

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 19 November 2020

CDDG(2020)20  
Item 4.3 of the agenda

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

### **DEMOCRATIC GOVERNANCE AND COVID-19**

#### **DRAFT REPORT**

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

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## Introduction

Since March 2020, virtually all countries in the world have been confronted with the challenge of responding to the Covid-19 pandemic. This implies taking measures to address a major health emergency while continuing to deliver good democratic governance.

Given the similarities of the challenges encountered by Council of Europe member States, in April 2020, the Bureau of the CDDG took the initiative of circulating a questionnaire on *Covid-19 and Democratic Governance* through the Rapid Response Service - the Committee's mechanism to collect information and share experience between member States. The underlying idea was that, as a forum for exchange of experience in the area of democracy and governance, the CDDG was well-placed to facilitate the sharing of information, case studies and practical solutions amongst member States, with a view to supporting their efforts in responding to the pandemic.

The questionnaire covered the following aspects:

- multilevel governance
- the frontline role of local authorities
- cross-border cooperation
- civil participation
- provision of essential services
- other pertinent developments.

A webpage on Democratic governance and COVID-19 was created to share the information provided by member States, and to reflect the relevant activities carried out by the Centre of Expertise for Good Governance<sup>1</sup>.

The first deadline for replying to the questionnaire was set at 5 May 2020, and countries were encouraged to submit any additional information or update also at a later date. An invitation to send updates was sent on 28 May and an additional deadline set at 2 June, to enable the Secretariat to prepare a compendium of responses in time for the thematic meeting of 18 June. An additional deadline for submitting updates was set at 16 October. As of 16 November, replies to the questionnaire (including a few updates) have been received from 26 countries. They are compiled in Addendum I to this ~~preliminary~~ draft report. Addendum II includes the findings of surveys which have been carried out amongst municipalities in Serbia, in the context of projects implemented by the Centre of Expertise for Good Governance, for information.

On 18 June, a thematic meeting of the CDDG on *A democratic governance response to Covid-19* was convened, under the auspices of the Greek chairmanship of the Committee of Ministers. The programme, speeches, list of participants and further documents can be found on-line.<sup>2</sup>

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<sup>1</sup> <https://www.coe.int/en/web/good-governance/centre-of-expertise>

<sup>2</sup> See the dedicated webpage of the thematic meeting: <https://www.coe.int/en/web/good-governance/thematic-meeting>

Over 100 participants – high-level officials from Council of Europe member States, CDDG members and observers, representatives of the Parliamentary Assembly, the Congress of Local and Regional Authorities and the INGO Conference of the Council of Europe and many other partners and stakeholders – gathered online to share experience, information and practical solutions on how to respond to the COVID-19 emergency while continuing to ensure democratic governance, in line with Council of Europe standards and principles. The Deputy Minister for Civil Protection of Greece, Mr Nikos Hardalias, the Secretary General of the Council of Europe, Ms Marija Pejčinović Burić, and the Minister of Public Administration of Croatia, Mr Ivan Malenica, addressed the audience during the opening session while Ms Snežana Samardžić-Marković, Council of Europe Director General of Democracy, presented concluding remarks.

This report is mainly based on a synthesis of the information gathered through the replies to the questionnaire. The discussions that were held during the thematic meeting provided additional inspiration and elements, in particular for the structure of this report. It provides a short description and analysis of the main policies adopted by Council of Europe member States in the area of democratic governance, exemplified by a few case studies drawn from the wealth of information provided by CDDG members in their replies to the questionnaire.

While this report is manageable to read, it is not exhaustive and does not reflect the entirety of the information collected. Those who wish to have more detailed information are referred to the compendium of replies (Addendum I), which is an extensive document of around 200 pages.

Moreover, this report mostly covers what can be seen retrospectively as the first set of measures taken by member States in response to the situation between Spring and the Summer of 2020. In the Autumn, a second wave of the pandemic broke out. As pointed out in the foreword by the Chair, any additional experience gathered from the management of the pandemic over a longer time span would require an update in the near future.

### **Action required**

The CDDG is invited to examine and approve this draft report.

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## EXECUTIVE SUMMARY

1. The COVID-19 pandemic has proved to be one of the greatest and most unexpected challenges that Council of Europe member States have faced in many years. **A major lesson learnt from this experience is that Council of Europe member States should be better equipped to prevent, identify and manage emergencies, including pandemics. Resilience, flexibility, capacity and coordination are instrumental to good governance and to ensure that key services continue come what may, whilst managing the infection rates and responding to new issues.** The Council of Europe Centre of Expertise for Good Governance has already initiated activities to support member States in this effort. It has also carried out surveys of local authorities in the countries in which it implements projects, with a view to better understanding their needs in the context of the pandemic.

2. In response to the COVID-19 emergency, Council of Europe member States have introduced a wide range of legal and administrative measures under great pressure and many have declared the state of emergency and/or a derogation from the European Convention on Human Rights. The measures taken to tackle the pandemic have affected the functioning of society and people's normal way of life.

3. **The decision whether to hold or postpone elections and referendums during a pandemic requires a difficult balancing exercise.** The legitimacy of elected mandates depends on holding free and fair elections at regular intervals; on the other hand, protecting public health, providing a level-playing field for candidates to campaign and ensuring that the conduct of the vote is not only free of irregularities but also safe for all those who take part in the process are elements to be taken into account. There is a **clear renewed interest in e-democracy and to some extent also in e-enabled elections.** In addition to [Recommendation CM/Rec\(2017\)5 of the Committee of Ministers to member States on standards for e-voting](#), further guidance could be provided in future months – including on how elections can be held in the specific situation of a pandemic – as the CDDG is looking at the use of new technologies in the different stages of the electoral process, which will lead to a Committee of Ministers' recommendation or guidelines.

4. **The need to respond swiftly and effectively to the health crisis often had an impact on the balance between the different powers of the State.** Examples are available of how the capacity of parliament to carry out its legislative work and to exert oversight of the government's actions can be maintained. Embedding an **effective system of checks and balances** in all measures taken to respond to the COVID-19 emergency and ensuring that exceptional powers of the executive are conditional on the respect of the principles of legality, necessity, proportionality and limited duration are of paramount importance.

5. **Cooperation and coordination between various territorial levels of government have undergone a stress test.** Finding the right balance between taking urgent and effective actions while ensuring that the response is based on dialogue between central, regional and local bodies, on the other hand, has proved to be a challenge. Many examples have been given of new national coordination mechanisms and/or how pre-existing crisis management schemes have been tested for the first time. Vertical coordination is crucial especially as regards the organisation of financial support schemes, lockdown measures, ownership and/or accountability of measures, allocation of medical equipment, overlapping activities, public communication and cross-border issues. **Effective multilevel governance appears to be a key requirement to tackle the current crisis and the recovery period which will follow it, as well as to ensure public trust in the authorities' actions.**

6. This applies throughout the different stages of the emergency and despite the role, responsibilities, and areas of intervention of different territorial levels of government having changed over time, in a non-linear way, to respond to different challenges posed by the pandemic. Whereas at the beginning of the emergency the role of the central authorities was predominant, in other phases of the emergency local and regional authorities have had greater opportunities of implementing policies that were specific and tailor-made to the local situation. Now that the infection rates are rising again, it seems that the central authorities are again taking a tighter direction of the management of the response.

7. As indicated by the Secretary General of the Council of Europe in her *Toolkit for member States* on democracy, rule of law and human rights in the framework of the COVID-19 crisis, bypassing the standard distribution of competences *"should be possible only to the extent permitted by the constitution, with reference to certain specific, limited fields, to ensure a more co-ordinated response to the crisis and on the understanding that full rights of local and regional authorities should be re-established as soon as the situation allows it"*. It should also be noticed that, in evaluating the response to COVID-19, a reflection has started in some member States on whether a greater decentralisation of responsibilities would better equip authorities at sub-national levels to tackle crises of this kind. The CDDG and the Centre of Expertise for Good Governance stand ready to provide its expertise to member States that wished to embark on this path.

8. Member States had to find different, innovative ways to reach out to the public and to continue to provide essential services, to ensure in so far possible that people could continue to have a normal life. Thus, **the crisis has acted as a catalyst for the modernisation of the public administration**, with bureaucratic procedures being simplified and public services being digitalised in record-time, becoming more responsive, efficient, effective and easily accessible. Measures such as increased teleworking possibilities for all employees, including in the public administration; videoconference meetings for elected and government bodies; digital tools for providing administrative services and updated information to the public could have a durable legacy as a number of member States approach return to normality.

9. The **response to Covid-19 is also a reminder that openness and transparency are essential components of democratic governance**: the public has the right to be informed and to be provided with up-to-date, transparent and reliable information on the pandemic and the measures to tackle it. This is also a matter of accountability to counterbalance the fact that governments and local authorities sometimes need to adopt emergency measures with a lower level of public consultation as would normally be expected.

10. **Cross-border cooperation has been affected by restrictions on domestic and international movements**, even if there have been exceptions such as for social and health workers. **It has continued to be intense in border areas with a long tradition of cooperation**, namely as regards the repatriation of nationals; the exchange of information on travellers presenting symptoms of COVID-19, the hospitalisation of patients from across the border and the development of fast track customs. Sometimes, since the outset of the pandemic there has been close coordination between the central authorities of the countries concerned. **In many cases, however, coordination has taken place directly at the local and regional levels.** E-DEN<sup>3</sup> a Council of Europe online tool and a database on cross-border cooperation – has been recently updated to include specific COVID-related case studies from Council of Europe member States, based on input from members of the CDDG.

