."

In terms of Specific Tasks for the new biennium (2018-2019) the CDDG has been set new objectives. The attention of the Committee is drawn in particular to items (i), (ii) (iii) and (iv) of the section. These require the CDDG at the present meeting to decide on action to be taken in the fields of:

- revising of Committee of Ministers' Recommendation [Rec\(98\)12](#) on the supervision of local authorities' action;
- promoting the implementation of the Council of Europe instruments on participation;
- public ethics; and
- e-democracy.

The attention of the Committee is drawn to the fact that one single plenary meeting per year only is now foreseen rather than two and that resources are provided for activities of subordinate bodies or working groups.

Consequently, it falls to the CDDG to consider the type and schedule of activities that will allow it to fulfil the tasks assigned. The present document sets out possible lines of action, prepared by the Secretariat on the basis of guidance provided by the Bureau at its meeting on 20 October 2017. The Bureau also recalled the importance of completing the tasks entrusted to the Committee by the end of the relevant terms of reference (*i.e.* 31 December 2019).

Given that only one plenary meeting is to be held per year, it is proposed that this meeting would last 3 days envisaged for 28-30 November 2018.

Proposed lines of action

In light of the CDDG's tasks and available resources, and with a view to the efficient and successful completion of these tasks, the CDDG may wish to consider setting up working groups for tasks (i), (ii), (iii) and (iv).

The working groups, where appropriate in cooperation with experts, should build on existing standards and achievements of the Council of Europe and on the existing practice and standards in member states.

Should the Committee decide to establish such working groups it may wish to limit reimbursement of expenses to five members per working group in light of the budgetary resources available. Additional member States could nominate representatives and participate in any of the working groups at their own expense. Institutions and bodies with the status of CDDG participant are also invited to nominate experts in the working groups.

Finally, in accordance with Resolution CM/Res(2011)24 of the Committee of Ministers on intergovernmental committees and subordinate bodies, their terms of reference and working methods, Articles 14b. and 14d., working groups and rapporteurs should be encouraged to rely on information technologies in their work and to make the best possible use of interactive technologies for networks and meetings.

A draft timetable for the 3 proposed working groups is presented in Appendix II.

As regards the revision Committee of Ministers' Recommendation [Rec\(98\)12](#) on the supervision of local authorities' action - Specific task (i):

Given the evolution in respect of the functioning, responsibilities and competences of local administration since the adoption of Recommendation Rec(98)12, the CDDG is asked to present a revised draft recommendation on the basis of standards and best practices in Council of Europe member states. To this end it may wish to consider setting up a working group. Members of the working group should preferably have a sound understanding of and experience in supervising, evaluating and auditing public administration and/or applicable legislation.

The working group, in cooperation with an expert and under the guidance of the Bureau, could identify the scope and type of revision as well as elements to be considered and to subsequently proceed with elaborating the draft revised recommendation for presentation to the CDDG at its 2018 meeting.

Council of Europe standards and instruments to be taken into account may include:

- the European Charter of Local Self-Government [ETS 122];
- Committee of Ministers' Recommendation [CM/Rec\(2007\)12E](#) on capacity building at local and regional level;
- Committee of Ministers Recommendation [Rec\(2005\)1](#) on the financial resources of local and regional authorities and Recommendation [Rec\(2004\)1](#) on financial and budgetary management at local and regional levels;
- Recommendation [CM/Rec\(2009\)2E](#) on the evaluation, auditing and monitoring of participation and participation policies at local and regional level.

The number of meetings suggested for this working group is 2 meetings in 2018. The first meeting of the working group could be held on 19-20 February 2018.

As regards promoting the implementation of the Council of Europe instruments on participation - specific task (ii):

The CDDG may wish to consider:

- examining how signature and ratification by member states of the Additional Protocol to the European Charter on Local Self-Government can be encouraged, taking into account the feedback received from member states in reply to the questionnaire on implementation of conventions for which the Committee has been given responsibility;
- encouraging member states to pilot and implement the instruments, and asking delegations to report back to the Committee on specific measures taken to: a) strengthen civil participation; b) assist authorities at local and regional level through the creation of an enabling environment for civil participation;
- Actively engaging in promoting and testing the guidelines and the revised recommendation on citizen participation in local public life at the level of the World Forum for Democracy and the Incubator for participatory democracy.

The CDDG may wish to nominate a Rapporteur to coordinate these activities also with other Council of Europe bodies.

As regards public ethics - Specific task (iii)

The question of public ethics has been on the agenda of the Council of Europe, and in particular also of the CDDG, for some time. It is also a focal point for consideration by other international institutions such as the OECD.

With a view to fulfilling the specified tasks the CDDG may wish to establish a working group to guide its work in this field. Members of the working group should preferably have a good understanding of or experience in the field of ethics and integrity through, for example, their involvement in oversight bodies, compliance, codes of conduct, applicable legislation, or the supervision, evaluation and/or audit of public administration.