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<sup>3</sup> <http://cbc.isig.it/>

11. The crisis has highlighted the **unique frontline role of local authorities**, the level of government which is the closest to citizens. In the face of the pandemic, municipalities had to react urgently to deliver basic services, provide care for people in a vulnerable situation and reduce the impact of the crisis on the economic fabric of their communities, mobilise the solidarity effort, raise awareness on COVID-19 and ensure compliance with lockdown measures by the population. Many municipalities had to shoulder these responsibilities without having the necessary means, because of the unforeseen needs and the fall in local tax revenues resulting from fiscal and other relief measures. It is recalled that **local authorities should be provided with the necessary financial resources to carry out their responsibilities**, in line with the European Charter of Local Self-Government.

12. **The success of the response greatly depends on the active participation of all actors of society**, as regards not only complying with confinement measures but also the direct involvement in initiatives that support or complement the action of public bodies. **The current crisis has highlighted the importance of a robust system of civil participation in public decision-making and some countries have provided many examples of how it can be maintained during an emergency.** It should be borne in mind, however, that the COVID-19 emergency also had a negative financial impact on the voluntary sector, including its capacity to accompany public relief efforts and to contribute to a well-functioning system of checks and balances.

13. The protection of individual rights and freedoms is fundamental also in emergency situations. Several examples have been given of **how the situation of particular groups of the population has been and can be addressed to ensure that the vulnerability of those concerned is not amplified by the lockdown.** In addition to the authorities at all levels, the voluntary sector has played a considerable role in addressing the needs of vulnerable groups.

## Foreword by the Chair of the CDDG

Markku MÖLLÄRI, Chair *ad interim*

The COVID-19 pandemic has proved to be one of the greatest and most unexpected challenges that Council of Europe member States have faced in many years.

Clearly, democracies which uphold human rights and the rule of law are best placed to manage a challenge of this magnitude and complexity. Only a system of government which is based on legality, upholds parliamentary oversight of the executive, effective checks and balances, the principle of subsidiarity and ensures cooperation, coordination and communication between authorities at different levels can deliver durable solutions, which are trusted and supported by the population and all stakeholders in society.

The crisis has also highlighted the continued relevance of the 12 Principles of Good Democratic Governance: fair conduct of elections, representation and participation; responsiveness; efficiency and effectiveness; openness and transparency; rule of law; ethical conduct; competence and capacity; innovation and openness to change; sustainability and long-term orientation; sound financial management; human rights, cultural diversity and social cohesion and accountability are principles that should guide public action not only in normal times but also during emergencies and at all levels of government.

The COVID-19 pandemic is not over. Many member States have started to experience a new surge in infections since early autumn.

At the time of writing, this second wave has turned out to even exceed the first in many respects. Even once the virus is defeated, there will remain heavy social and economic consequences to deal with. In the difficult times that lie ahead, the lessons learnt in these last few months should continue to provide guidance. It is thus clear that in order to capture the broadest amount of experience gathered throughout the management of the crisis, this report will need to be updated in the near future.

Reiterating the importance of multilateralism and intergovernmental dialogue, the CDDG stands ready to continue to provide a platform for the representatives of member States to share information and support each other in the development of policies and legal standards based on best European practice.



## THE RESPONSE OF COUNCIL OF EUROPE MEMBER STATES

### 1. Emergency measures and checks and balances: the horizontal level

To respond to the COVID-19 emergency, Council of Europe member States have introduced a wide range of legal and administrative measures under great pressure due to the gravity of the threat on public health, and repeatedly revised or extended them to adapt to the evolution of the pandemic, which is fast and barely predictable. Many member States have introduced a state of emergency and/or declared a derogation from the European Convention on Human Rights.<sup>4</sup> The measures taken to tackle the pandemic have affected the functioning of society and people's normal way of life.

#### 1.1. Summary analysis of the replies to the questionnaire

A **majority of responding countries have declared a state of emergency or similar measures** for public health reasons which have enabled the government or a specific ministry (for instance the ministry of health) to take expedited measures and to pass orders and/or to impose certain restrictive measures, concerning for instance freedom of movement. Sometimes, such special measures have been taken even when dedicated legal arrangements and coordination mechanisms existed to deal for instance with public health crisis situations. In other instances, the existing framework already provided for sufficient action possibilities in the case of an emergency, such as a civil protection act.

The exceptional powers of the executive branch are conditional upon the respect of the principles of legality, necessity, proportionality and limited duration. In addition, the executive is subjected to **democratic oversight by parliament**. For such a purpose, parliaments would receive from the executive an account of measures taken as well as information on the evolution of the situation, in order to extend as necessary the applicability of special measures. Some countries have also reported similar temporary delegations/transfer of powers that have been decided at regional/local level between the assembly and the executive branch.

The quorum needed for parliament to agree on or to extend temporary emergency measures is sometimes designed in such a way as to require a large political consensus and to grant at the same time a greater say to opposition or smaller parties. One country reported that a minority in parliament can put an end to the application of emergency measures. Another country emphasised that parliament has the power to revoke the special powers at any time, both in general and/or with regard to specific measures decided by the government.

It was also pointed out that since the functioning of elected assemblies themselves may have been affected by lockdown measures, legislative and practical adjustments have been necessary to allow for the **holding of assembly meetings by videoconference**. In other instances, legislation and regulations already provided for such possibilities.

Where elections had to be postponed because of the pandemic, corrective measures may need to be taken, accordingly, to **adjust the duration of mandates** of outgoing and/or incoming assembly members and thus to ensure the continuity of parliamentary oversight.

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<sup>4</sup> <https://www.coe.int/en/web/conventions/full-list/-/conventions/webContent/62111354>

## 1.2. Case study

### United Kingdom: Powers and Parliamentary oversight

The Coronavirus Act 2020 was introduced to grant extraordinary powers to assist the authorities in providing a consistent and effective response to the crisis. Elections which were due in May 2020 have been postponed for one year, and the terms of office for those elected in the 2021 elections will be adjusted by one year to serve for three years instead of four. Any by-elections to local, regional, devolved or national legislatures have been postponed to May 2021. The Government also made regulations under the above Act to enable all local authority meetings before 7 May 2021 to be held remotely and to remove the requirement for the annual meeting in 2020.

#### Powers and Parliamentary oversight

Some provisions of the Act take effect on Royal Assent, but others only take effect when a Minister makes a regulation to switch that power on. Regulations may also be made to turn some measures on and off as needed and different regulations may be made for different purposes or areas. The exercise of powers in the Act is subject to different levels of Parliamentary scrutiny.

Most of the legislation is time limited and will expire after two years. Some provisions, including certain provisions relating to the emergency registration of health professionals and indemnity of health service activity do not expire after two years.

The legislation is subject to continued Parliamentary scrutiny. Parliament has the opportunity to express a view on the continued operation of the Act's temporary provisions every six months. If Parliament votes against keeping the provisions of the Act in force, the government must make regulations to prevent provisions having effect within 21 days. If the Government wishes to extend the legislation beyond that date it must enact new legislation. The government is required to publish a report every two months on the use of the non-devolved aspects of the legislation. If the key provisions of the Act remain in force in one year, a parliamentary debate must be held on non-devolved aspects of the Act, in both Houses of Parliament.

## 1.3. Council of Europe initiatives

The Secretary General's **toolkit for member states on respecting democracy, rule of law and human rights in the framework of the COVID-19 crisis, published** in April 2020 recalls that "Parliaments (...) must keep the power to control executive action<sup>5</sup> in particular by verifying, at reasonable intervals, whether the emergency powers of the executive are still justified, or by intervening on an ad hoc basis to modify or annul the decisions of the executive<sup>6</sup>. Dissolution of parliaments during the states of emergency should not be possible, and indeed under many constitutions the parliament's mandate is prolonged until the end of the state of emergency."

<sup>5</sup> See PACE Recommendation 1713 (2005), Democratic oversight of the security sector in member states, p. 38

<sup>6</sup> The Venice Commission, Rule of Law Checklist (CDL-AD(2016)007), para. 51.  
*Draft report on Democratic governance and Covid-19*  
 [CDDG(2020)20]

Also in April 2020, the **Venice Commission** established the [Observatory of situations of emergency](#) in its member States to collect country-specific information on constitutional and extra-constitutional emergency powers, on relevant mechanisms of parliamentary and judicial oversight and on electoral experiences.<sup>7</sup> The Observatory will provide systematised comparative information which may be used by lawyers, scholars, State officials, international and non-governmental organisations working in this field. In the past three decades, the Venice Commission has examined the constitutional and legal framework of emergency powers in many countries and prepared several general reports on this topic. In its [Rule of Law Checklist](#), the Venice Commission elaborated specific benchmarks for the exceptions to the principle of legality in the emergency situations. This material was summarised by the Scientific Council of the Venice Commission in a Compilation on constitutional provisions and legislation on emergency situations<sup>8</sup> and in June 2020, the Venice Commission endorsed the report on the "Respect for Democracy Human Rights and Rule of Law during States of Emergency – Reflections".<sup>9</sup>

## 2. Multilevel governance

The response to COVID-19 has required increased efforts in terms of multilevel governance, with authorities at all levels of government being involved. Ensuring coordination, concertation, cooperation and communication between them has been crucial to the effective handling of the crisis.