The CDDG might consider it useful to ask the working group to first:

- update the 2004 [Handbook of Good Practice on Public Ethics at Local Level](#), extending it to cover all levels of government – local, regional and national;
- in parallel, in cooperation with an external expert, to advise on the feasibility of a Council of Europe indicator framework that might allow to identify trends with regard to public ethics and allow member States to assess their performance;
- to subsequently develop guidelines on public ethics at all levels of government on the basis of the work in relation to the above.

In its work, the CDDG, in line with the title of the working document presented at its May meeting 2017 “from public ethics to ethics in public life”, may wish to ask the working group to consider ethics in its large sense of ethical conduct as defined in the 12 Principles of Good Governance: “The public good is placed before individual interests; there are effective measures to prevent and combat all forms of corruption; and conflicts of interest are declared in a timely manner and persons involved must abstain from taking part in relevant decisions”.

Documents that should guide the activities of the working group include:

- the Reports by the Secretary General on the “*State of Democracy, Human Rights and the Rule of Law*”;
- the revised [Public Ethics Benchmark](#) of the Centre of Expertise for Local Government Reform;
- [Recommendation \(2000\)10 of the Committee of Ministers on Codes of Conduct for Public Officials](#);
- [Recommendation 2105\(2017\)](#) of the Parliamentary Assembly “Promoting integrity in governance to tackle political corruption” ;
- [Recommendation 405 \(2017\)](#) of the Congress of Local and Regional Authorities – “Making public procurement transparent at local and regional levels”;
- [Recommendation 60 \(1999\) of the Congress of Local and Regional Authorities on Political Integrity of Local and Regional Elected Representatives](#);
- the 1999 European Code of Conduct on the political integrity of local and regional representatives (revised as applicable - applying to local and regional elected representatives, appointed officials, civil servants and managers of public agencies and public enterprises see the Appendix to [Resolution 401\(2016\)](#));
- the findings and activities of other bodies of the Council of Europe such as the Group of states against corruption (GRECO); as well as of
- instruments of other international organisations such as the OECD, notably its Recommendation on Public Integrity, the EU and the UN (ECOSOC).

The number of meetings suggested for this working group is 4 meetings, distributed over 2 meetings in 2018 and 2 meetings in 2019 with a first meeting to be held on 22-23 March 2018. A draft revised version of the Handbook and report on the feasibility of a Council of Europe indicator framework could be presented at the CDDG meeting in 2018.

As regards e-democracy - Specific task (iv):

In light of the complexity and technical aspects concerned, the CDDG may wish to establish a working group composed of representatives with considerable knowledge and experience in this domain. In light of the constantly evolving applications of the technology and the impact this has on the functioning of democracy, the Committee may wish to consider representation of the industry in the working group as observers. Such representatives could be invited from among the leading companies or associations which recently signed an agreement with the Council of Europe to promote an open and safe internet, where human rights, democracy, and the rule of law are respected;

It may consider it useful, taking into account the outcomes and decisions of the CDDG's prior thematic debates in the field of e-governance and e-democracy, to develop guidelines on e-democracy in the form of a toolkit on the basis of:

- Committee of Ministers' [Recommendation Rec\(2004\)15](#) on electronic governance ("e-governance");
- Committee of Ministers' [Recommendation CM/Rec\(2009\)1](#) on electronic democracy (e-democracy);
- Committee of Ministers' [Recommendation CM/Rec\(2014\)6](#) on a Guide to human rights for Internet users;
- [CM/Rec\(2016\)1E](#) on protecting and promoting the right to freedom of expression and the right to private life with regard to network neutrality;
- [Internet Governance - Council of Europe Strategy 2016-2019](#).

As regards Recommendation [CM/Rec\(2017\)5](#) on standards for e-voting, experts which participated in the Ad-hoc committee on electronic voting will be following its implementation. In order to have sufficiently representative data on the implementation to be available, it is proposed that the CDDG decide on its approach with regard to this task at its 2018 meeting. In the meantime, the CDDG may wish to nominate a representative to follow and/or take part in the work of the expert group.

Building on the exchanges and activities of the CDDG on e-governance, 2 meetings are proposed in relation to elaborating the guidelines on e-democracy. One meeting on e-voting is foreseen for 2019.

Action required

The CDDG is invited to take note of its new terms of reference for the biennium 2016-2017 and to decide on appropriate action to be taken, in particular as regards giving follow up to specific tasks (i), (iii) and (iv) as well as specific task (ii).

The CDDG is also requested to take a decision on setting up working group(s), if any, as proposed as well as on the appointment of the relevant experts and to provide the working groups with specific instructions as applicable.

APPENDIX I

TERMS OF REFERENCE

EUROPEAN COMMITTEE ON DEMOCRACY AND GOVERNANCE (CDDG)

Set up by the Committee of Ministers under Article 17 of the Statute of the Council of Europe and in accordance with Resolution [CM/Res\(2011\)24](#) on intergovernmental committees and subordinate bodies, their terms of reference and working methods.

Type of committee: Steering Committee

Terms of reference valid from: 1 January 2018 until 31 December 2019

| PILLAR/SECTOR/PROGRAMME |
|---|
| Pillar: Democracy Sector: Strengthening Democratic Governance Programme: Democratic Governance |
| MAIN TASKS |
| <p>Under the authority of the Committee of Ministers, having regard to the Secretary General's reports on the State of Democracy, Human Rights and the Rule of Law, and building on the achievements in the area of local and regional democracy, the European Committee on Democracy and Governance (CDDG) will steer the Council of Europe's intergovernmental work in the field of democracy and democratic governance and advise the Committee of Ministers in its field of competence, taking due account of relevant transversal perspectives. The overall aim of the CDDG is to contribute to strengthening democratic institutions, public administration reform, decentralisation, good governance, in particular participation, public ethics, and e-governance, e-democracy and e-voting, at all levels. With this purpose, and taking due account of the gender and children's rights perspectives and the objective of building cohesive societies, the CDDG is instructed to:</p> <ul style="list-style-type: none"> (i) act as a forum where members, associating as appropriate participants and observers, exchange information, views and experience and disseminate good practice in the design and implementation of reforms, including through compilation of best practice and guidelines; (ii) provide responses based on domestic legislation, practice and experience to member States so requesting that envisage policy reviews and legislative reforms, including through peer reviews and the rapid response service; (iii) develop as appropriate standards relating to modernisation of democratic institutions, public administration, citizens' participation and democratic governance at all levels; (iv) promote the implementation of the Twelve Principles of Good Governance through targeted action and the use of the tools of the Centre of Expertise for Local Government Reform; (v) without prejudice to the mandates of intergovernmental committees of the Council of Europe that already follow the work of monitoring mechanisms, follow the activities of the relevant monitoring and other bodies or convention mechanisms; |

- (vi) provide input and ensure follow-up to the sessions of the Council of Europe's World Forum for Democracy when the themes addressed fall within the mandate of the CDDG;
- (vii) promote and follow the implementation of the non-binding instruments that it has prepared; in accordance with decisions [CM/Del/Dec\(2013\)1168/10.2](#) of the Committee of Ministers, carry out, at regular intervals, within the limits of the available resources and bearing in mind its priorities, an examination of some or all of the conventions for which it has been given responsibility,¹ in co-operation, where appropriate, with other relevant bodies, and report back to the Committee of Ministers.

SPECIFIC TASKS

- (i) Revise Committee of Ministers' Recommendation [Rec\(98\)12](#) on the supervision of local authorities' action.
- (ii) Focus on promoting the implementation of the Council of Europe instruments on participation (Guidelines for civil participation in political decision-making, revised Recommendation on the participation of citizens in local public life once adopted by the Committee of Ministers, Additional Protocol to the European Charter on Local Self-government on the right to participation in the affairs of a local authority).
- (iii) As a follow-up to the findings of the good governance section of the Secretary General's Reports on the State of Democracy, Human Rights and Rule of Law with regard to public ethics:
 - develop guidelines on public ethics at all levels of government, taking into account the findings of GRECO and Committee of Ministers' Recommendation [Rec\(2000\)10](#) on Codes of Conduct for Public Officials;
 - update the 2004 Handbook of good practice on public ethics at local level, taking into account experience with the implementation of the revised Public Ethics Benchmark Toolkit of the Centre of expertise on local government reform, and extend it to cover all levels of government – local, regional and national;
 - carry out a feasibility study on the preparation of a Council of Europe indicator framework to identify trends with regard to public ethics and to allow member States to assess their performance.
- (iv) In the field of e-democracy,
 - in accordance with Recommendation [CM/Rec\(2017\)5](#) on standards for e-voting, hold a review meeting on its implementation in 2019;
 - develop guidelines on e-democracy as a toolkit;
 - oversee the implementation of the priority "building democracy online" of the Internet Governance – Council of Europe Strategy 2016-2019.
- (v) Contribute to the updating of toolkits of the Centre of expertise for local government reform reflecting the latest governance practices, for example in the field of e-governance.
- (vi) Report to the Committee of Ministers on a regular basis on the work and achievements of the European Stakeholders Platform which delivers the accreditation to the national platforms or bodies authorised to grant the European Label of Governance Excellence (ELoGE).

¹ Cf. Relevant decision of the Committee of Ministers ([CM/Del/Dec\(2013\)1168/10.2](#)) and list of Conventions in [CM\(2017\)132](#).