### 2.1. Summary analysis of the replies to the questionnaire

The replies to the questionnaire provide an overview of the allocation of responsibilities in unitary, federal and decentralised States and of the modalities of cooperation and coordination in responding to the Covid-19 emergency, horizontally between ministerial bodies and same-level territorial entities, and vertically between bodies of different territorial levels.

As already mentioned, a majority of responding countries have declared a state of emergency or similar measures for public health reasons which have enabled the government or a specific ministry to take expedited measures and to impose certain precautionary measures. Sometimes, such measures have been taken even when dedicated legal arrangements and coordination mechanisms existed to deal for instance with public health crisis situations. In other instances, the existing framework already provided for sufficient action possibilities in the case of an emergency, such as a civil protection act. In some cases, additional powers or temporary special assignments have been given to all levels of governance: the central government, the regions and the municipalities.

**Horizontal and territorial coordination mechanisms have taken various forms, including:**

- designation by law or ad hoc of a ministry entrusted with specific responsibilities (ministry of health, ministry of interior, ministry of relations with local authorities);

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<sup>7</sup> The information in the Observatory is based on the answers to a questionnaire received from the individual members of the Venice Commission, complemented with information from other open sources. The Observatory will be updated regularly, as more information becomes available:

[https://www.venice.coe.int/WebForms/pages/?p=02\\_EmergencyPowersObservatory&lang=EN](https://www.venice.coe.int/WebForms/pages/?p=02_EmergencyPowersObservatory&lang=EN)

<sup>8</sup> <https://www.venice.coe.int/webforms/events/default.aspx?id=2917&lang=en>

<sup>9</sup> [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2020\)014-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2020)014-e)

- use of existing or new coordination bodies, such as a central “Emergency Task Force” to the government, possibly in combination with similar bodies at all territorial levels (for instance in some CDDG member States with a federal structure);
- multi-stage approaches involving immediate reaction under the lead of the body normally responsible (e.g. central authority responsible for civil protection) and subsequent strategic policies (legislative and financial steps to support the population and economy etc.) decided by the government in cooperation with a newly created advisory body.

The **central government has usually played a leading role**, including in federal or strongly decentralised states where it has ensured the design of general policy frameworks and action plans, the overall coordination of public policies, the reallocation of resources from the national budget, the issuance of guidance, international/diplomatic contacts, etc.

Several **examples of close interaction between local/regional authorities and central governments** in relation to Covid-19 can be identified: in one country, the union of local governments participated actively in the work of the crisis management council to the prime minister; in another country, the union of municipalities was represented on the national coordination body for infectious diseases and, in another case, municipalities and provinces were closely involved, through the national federation of municipalities and provinces, in both the design and the implementation of public responses including the mobilisation of resources.

**Certain countries have relied on increased centralism and orders from the government or competent minister to be implemented by the subnational levels of governance.** Sometimes, certain powers are only available to (central) State bodies, such as the requisition power; in such cases, the municipalities in particular may still apply to the local State representative (for instance in certain member countries, the central State is represented at regional, county or municipal level by prefects or governors) for him/her to use that power if they need to mobilise resources and staff to meet urgent needs.

**The management of the pandemic has also given an opportunity to (re)activate coordination mechanisms and bodies** already provided for in existing laws and regulations on health crisis situations, to the extent that the benefits of these mechanisms could serve future dialogues in non-pandemic related contexts. Depending on the national context, associations of municipal and regional authorities become either a partner in co-decision or consultation processes, or an advocacy body seeking to defend certain interests or to influence governmental action.

**The pandemic has generally caused an increased social, health and other expenditure and loss of income (especially from taxes) for local authorities.** This has not always as yet led to additional financial resources being made available from the central to the regional and/or local level. Where additional support is provided by the State or a regional body, it can take various forms, both as direct and indirect aid, including:

- creation of a special contingency plan to provide additional financial aid;
- transfer of additional funds amounting to tax income losses due to the suspension of business activity;
- delegation of power to the government to deal with contractual obligations;
- centralisation of purchases of medical and other equipment;
- payment from the central budget (general, sector-specific or special ad hoc funds) of costs incurred at local level (e.g. hospitals costs inherent to intensive care), etc.

## 2.2. Case studies

### Austria: Country-wide coordination in a federal State

Crisis management boards were established at national, regional and local levels and a national crisis response structure (SKKM) was set up under the coordination of the Ministry of the Interior which involves all relevant federal ministries, governments of the provinces, first response organisations, civil protection, health authorities and critical infrastructures, as well as the media. Coordination is ensured through daily meetings of a coordination committee and a permanent crisis management cell. These procedures were followed consistently in the course of the crisis.

### Slovenia: The anti-COVID-19 law package adopted in early April 2020

The *Act Determining the Intervention Measures to Contain the COVID-19 Epidemic and Mitigate its Consequences for Citizens and the Economy* contains a number of measures designed to protect employers and workers economically, to preserve the social protection of employees and to enable more than 100,000 sole proprietors to survive, as well as resolving the plight of the population (such as deferring credit obligations).

Regarding the transfer of financial resources from the central to local level, the Act ensures the transfer of funds from the state budget to the budgets of municipalities in several areas, such as the salaries of municipal institutions' employees, special grants for the operation of local self-government etc. The Act also provides for temporary measures to mitigate the effects of the epidemic in the area of work and payment of social security contributions, health care and health insurance, social security, rights from public funds and the exercise of rights related to parental care, taxes, public finances, wages and salaries, public sector and direct and indirect majority state-owned companies, agriculture, forestry and food, water management, environmental protection, culture, science and research, anti-money laundering and terrorist financing, insurance and financial markets, public procurement, contractual penalties, enforcement and personal bankruptcy, performance of public services, corporate financial affairs, insolvency proceedings and forced termination, exemption from payment of the National Radio Television (RTV) signal services and additional police powers.

### Spain: Active role of the Federation of Municipalities and Provinces

The Spanish Federation of Municipalities and Provinces (FEMP) has played an active role. It has collected and disseminated timely and updated information to local governments through circulars and numerous communications in relation to the handling of the crisis. This was facilitated by the participation of FEMP in important fora such as the Centre for Operational Coordination in Security matters, where the Federation represents all Local Governments. The Centre for Operational Coordination in Security Matters has been holding daily meetings and setting the guidelines for action by the State Security Forces and Bodies and also by the Local Police. Web sites such as <http://covid19.femp.es/> and [www.femp.es](http://www.femp.es), together with social networks (i.e. @fempcomunica ) have thus been used actively by FEMP to disseminate updated information on COVID-19 responses (state, regional and local level) and to give support to municipalities and provinces.

### 3. Governance and innovation

While responding to the Covid-19 pandemic, Council of Europe member States had to find different, innovative ways to reach out to the public and to continue to provide essential services, to ensure in so far possible that people could continue to have a normal life. Thus, the crisis has acted as a catalyst for the modernisation of the public administration, with bureaucratic procedures being simplified and public services being digitalised in record-time, becoming more responsive, efficient, effective and easily accessible, in line with the 12 Principles of Good Democratic Governance.

#### 3.1. Summary analysis of the replies to the questionnaire

Managing a crisis of the scale of Covid-19 has often forced **public bodies to innovate and develop new approaches and working methods**. Two series of factors seem to have been particularly important:

- first, there was a need for public bodies to continue ensure the provision of essential services such as in relation to health, education, administrative services for the population and business community, the supply of health equipment / services in a context of public health emergency, the supply of food and energy products, and last but not least the security and protection of the population. Shortages and restrictions affecting national and international supply chains, and the health crisis have led to increasing demands and a competition for certain goods, both nationally and internationally;
- secondly, this had to be done in a context of lockdown and other restrictions which affected equally the functioning of public institutions.

The replies to the questionnaire refer to a variety of special measures being taken by **law, decree or otherwise to avoid a disruption in the supply of public services** (albeit reduced in certain cases). These measures include:

- increased use of **remote schooling, teleworking and teleconferencing** including for municipal councils and their members,
- possibility to **redeploy public officials** (even without their consent) in case of extra staff needs in given sectors,
- increased coordination efforts at central level
- ceilings on the price of medicines, food, public utility services.

In addition to **teleworking for public officials** – which is widely reported as a commonly used method to ensure the continuity of public sector services, more operational activities such as the maintenance of public infrastructures and equipment were also ensured by means of **duty rosters**. In combination with teleworking, efforts were made **to increase the availability of online services** (e.g. for the issuing of permits etc.) and by redesigning modalities of contacts with the public administration by telephone or via digital communication.

Some countries report that **the Covid-19 context has clearly been an opportunity to develop a whole range of new digital services and tools** for teleconferencing, remote learning, teleworking, solidarity and information-sharing, access to public information etc. which were sometimes part of the portfolio of a ministry specifically in charge of digital governance.

The policy of **focusing on specific services considered essential, to avoid any disruption, was privileged in certain countries**, where staff of such specific services benefited from special support (childcare services provided by institutions otherwise closed to the general public), or were put on call (e.g. health sector).