COMPOSITION

Members:

Governments of member States are invited to designate one or more representatives of the highest possible rank in the relevant field, with senior responsibility at national level for the implementation of democratic (constitutional) principles and/or the planning, development and implementation of policies in the field of democratic governance, including at local and regional level and the modernisation of public administration, and/or for co-ordinating government policy relevant to the work of the Committee.

The Council of Europe budget will bear the travel and subsistence expenses of one representative from each member State (two in the case of the State whose representative has been elected Chair).

Member States may send other representatives without defrayal of expenses.

Each member of the committee shall have one vote. Where a government designates more than one member, only one of them is entitled to take part in the voting.

In accordance with decisions [CM/Del/Dec\(2013\)1168/10.2](#) of the Committee of Ministers, in cases where there is no convention-based body including all the Parties, non-member States are invited to take part, with a right to vote, in the committee meetings pertaining to the conventions to which they are Parties.

Participants:

The following may send representatives, without the right to vote and at the charge of their corresponding administrative budgets:

- Parliamentary Assembly of the Council of Europe;
- Congress of Local and Regional Authorities of the Council of Europe;
- European Court of Human Rights;
- the Council of Europe Commissioner for Human Rights;
- Conference of INGOs of the Council of Europe;
- European Commission for Democracy through Law (Venice Commission);
- Committees or other bodies of the Council of Europe engaged in related work, as appropriate.

The following may send representatives, without the right to vote and without defrayal of expenses:

- European Union;
- Observer States to the Council of Europe: Canada, Holy See, Japan, Mexico, United States of America;
- Organisation for Economic Co-operation and Development (OECD);
- Office for Democratic Institutions and Human rights (ODIHR-OSCE).

Observers:

The following may send representatives, without the right to vote and without defrayal of expenses:

- Assembly of European Regions;
- Council of European Municipalities and Regions;
- European Council of Spatial Planners (ECTP-CEU).

Other non-governmental organisations may receive, upon request, observer status and have the right to send representatives without the right to vote and without defrayal of expenses.

WORKING METHODS

Meetings:

48 members, 1 meeting in 2018, 3 days

48 members, 1 meeting in 2019, 3 days

Bureau:

7 members, 2 meetings in 2018, 2 days

7 members, 2 meetings in 2019, 2 days

The Committee will also appoint Rapporteurs on Gender Equality, on Children's Rights and on Roma² Issues from amongst its members.

The rules of procedure of the Committee are governed by Resolution [CM/Res\(2011\)24](#) on intergovernmental committees and subordinate bodies, their terms of reference and working methods.

Without prejudice to Resolution [CM/Res\(2011\)24](#), draft agendas for meetings will be prepared with a view to facilitating participation by representatives, with due regard to the areas of expertise of those representatives.

Budgetary information*

2018

| Meetings per year | Number of days | Members | Plenary € | Bureau € | Subordinate structures / Working groups | Secretariat (A, B) |
|-------------------|----------------|---------|--------------|-------------|---|--------------------|
| 1 | 3 | 48 | 80 000 | 9 800 | 14 600 | 1.5 A; 1 B |

2019

| Meetings per year | Number of days | Members | Plenary € | Bureau € | Subordinate structures / Working groups | Secretariat (A, B) |
|-------------------|----------------|---------|--------------|-------------|---|--------------------|
| 1 | 3 | 48 | 80 000 | 9 800 | 14 600 | 1.5 A; 1 B |

*The costs presented above take into consideration the per diem, travel, interpretation, translation and document printing. Costs calculated on the basis of the per diem and recharged services costs at their 2018 level.

² The terms "Roma and Travellers" are being used at the Council of Europe to encompass the wide diversity of the groups covered by the work of the Council of Europe in this field: on the one hand a) Roma, Sinti/Manush, Calé, Kaale, Romanichals, Boyash/Rudari; b) Balkan Egyptians (Egyptians and Ashkali); c) Eastern groups (Dom, Lom and Abdal); and, on the other hand, groups such as Travellers, Yenish, and the populations designated under the administrative term "*Gens du voyage*", as well as persons who identify themselves as Gypsies.

APPENDIX II

DRAFT TIMETABLE FOR 2018

| COMMITTEE / WORKING GROUP | DATE |
|--|-----------------|
| Working Group on the revision of Recommendation (98)12 on supervision of local authorities' action | 19-20 February |
| Working Group on Public Ethics | 22-23 March |
| CDDG Bureau | 27 April |
| Working Group on E-democracy | 7-8 June |
| Working Group on the revision of Recommendation (98)12 on supervision of local authorities' action | 17-18 September |
| Working Group on Public Ethics | 4-5 October |
| CDDG Bureau | 19 October |
| 9th Plenary meeting of the CDDG | 28-30 November |