Some countries have pointed out that **a number of positive lessons are being drawn from the crisis as regards public governance and working methods, including the merits of evidence-based policy-making, increased inter-agency dialogue** in respect of information-collection / -sharing / -processing including via artificial intelligence - instead of a centralised approach which was rejected from the outset - as well as of teleworking which were not customary working methods in the country.

The **mobilisation of the security forces** to support health services and to ensure the continued supply of essential goods (in addition to enforcing confinement measures and to protect the population against specific risks) was also mentioned.

**Simplification of administrative routines** and the extension of validity of personal documents or the extension of administrative deadlines to cover the lockout period are also among the measures reported under this chapter by various countries, as well as **increased vigilance, proactivity and means to deal with certain side-effects of confinement measures** such as increased domestic and gender-based violence, cases of depression and social isolation, robberies etc.

To counter the spread of Covid-19, **public authorities have sometimes developed innovative technical tools such as apps for mobile communication devices** which alert the users if they have been in close contact with infected persons in certain places or at a certain point in time. The compatibility of such techniques - which involve the processing of so-called big data - with fundamental rights and freedoms as well as their acceptance by the public was ensured through the anonymisation of data.

### 3.2. Case studies: E-governance

#### Croatia

As the body responsible for the government information infrastructure, the Ministry of Public Administration continued to maintain the government information infrastructure during the COVID-19 epidemic, which can be used by other central government bodies to digitize their processes.

If a central government body wants to create a specific electronic service, they can use the **e-Citizens system** with its two components: the National Identification and Authentication System (NIAS), which enables secure user authentication, and Personal User Mailbox, which enables sending messages to the user.

In addition, earlier in 2020, government bodies were already invited to use some new common components when developing their services, which are for the time being available with a limited set of functionalities (but the development is ongoing): NIAS with an extension for business users and the **e-Authorisations system**, as well as a module for connecting electronic services to the e-Fees system.

To ensure preconditions for smooth functioning of the state administration system, the Ministry of Public Administration initiated an urgent procedure, together with the provider of the solution in this project, for issuing **personal qualified signature certificates** for state officials in state administration bodies. Officials which are issued a qualified signature certificate may sign documents electronically in accordance with the provisions of the Act on the Implementation of Regulation (EU) No. 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OG 62/17).

According to a Decision of the Government of Croatia, during the COVID-19 epidemic, state administration bodies and bodies providing public services ensured the performance of indispensable and pressing tasks by having employees work in essential



teams A and B, which alternated every two weeks, while other tasks were performed through **telework** (work from home).

## Greece

### Broadband connectivity

The new situation resulting from the restrictive measures and from the use of digital platforms by citizens, administrations and businesses, increased the importance and role of telecommunication infrastructures. Therefore, the Ministry of Digital Governance in cooperation with the sectors of telecommunication, adopted an action plan to increase the capacity and to ensure the effectiveness of the telecommunication networks and solutions used by public entities and business companies.

A number of specific initiatives were also undertaken:

- **Tele-conference platform "e-presence"** enabling all public entities to hold high quality teleconference meetings with the adequate level of security. (see [www.epresence.gr](http://www.epresence.gr) ).
- **Use of distance learning platforms offered for free by mobile phone networks:** at the request of the Ministry, mobile phone operators offered free access to digital distance learning platforms
- **Tele working for public administrations:** to ensure the unhindered operation of public administration bodies, the Ministry has put in place for all public entities a secure tele-working environment, with VPN connections for up to 100,000 staff.
- opening of the **single public portal** [www.Gov.gr](http://www.Gov.gr); taxis-net credentials are used for the identification of citizens in the new portal and in other public digital platforms
- **setting-up of several internet service platforms for businesses, solidarity, support, information and entertainment of citizens**, based on a joint initiative of the Ministries of Digital Governance, Interior, Health and of the National Documentation Centre.

## 3.3 Council of Europe initiatives

Given the increased importance that teleworking has gained in the management of the pandemic, both for the public and for the private sector – according to certain sources, 40% of EU workers across all sectors were teleworking full time in the spring of 2020 - the Centre of Expertise for Good Governance has launched the drafting of a **toolkit on teleworking in public administrations** to guide national, regional and local governments through this process.

This new toolkit will list a series of general factors: benefits and risks of teleworking; enabling factors and challenges such as line-managers' skills and organisational culture, public perception, supervision of employees working outside of the traditional work setting, interactions between team members, relationship between civil servants on one side, and political leadership and citizens on the other. It will address in practical terms how to introduce teleworking and how to manage it. The last chapter concerns specific aspects of local administrations.



## 4. Cross-border cooperation

During the crisis, there has not been a clearly identifiable trend in the area of cross-border cooperation. The situation has varied greatly between member States and regions, mainly according to the existence of a consolidated tradition of cooperation.

### 4.1 Summary analysis of the replies to the questionnaire

**Cross-border cooperation has been affected by restrictions on transnational movements**, even if there have been exceptions such as for social and healthcare workers as it was underlined by some countries. Sometimes, **specific border crossing points** have been set up for permitted traffic in various legal contexts – e.g. EU, Schengen, non-EU/non-Schengen - in cooperation with the neighbouring country(ies) and also to inform about the pandemic-rules applicable on the other side of the border / within the EU, as EU member States are pointing out.

Cross-border cooperation appears to be particularly intense in **regions which have a long tradition of cross-border or regional cooperation**, for instance among the Benelux countries, and with closer partner countries as regards transport, energy, cross-border workers (e.g. taxation issues concerning those obliged to switch to remote working) and other matters. Countries of that region have sometimes provided many practical examples.

Euro-regions (e.g. EURES-T, Scheldemond, Upper Rhine region etc.) are another example of **pre-existing cooperation frameworks** involved in solving other issues connected with schooling and cross-border workers required to commute, or to help overburdened foreign hospitals by taking over patients requiring intensive care, as pointed out by several countries.

Sometimes, since the outset there has been **close overarching coordination of responses between national governments of neighbouring countries**, or ongoing contacts between larger municipalities as regards the management of the crisis and its aftermath (e.g. through the network of Eurocities).

Cooperation is taking place for a variety of other purposes including:

- the repatriation of nationals (also through transit corridors) and exchange of information on travellers infected or presenting symptoms of Covid-19,
- the development of fast track customs and border-crossing proceedings,
- the supply of assistance in terms of medical equipment / medicines / medical know-how – sometimes run by the respective national section of international humanitarian organisations (e.g. the Red Cross) as it was mentioned by certain countries.

### 4.2. Case studies

#### **Belgium: Cross-border task force to streamline information and address inconsistencies**

A Task Force was set up with members from the Dutch, North-Rhine Westphalian and different Belgian governments to streamline several subjects related to Corona-related cross-border obstacles, on the basis of information received from the different regions. The communication is thus centralised, consolidated and then disseminated to the departments concerned which thus get one consolidated notification instead of one from every region. This has also helped sorting out inconsistencies in the way the situation of certain persons is apprehended as regards the place of residence, for instance in relation to freelance

workers and cross-border workers (in one country the registered residence-principle was applied, whilst another was following the social security-principle).

### **Croatia: Facilitating cross-border movements in specific areas**

From the perspective of the Ministry of the Interior, the impact of COVID-19 on cross-border cooperation was largely reflected in the facilitation of the movements of cross-border workers, with the aim of ensuring the normal functioning of daily activities in the border areas and the preservation of jobs. Also, intensive coordination aimed at facilitating the transit of trucks and passenger vehicles through Croatia, in order to facilitate the flow of goods to the highest extent possible.

Cross-border cooperation was limited due to the restrictions imposed by neighbouring countries and was focused on receiving and providing international (humanitarian) assistance and vital cross border transport/transit.

There were examples of good cross-border co-operation in responding to the emergency, given that, among other things, patients in medical emergencies and persons in need of personal assistance both in Croatia and in neighbouring countries were provided with ambulance transport. There were many cases of emergency operations of foreign nationals carried out domestically during the COVID-19 outbreak, where emergency medical transports were allowed, and there were also certain Croatian nationals sent abroad for medical treatment, which was coordinated with the border police of neighbouring countries at national, regional and local levels. High quality cross-border cooperation was achieved with neighbouring civil protection authorities relating to the exchange of information and humanitarian assistance.

### **Hungary: Cross-border cooperation in a variable context**

As a Central European country, Hungary is in a special situation having three different types of neighbours: the countries, which are part of the Schengen area; the countries, which are members of the European Union, but not part of the Schengen area; and the countries, which are not part of the Schengen area nor member of the European Union. The rules of the border controls are different in all three cases.

In March 2020, due to the impact of the Covid-19, Hungary just like other countries closed its borders. Very soon after the closure, Hungary and its neighbour countries faced a need for partial opening of the borders to ensure the movement of goods and cross-border workers.

That was a new challenge for cross-border co-operation of the countries to detect the most relevant border crossing points and to ensure for the freight traffic and cross-border workers to cross the borders while trying to slow down the spread of Covid-19. As a result, the cross-border freight traffic was allowed regarding all the seven neighbours of Hungary at the designated border crossing points and with six of the seven neighbours there is an agreement about the border crossing of the cross-border workers. Negotiations and co-operation with neighbour countries also took place about the gradual border openings until the pandemic is over.

The Hungarian Ministry of Foreign Affairs and Trade as approval authority of European groupings of territorial cooperation (EGTC), is in close contact with foreign counterparts of relevance for Hungary. Extraordinary government decrees have made it possible to hold meetings between EGTCs' decision-making bodies and to vote electronically.

Also, as restrictions entered into force at both sides of the given borders, many employees started to work from home where it was possible. Nevertheless, based on bilateral agreements, in case of justified cases people were allowed to cross the borders within 30 km (so that employees can get to their office etc.).

### **Spain: Cross-border information services from the perspective of the region of Extremadura**

Border closures and confinement made cooperation extremely difficult. The state of emergency has led to the issuing of numerous provisions and regulations both in Spain and Portugal, as well as at the European level.

In order to collect all the pertinent information and to make easily available to citizens, workers, employers, etc. on both sides of the border, the EUROACE website [www.euro-ace.eu](http://www.euro-ace.eu) has created a section where official information is being updated on regulations and provisions that, due to the COVID-19 crisis, are being published by the national authorities of Portugal and Spain, the regional authorities of Extremadura and those of a European nature. The page provides direct access to the websites of the regional authorities of Alentejo and Centro, as well as to the websites of the Ministry of Health of Spain and its Portuguese counterpart, and thus facilitates access to the data made available by these institutions.

In addition, from the Extremadura Office in Brussels, a document is updated every week which includes the measures that the EU has been implementing since the beginning of this pandemic crisis, and from the Directorate General for External Action of the Government of Extremadura, a document is updated which includes all the measures that the Official Journal of Extremadura has been publishing in recent weeks with regard to COVID 19 in the field of health and public safety but also as regards public administration, education, culture, employment, business and trade, finance, agriculture or environment.

### **4.3. Council of Europe initiatives: Updating E-DEN**

The COVID-19 pandemic highlighted the importance of cross-border cooperation, especially in areas such as emergency response, health, labour market, transportation and institutional cooperation.

[E-DEN](#) – a Council of Europe online tool and a database on cross-border cooperation – has been updated to include specific COVID-related case studies from Council of Europe member States, based on input from members of the European Committee on Democracy and Governance. In addition, its interface has been improved with new functionalities which makes it easier for cross-border authorities to contribute their case studies.

E-DEN is a practical tool which enables officials working in the area of cross-border cooperation to learn from the best practices shared by their European colleagues.

## **5. The frontline role of local authorities**

The crisis has highlighted the unique frontline role of local authorities, the level of government which is the closest to citizens. In the face of the pandemic, municipalities had to react urgently to deliver basic services, provide care for people in a vulnerable situation and reduce the impact of the crisis on the economic fabric of their communities, mobilise the solidarity effort, raise awareness on COVID-19 and ensure compliance with lockdown measures by the population.

Many municipalities had to shoulder these responsibilities without having the necessary means, because of the unforeseen needs and the fall in local tax revenues resulting from fiscal and other relief measures.

## 5.1 Summary analysis of the replies to the questionnaire

The replies to the questionnaire indicate that **sometimes municipalities have reacted by imposing restrictions on movement / property use to counter the spread of Covid-19, even before the government came up with similar country-wide prohibitions** (for instance against those coming to holiday properties), as one member State reported.

Often, municipalities have been strongly solicited in terms of material aid for those in need, and for monitoring the spread and consequences of the virus in cooperation with regional health bodies.

In addition, local authorities and municipalities have also been extremely **active in developing new support initiatives**, for instance:

- granting temporary tax facilities and other forms of assistance;
- initiating coordinated inter-municipal actions (e.g. to order/supply medical and equipment);
- promoting distribution/sale networks of local food and other basic products;
- developing initiatives to counter isolation and loneliness, and additional services for care workers and dedicated initiatives for specific social groups;
- increased efforts and dedicated initiatives to facilitate the dissemination of up-to-date information;
- mobilising local/regional resources and volunteers etc. In one member State, all 21 regions and the national association of local authorities and regions established a model for the purchase and distribution of pharmaceutical products considered crucial, and four regions have been tasked with purchasing those products for the whole country.

As regards enhancing the responsiveness and effectiveness of the local authorities' action in the face of the emergency, various approaches have been used, ranging from the mere **transfer of staff from other administrations or bodies in support of overburdened health institutions**, to emergency statutes **transferring the duties and powers of the representative body to the head of local government** (mayor, chair of county assembly).

In some countries, services continued to function almost normally and were sometimes required to do so by government circular, including by developing remote service possibilities for the public.

The replies also highlight **positive examples of new or traditional inter-municipal cooperation, solidarity and information exchange**, including through associations of municipalities and internet platforms. The provision of social services and support to those most affected have often been a key task for the municipalities, which has sometimes led to new responsibilities (e.g. organising new care services for elderly people in quarantine).

Specific challenges with regard to metropolitan or rural areas are seldom observed other than certain cities or regions being hotspots of the infection. Their situation and the medical resources of the hospitals concerned have led to close scrutiny in some member States, where all public hospitals are operated and managed together as joint bodies although they are under the municipalities' responsibility. Remote municipalities are sometimes more affected economically than the rest of the country and they may occasionally benefit from additional support (also in kind, e.g. equipment, fuel etc. as reported by some member States).

## 5.2. Case studies

### **Bulgaria: The operational role of the National Association of Municipalities in the management of the crisis**

A special group ("VIBER") was established by the National Association of Municipalities of the Republic of Bulgaria (NAMRB), which is the national representative organisation of all municipalities. It has been very active in communication with the central government and the advocacy for local government rights. The special group was established for mayors to share important information and to find answers about the COVID-19 crisis and certain complex matters, including experience and good practices, but also to establish contacts with companies producing protective equipment.

### **Malta: Community support platform**

An initiative called [YouSafe](#) was created as a Community Support Platform in view of the fast developments related to the COVID-19 pandemic. 68 Facebook Groups (one for each Local Council), are linked with the Page, one for each Local Council, managed and moderated independently by the respective Local Council team. This Platform enables the Local Councils' team (of over 500 people) from employees and executive secretaries to elected councillors and mayors to keep in contact with their community at all times during the crisis. It also ensures that the elderly are not forgotten, citizens are safe, and that our communities stay in good health. YouSafe also supports a dialogue between the Council and its residents, the business community, NGOs, civil society networks.

## 5.3. Council of Europe initiatives

### ***New toolkit to assess local authorities' resilience***

The COVID-19 outbreak has put to the test governance capabilities at all levels of government. To address the specific challenges of local authorities, the Centre of Expertise for Good Governance is preparing a new toolkit, which is aimed at helping them assess their emergency preparedness and resilience in crisis situations.

The toolkit will enable local authorities to measure their preparedness and ability to manage emergency situations at institutional, administrative and civil society levels, as well as their capacity to involve all the stakeholders into the decision-making process. It will also help them identify levels of vulnerability and resilience by means of a community focus, analysing the institutional, social, economic, human capital and infrastructural dimensions.

The toolkit will also offer case studies from different Council of Europe member states, hence serving as a capacity-building instrument facilitating the exchange of best practices and peer-to-peer learning.

### ***New training module to develop leadership in times of crisis***

Since leadership is more than ever necessary in crisis situations, the Centre of Expertise for Good Governance has included a new training and capacity-building [module](#) in its 2020 edition of the [Leadership Academy Programme](#). The new module gives participants an insight on different aspects of a crisis (psychological, socio-economic), explains how to set up crisis management teams and provides guidance on how to develop a communication strategy.

Although specifically developed to help officials tackle the Covid-19 emergency, the module is of general relevance and application for any crisis or emergency situation, such as natural disasters, environmental accidents, terrorist threats and even conflicts. It is specifically

conceived for the local level but it can be easily adapted to other levels of government. An additional module will cover the issue of leadership in times of crisis and emergencies in cross-border cooperation.

The training module can be accessed [here](#).

### ***Hungary: Collecting best practice on the response to COVID-19 at local level***

The Centre of Expertise has been supporting the implementation of its [Best Practice Programme \(BPP\)](#) in Hungary for many years. In 2020, the theme of the BPP is "Recovery and reconstruction to mitigate damage caused by the epidemic: innovations in local government". Municipalities can submit applications to share best practices in areas such as local economic recovery and attraction of municipal investments; social inclusion - effective local methods to combating poverty; public security; elderly care; innovative solutions in municipal government. During the stage of the evaluation of the applications, several conference and training will be organised online. The winners of the best practice contest will be announced between the end of November 2020 and March 2021.

### ***Initiatives of the Congress of Local and Regional Authorities***

The thematic meeting held by videoconference on 18 June 2020 was attended by representatives of the Congress, Mr Leendert Verbeek (Netherlands, SOC/G/PD), Chair of the Congress' Monitoring Committee, and King's Commissioner of the province of Flevoland, and Mr Róbert Grűman (Romania, EPP/CCE), Chair of the Congress' Governance Committee, Vice-President of the Covasna County Council in Romania.

They referred to the global impact of the pandemic on sub-national government from the perspective of the European Charter of Local Self-Government and stressed that local authorities had been hit particularly severely by the health crisis. Including from a financial point of view given tax income losses and the bad economic situation. They also referred to the current situation in their constituencies, gave examples of good practices and gave a short account of the state of discussions at national level, for instance as regards a new Emergency Covid-19 law that the Dutch Government is preparing.

They pointed to the need for central governments to continue comply with the Charter without recentralising local competences or reducing the local governments' margin of appreciation in the conduct of local affairs. It is important that government decisions affecting the local level are taken in a coordination with the latter and on 9 June, the Congress Bureau adopted a [Declaration on the impact of central government COVID-measures on local and regional authorities](#). This was the main theme of a debate the Monitoring Committee is holding on 21 September 2020. The Congress members will share their experiences of tackling the coronavirus and coping up with its far-reaching consequences. It is expected that during the next monitoring visits, which will possibly resume in 2021, the Congress rapporteurs will focus on the multi-level management of the pandemic and the application of the Charter. For its part, the Governance Committee has organised a thematic debate on multi-governance and cooperation aspects on 21 September. It involved exchanges of views on practical aspects of local and regional governance – digital meetings of councils, legal implications of remote decision-making and citizen participation in municipalities and regions in times of major crisis. This could result in a compilation of practical guidelines for the Congress members (at the time of adoption of this report, such guidelines have not been finalised).



## 6. Elections

This issue was not explicitly included in the questionnaire. It was, however, raised during the thematic meeting of 18 June 2020 and discussed during the 11<sup>th</sup> meeting of the CDDG (held by videoconference on 10-11 September) with the participation of a representative of the Venice Commission. The latter has issued several opinions and guidance documents regarding elections under states of emergency<sup>10</sup>, and the impact of COVID-19-related measures on democracy, the rule of law and fundamental rights (including in relation to elections)<sup>11</sup>.

Since the outset of the pandemic in Europe, a number of national or local elections and referendums have been postponed. Some of them have been held after the lifting of confinement measures. The occurrence of elections in a situation such as the COVID-19 health crisis raises at least three questions to be addressed by public decision-makers: to postpone or not the election, for how long, and how to mitigate risks when elections are held.

### 6.1 Core issues

#### Postponing or not an election

The decision whether to hold or postpone elections during a pandemic requires a difficult balancing exercise. The legitimacy of elected mandates depends on holding free and fair elections at regular intervals and the application of emergency regulations can be a way to keep the incumbents in power. Moreover, new rules adopted during emergency situations could alter the normal division of tasks and separation of powers. The Venice Commission has also insisted on the importance of the legal framework providing a basis for the postponement of an election (before delaying it), including the authority deciding on the delaying and voting modalities, campaigning modalities etc. On the other hand, protecting public health, providing a level-playing field for candidates to campaign and ensuring that the conduct of the vote is not only free of irregularities but also safe for all those who take part in the process are elements to be taken into account.

An important benefit of postponing an election lies in the fact that public elected decision members are relieved from the burden of campaigning work and can thus devote all their efforts to the management of the health crisis.

In its report "Local and regional elections in major crisis situations" of 22 September 2020<sup>12</sup> and Recommendation 444 (2020),

*the Congress refers to the COVID-19 pandemic as a perfect example of crisis situation that shows the difficulties states and electoral authorities may be confronted with regarding the decision to hold or postpone elections, at all levels of government, in the face of risks to the life, health and security of the population.*

*(...) It acknowledges that not all electoral standards can be kept in major crisis situations including pandemics, natural disasters or armed conflicts.*

*(...) It stresses that a minimum core of electoral principles have to be upheld at all times for elections, including at local and regional level, to be meaningful and to*

<sup>10</sup> [https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI\(2020\)005rev-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI(2020)005rev-e), paragraphs 92-120.

<sup>11</sup> Interim report adopted on 8 October 2020, see:

[https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2020\)018-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2020)018-e)

<sup>12</sup> [https://search.coe.int/cm/pages/result\\_details.aspx?objectid=09000016809fa82f](https://search.coe.int/cm/pages/result_details.aspx?objectid=09000016809fa82f)

*enjoy the trust of the public in a democratic, pluralistic and accountable political environment.*

### The length of the postponement and transitional arrangements

As pointed out by the Venice Commission in its interim report of October 2020, the principle of proportionality requires that the duration of a postponement be as short as possible. Since the rule of law should prevail also in such crisis situations, legal rules should provide for a maximum duration of any decision to postpone elections as well as for a total maximum duration for such postponement, including with possibilities for judicial review of such decisions.

In European countries where a presidential, parliamentary or regional/local election had been postponed, the duration of the postponement was usually between 2 and 6 months.

Postponing an election implies *inter alia* that incumbents remain in office for an additional, transitional period and deal with the management of the health crisis and its consequences, up to election day and as pointed out by the Venice Commission, major reforms and structural measures unrelated to the management of the pandemic must be limited. Since this period is meant to be short, no adaptation of the duration of the mandate (for the next term) would normally be necessary but the legal framework should sort out such transitional arrangements concerning transfers of power and the situation of caretaking elected officials, according to the Venice Commission.

### Holding elections despite a health crisis: mitigating risks

Health risks connected with the COVID-19 are inherent to the various stages of the electoral process and need to be addressed by decision-makers and managed accordingly: campaigning activities (which may involve rallies, canvassing and other opportunities for contacts between people), the voting itself (implying queuing, contacts in the polling station, the manipulation of paper etc.), the counting (risks for those dealing with it, observers and party proxies).

Remote voting (postal voting, internet voting, mobile ballot boxes, proxy voting) appear to be a seductive alternative in the above context. As it was pointed out during the 11<sup>th</sup> meeting of the CDDG, the generalisation or development of remote voting possibilities may face different levels of acceptance by voters depending on national traditions and specificities and this will depend a lot on the level of trust of voters in the institutions and their ability to handle such procedures. Experience with electoral litigation shows that the paper trail remains important when allegations of irregularities arise and inquiries need to be conducted.

The CDDG also discussed the merits of mandatory voting (as applied in Belgium, for instance<sup>13</sup>) to limit the risk of high level of abstentions during a health crisis, when voters are reluctant to go to the polling station.

The difficulty of respecting the electoral calendar in the present circumstances has led to a renewed interest in e-enabled elections in some member States. *Recommendation CM/Rec(2017)5 of the Committee of Ministers to member States on standards for e-voting* remains a reference for States that are considering introducing e-voting and for those which already use it.<sup>14</sup>

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<sup>13</sup> Mandatory voting will soon be abolished in the Flemish Region of Belgium, for municipal and provincial elections.

<sup>14</sup> [Recommendation CM/Rec\(2017\)5 of the Committee of Ministers to member States on standards for e-voting](#)



## 6.2 Council of Europe initiatives

Further guidance could be provided in future months: under its current mandate, the CDDG is looking at the use of new technologies in the different stages of the electoral process (including voter registration, transmission and tabulation of results, etc.). This work, which was already under way, becomes particularly timely in the present situation. It will lead to a Committee of Ministers' recommendation or guidelines.

As indicated above, the Venice Commission has provided guidance on elections under states of emergency. Participants in the thematic meeting held by the CDDG in June, however, expressed the wish for the Council of Europe to give further guidance and to facilitate exchange of good practice on how elections can be held in the specific situation of the current pandemic.

In its Recommendation 444 (2020), the Congress of Local and Regional Authorities also recommended "that the Committee of Ministers invite the respective authorities of Council of Europe member States to (...) use the ongoing COVID-19 pandemic as an opportunity to gain insight and gather experience with a view to identifying best practice examples as regards elections to be held in exceptional circumstances in the domestic context; and to (...) "foster continued co-operation between institutions of the Council of Europe dealing with electoral matters (...) in order to compare and evaluate best practice examples in the international context with regard to the organisation of elections in extraordinary circumstances including relevant mitigating measures and alternative voting methods on the Election Day."

## 7. Civil participation

The need for a rapid response to the Covid-19 pandemic had shrunk the space for meaningful participation of civil society in public decision-making, despite the fact that the success of the response greatly depends on the active participation of all actors of society, as regards not only the respect of confinement measures but also the direct involvement in initiatives that support or complement the action of public bodies. Due to its significant economic impact, the COVID-19 emergency has *de facto* reduced the resources of the voluntary sector and its capacity to contribute to a well-functioning system of checks and balances.

### 7.1 Summary analysis of the replies to the questionnaire

Leaving aside the situation of associations representing local or regional authorities in discussions with the national level, the information provided shows variable approaches as regards the involvement of civil society in decision-making relating to the response to the emergency, ranging from no involvement at all (as in several member States) to the increased use of IT technologies and social networks for maintaining on-going direct contacts with citizens at the national level (in some countries) and municipal level (in other countries) or providing the authorities with studies on the evolution of the pandemic and the population's behaviour.

Business associations are sometimes consulted at local level in relation to the confinement measures and their impact/modalities also from a cross-border perspective, including for the managing of the post-Covid-19 context and in interaction with networks of larger cities in the border areas, as it was reported by some countries.

Likewise, civil society organisations and volunteers can be actively involved in joint actions with the municipal authorities, leading to the testing of innovative approaches, in the

delivery of social and support services (e.g. home services for elderly people and support to other vulnerable social groups, development of online support services), as reported by some member States. One country reported that an NGO led an awareness-raising project in cooperation with public authorities to encourage the population to be vigilant about rumours and erroneous information concerning the pandemic and to not spreading these further via the internet and classical media.

Examples have also been given in the replies as regards the watchdog activity of certain non-profit organisations in the management of the pandemic.

## 7.2. Case studies

### Romania: Providing correct information and countering disinformation

The digital project [stirioficial.ro](https://stirioficial.ro) is carried out within the Code for Romania Task Force in partnership with the Government of Romania through the Authority for the Digitization of Romania and the Department for Emergency Situations. Code for Romania is an independent, non-political non-governmental organisation.

The project is designed to encourage the Romanian population to be vigilant in the way they access, assimilate and circulate the information presented in the media. Out of panic and / or lack of knowledge, users sometimes spread erroneous information in the online or traditional media. In emergency situations, this can lead to wrong actions and can increase the level of fear and uncertainty among the population.

The digital project [stirioficial.ro](https://stirioficial.ro) is part of an ecosystem of several digital solutions developed by Code for Romania volunteers, meant to fight the effects of COVID-19 and functions as a central information point about the situation in Romania.

### Spain: Citizens' solidarity

The COVID-19 crisis has highlighted the solidarity of citizens, and many civic initiatives have been launched to support those most vulnerable to this pandemic: the elderly, the homeless, minors, the self-employed, etc.

This has strengthened the joint work between local governments and citizens' platforms, setting up initiatives such as that of the Fuenlabrada City Council which has organised with the University Rey Juan Carlos Volunteers network a support service for carrying out duties and helping with training for the most vulnerable families. Initiatives such as the platform "decide Madrid" of the Madrid City Council or the transparency portals of some local governments that have become the main channel of communication and participation between citizens and local government, such as the city of Valencia and the Soria City Council or the Seville City Council. Granollers City Council has developed different initiatives, including, in coordination with social entities such as the Red Cross, support for the most vulnerable by providing food and clothing, among others.

## 7.3. Council of Europe initiatives

The **Conference of INGOs of the Council of Europe** has organised a series of exchanges on the impacts of the Covid-19 pandemic. These exchanges show the civil sector's extraordinary adaptation and resilience from which stems the strength of the proposals formulated and carried out by the organisations and their leaders.

The cycle of conversations is initiated by a short video entitled "INGOs under lockdown get involved and prepare for the future". INGO members are invited to discuss the impact of

the pandemic on their activities, the adaptations made as well the actions and steps which need to be undertaken in order to #BuildBackBetter, to repair the damages but above all to not repeat the mistakes made in the past and build a better future for all, at the European level, by placing it in the global perspective of North-South relations.

## 8. Human rights, inclusion and social cohesion

This issue was not explicitly included in the questionnaire. It was, however, raised during the thematic meeting of the CDDG on 18 June 2020.

The protection of individual rights and freedoms is fundamental also in emergency situations. Several participants during the thematic meeting highlighted the situation of migrants, refugees, persons belonging to national minorities, children, the elderly, the chronically ill, persons with disabilities, victims of abuse and domestic violence, the homeless and persons living below the poverty threshold.

As it emerges from various responses from CDDG delegations, Member States have stepped up measures to ensure that the vulnerability of the above persons and social groups is not amplified by the lockdown and that they can have access to information and services in the most appropriate way for them.

Local and regional authorities in particular, appear to have played a major role in this field, as they run services which imply direct contacts with certain groups of citizens on a daily basis. In addition, the voluntary sector has played a considerable role in addressing the needs of vulnerable groups.

Financial resources have sometimes been transferred to municipalities to help them in their efforts to assist vulnerable persons and groups. The replies to the questionnaire show that social support services have sometimes been financed by municipalities through calls for financial contributions or donations in kind, including voluntary work, by citizens and businesses. Supplying protective and other medical equipment which was much needed to protect workers and vulnerable persons has been a particular challenge in many countries, leading to international but also sometimes intra-national competition. The replies to the questionnaire show that in some countries initiatives have been taken to centralise and thus facilitate the supply of important equipment.

### 8.1. Case studies

#### France: Supporting children's education in priority neighbourhoods

In the field of education, the closure of schools has made educational continuity a key issue. This has notably resulted in the "1000 books in the educational cities" operation, which has met with great success in the first 10 Educational Cities since its launch in mid-April. The operation consists in allocating an endowment of 1,000 children's books per city, which are distributed to children aged 3 to 18 years in order to strengthen educational continuity in priority neighbourhoods. A total of 20,000 new books are being distributed. The initiative is led by the Biblionef association and is based on the *Cities of Education* programme, launched by the Government in September 2019 to strengthen education in priority neighbourhoods, as well as on the association of elected officials *Ville & Banlieue* ("City & Suburbs"). The Minister in charge of cities and housing has decided to renew the operation in 10 additional cities.

### Spain: Tackling the rise in gender-based violence

The Sectoral Conference on Equality between the State and the Autonomous Regions was held on 4 May 2020, with an extensive agenda that included the distribution of funds for policies against gender violence and the Contingency Plan against Gender Violence in the face of the COVID-19 crisis.

At the technical level, two meetings of the Technical Committee of the Sectoral Conference on Equality had been held in April, led by the Government Delegate for Gender Violence. The main item on the agenda at these meetings was concern for the adaptation of resources in the area of assistance to victims or potential victims of GBV in the situation of confinement. All the Autonomous Communities reported on their adaptation plans with the reinforcement of telephone and telematic assistance, where appropriate, but also the reinforcement of infrastructures such as reception flats where necessary. Specific measures have also been taken to protect children.

### United Kingdom: Providing accessible information to all

Use of means of communication such as video conferences and internet messaging has hugely increased during the lockdown in all areas of public administration. Norfolk County Council (East England) have developed and shared a Video Conferencing & Messaging Guide with all local authorities to promote best practice. Cambridgeshire County Council and Peterborough City Council (East England) have published videos featuring members of the community reading public health advice in different languages. The recordings are also being used by partner organisations such as Cambridgeshire Police, whose officers are playing the translations on their mobile devices when they are on the streets meeting people who are not following the stay at home guidance. In areas with high infection rates and larger Black, Asian or Minority Ethnic (BAME) communities, such as Bradford and Leeds, plans and local guidance have been co-produced between local authorities and faith leaders to reinforce public health messages. In Bradford, a community champion model has also been adopted to spread messaging.

## 8.2 Council of Europe initiatives

Several initiatives have been taken by Council of Europe bodies to draw attention to the challenge that the health crisis and its consequences are posing to human rights, inclusion, non-discrimination and social cohesion. For instance:

- in April 2020, the **Committee of Ministers** issued a declaration on the COVID-19 pandemic<sup>15</sup> in which it stated that "The COVID-19 pandemic is the worst health crisis since the Organisation was founded in 1949, and authorities at all levels must do their utmost to protect people's health in all circumstances, including the most vulnerable members of our societies" (...) and "that measures to combat the disease and its wider consequences must be taken in accordance with the Organisation's principles and the commitments entered into by member States."
- also in April, the **Secretary General** released a toolkit for member States on respecting democracy, rule of law and human rights in the framework of the COVID-19<sup>16</sup>. It recalled *inter alia* that rights under the European Convention on Human Rights do not allow for any derogation (10 countries have made derogations

<sup>15</sup> [Declaration by the Committee of Ministers on the COVID-19 pandemic](#) (Adopted by the Committee of Ministers on 22 April 2020 at the 1374th meeting of the Ministers' Deputies)

<sup>16</sup> : [Respecting democracy, rule of law and human rights in the framework of the COVID-19 \(...\) crisis - A toolkit for member states](#), SG/Inf(2020)11, 7 April 2020

under the Convention, a special webpage is run by the treaty office<sup>17</sup>): the right to life, except in the context of lawful acts of war (Article 2), the prohibition of torture and inhuman or degrading treatment or punishment (Article 3), the prohibition of slavery and servitude (Article 4§1) and the rule of “no punishment without law” (Article 7). The toolkit also states that that “States must bear in mind that any measures taken should seek to protect the democratic order from the threats to it, and every effort should be made to safeguard the values of a democratic society, such as pluralism, tolerance and broadmindedness. While derogations have been accepted by the Court to justify some exceptions to the Convention standards, they can never justify any action that goes against the paramount Convention requirements of lawfulness and proportionality.”

- In October, the **Standing Committee of the Parliamentary Assembly**, acting on behalf of the latter, adopted Resolution 2339 (2020) entitled “Upholding human rights in times of crisis and pandemics: gender, equality and non-discrimination”<sup>18</sup>. It points out that the crisis has cast a harsh spotlight on structural inequalities already present in our societies and that many measures taken in response to the pandemic, especially lockdown measures, have aggravated inequalities, cut some people off from vital services, and exposed others to new dangers (for instance when it comes to gender-based and domestic violence). It thus calls upon Member and Observer States, as well as National Parliaments to take a series of concrete measures to address those issues, especially in the context of the immediate crisis response and of recovery periods, for instance: ensuring diversity and gender-balance in decision-making bodies dealing with the management of the crisis, collecting disaggregated data on the impact of anti-COVID 19 measures, making additional efforts and support available for those who are particularly affected etc.
- The website of the **European Social Charter** has been updated to show the impact of the pandemic on its art. 3 (right to healthy working conditions) and 23 (right of elderly people to social protection)<sup>19</sup>, as well as art. 11 (right to health, which is a state of complete physical, mental and social well-being and not merely the absence of disease): the pandemic, the lack of resources/staff/protective equipment and isolation caused by lockdown measures can have devastating effects;
- in March, the **Committee for the Prevention of Torture** published a Statement of Principles<sup>20</sup> relating to the treatment of persons deprived of their liberty in various places of detention (including psychiatric hospitals, social care homes and newly-established quarantine facilities/zones) in the context of the COVID-19 pandemic. The text reminds State authorities of the absolute nature of the prohibition of torture and inhuman or degrading treatment and stresses that protective measures must never result in inhuman or degrading treatment of persons deprived of their liberty;
- given the strong gender equality-related impacts of the pandemic and its consequences, including high levels of violence against women, **the Council of Europe divisions on Gender Equality and on Violence Against Women** developed a new webpage<sup>21</sup> to gather information on actions undertaken by member states, the Council of Europe and other international organisations and civil society organisations to analyse and mitigate the gendered impacts of COVID-19.

<sup>17</sup> <https://www.coe.int/en/web/conventions/full-list/-/conventions/webContent/62111354>

<sup>18</sup> <https://pace.coe.int/en/files/28775/html>

<sup>19</sup> <https://www.coe.int/en/web/european-social-charter/social-rights-in-times-of-pandemic>

<sup>20</sup> <https://www.coe.int/en/web/cpt/-/covid-19-council-of-europe-anti-torture-committee-issues-statement-of-principles-relating-to-the-treatment-of-persons-deprived-of-their-liberty->

<sup>21</sup> See <https://www.coe.int/en/web/genderequality/women-s-rights-and-covid-19>

## 9. Managing the emergency in its different stages

### 9.1 Stages and exit strategies

When the questionnaire on which this draft report is based was sent out, it was too early to fully predict the complexity of the COVID-19 emergency.

During the thematic meeting of 18 June 2020, it was pointed out that, normally, three distinct stages at least can be identified in the management of an emergency of this magnitude:

1. taking immediate, urgent measures to limit the damage;
2. ensuring the management of the emergency while continuing to provide governance and deliver services;
3. preparing the exit from the emergency, to prevent it from ushering into an outright long-term crisis.

In the COVID-19 emergency, these three stages often overlap, as the evolution of the pandemic could not be entirely predicted from the outset. The period Spring-Summer 2020 was marked by a heterogeneous situation: while some countries were still in the middle of the first wave, the pandemic seemed under control in others, with restrictions and lockdown measures being relaxed; in other countries, infections were at a moderate level or on the increase. At the time of writing, the number of infections is rapidly rising again. Since the situation has evolved in an uneven manner across Europe since Spring, the new surge in contaminations is referred to as a second or a third wave in different countries.

Since the outbreak of the pandemic, the level of preparedness to tackle it and the understanding of the effectiveness of the containment measures has greatly improved. It is clear, by now, that imposing general lockdowns should be a last resort, especially in the light of its enormous economic cost. Council of Europe member States, therefore, especially those which had been severely hit by the first wave have often opted for a multi-pronged approaches including:

- allowing to progressively relax restrictive measures whilst retaining the possibility of re-activating them depending on the evolution of the pandemic; a second wave of infections in the Autumn/Winter was then seen in many countries as a very likely scenario, and the risk was integrated in policy-making (risk-based approach); the population was often invited to continue apply social distancing measures and certain limits were introduced instead of total prohibitions such as for instance on the size of permissible gatherings of people etc. ;
- developing early detection mechanisms based on lessons learnt in Spring, on the systematic collection of data, on the use of new indicators (reproduction and contamination rate relative to the size of the population, on the rating/coding of regions depending on the level of contamination), on increased vigilance required from health professionals and the competent public services across the territory, on extensive used of mapping methodologies to identify emerging clusters and factors contributing to the spread of infections;
- strengthening dialogue, coordination and cooperation between the various levels of governance and territorial decision-making (discussed in chapters 2 and 5 of this report) has been instrumental in the above context;



- adjusting the role, responsibilities and areas of intervention of different territorial levels of government to the different stages of the pandemic. This has sometimes prompted a debate on the respective merits of a centralised approach and a decentralised management of risks. Supporters of the former (regarding businesses, schools, sport events, public gatherings etc.) sometimes claimed that an excessively decentralised approach was leading to a “patchwork carpet of regulations” across different areas. On the other side, those calling for increased decentralisation in the risk management and COVID-19 prevention praised the benefit of responding more rapidly to local clusters and to impose no more measures than what is necessary given the local situation, specificities and actual level of risks.

As such a second wave materialised in the Autumn, there is sometimes reluctance to take the same drastic measures that have been taken in Spring. At the same time, lessons appear to have been drawn in a number of areas. With regard to cross-border movements, as this had led to legal issues which have been particularly difficult to solve, some countries appear to prefer the option of keeping the borders open. Also as regards country-wide lockdown measures, a focus of such measures on larger cities or certain regional hotspots is sometimes preferred to tackle the resurgence of the pandemic. Other examples include the recent signing of framework agreements on cross-border health cooperation between neighbouring countries.

The above clearly shows how resilience, flexibility, capacity-building and coordination are important features of good public governance for the management of such crises.

## 9.2 Case studies

### **Finland - Government decides on plan for hybrid strategy to manage coronavirus crisis and for the gradual lifting of restrictions (excerpts from a press release)**

On Sunday 3 May and today 4 May, the Government held an informal meeting to discuss an action plan for a hybrid strategy to manage the coronavirus crisis and for ways of gradually lifting the restrictive measures. The Government will adopt a resolution where it sets out in detail the particular decisions taken. The Government’s decisions are based on the first phase of the report put together by the Ministry of Finance’s working group on the coronavirus exit and reconstruction strategy. Although the spread of the epidemic has currently stalled, there is still a risk that it will escalate again. The hybrid strategy:

- will involve a controlled shift from large-scale restrictive measures to more targeted measures and to enhanced epidemic management in accordance with the Communicable Diseases Act, the Emergency Powers Act and possible other statutes.
- focuses extensively on a “test, trace, isolate and treat” approach, alongside the controlled dismantling of restrictive measures. This will help curbing the spread of the epidemic. The approach can be further enhanced using a mobile application, with the precondition that it must be voluntary and ensure data protection.

Emergency conditions continue to prevail in Finland and the Government decided on the gradual dismantling of the following restrictive measures:

- as of 14 May 2020, the statutory restrictions on border traffic will be lifted across the Schengen internal borders by allowing employment or commission-related commuting and other essential traffic. For the time being, recreational travel abroad is not recommended, and the travel advice issued by the Ministry for Foreign Affairs will be extended accordingly. The Ministry of the Interior will draft more specific guidelines on the gradual opening of border traffic. Finland

considers it important that the lifting of the restrictions on border traffic be coordinated at the EU level.

- the gradual opening of restaurants will begin on 1 June 2020, provided that this is supported by the effects of lifting the current restrictions and by the subsequent general epidemiological assessment. This requires legislative amendments that would impose restrictions on the number of customers and the alcohol serving hours, for instance. Legislative proposals to that effect will be brought for the Government's consideration no later than 13 May 2020.
- Outdoor recreational facilities will be opened as of 14 May, subject to the restrictions on gatherings.
- Sports competitions can be resumed with special arrangements on 1 June.
- The borrowing of books and other material from libraries will be immediately permitted.
- public indoor premises will be opened in a gradual and controlled manner as of 1 June (e.g. national and municipal museums, theatres, cultural venues, libraries, hobby and leisure centres, swimming pools and other sports facilities, youth centres, clubs, organisations' meeting rooms, day care services for the elderly, rehabilitative work facilities and workshops etc).
- Large public events with more than 500 people are prohibited until 31 July 2020 in line with the Government's decision.

Restrictions on gatherings are still necessary. Based on an epidemiological assessment, it will be possible to ease the restrictions on the number of persons from the current 10 to a maximum of 50 from 1 June until further notice. The situation will be reviewed again by the end of June. The 50-person limit applies not only to public gatherings (the recommendation-based guideline) but also to events organised by private and third-sector operators, to cultural, recreational, exercise and sports events and to religious events. As concerns indoor spaces and enclosed outdoor spaces, such as libraries and cinemas etc. safety will be ensured by limiting the number of visitors, ensuring safe distances and providing guidance on personal hygiene. The Ministry of Social Affairs and Health will issue a circular to the regional authorities on implementing these restrictions to prevent the spread of the coronavirus disease under the Communicable Diseases Act.

Restrictions concerning general upper secondary schools, vocational schools, higher education institutions and liberal education will remain in force until 13 May. From then on, starting on 14 May, the use of the premises of the above-mentioned educational institutions for teaching will be controlled through measures in line with the Communicable Diseases Act. Contact teaching can be resumed in a controlled and gradual manner. However, the Government recommends that universities, universities of applied sciences, upper secondary schools, vocational schools, liberal adult education and basic adult education institutes continue distance teaching until the end of the semester. Restrictions on the organisation of basic education in the arts will remain in force until 13 May, after which their premises will be opened correspondingly for contact teaching.

The recommendation on working from home is maintained until further notice and will be reassessed after the summer.

### **Slovenia – preparing for a second wave of COVID-19**

Act on Intervention Measures to Prepare for a Second Wave of COVID-19" (Official Gazette of the Republic of Slovenia No 98/29)

The goal of this package of legislation is to further protect human health, prevent the spread of infections and respond to concrete needs of the citizens. It introduces measures to prepare Slovenia for a second wave of the pandemic by amending and supplementing the rules on temporary measures to mitigate and eliminate the consequences of the epidemic in the field of labour / employment, the schools and social protection.



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