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EUROPEAN COMMITTEE ON DEMOCRACY AND GOVERNANCE (CDDG)

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

(from November 2020 to March 2021)

Secretariat Memorandum
prepared by the
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Democratic Governance Division

1. Introduction

This document aims to update the CDDG on recent Council of Europe work in the field of democracy and governance, as well as in areas currently covered by the activities of the CDDG or the Centre of Expertise for Good Governance, since the 12th plenary meeting in November 2020.

2. Secretary General of the Council of Europe

In the above period, the Secretary General, Marija Pejčinović Burić, mainly focused on human rights matters and interactions with member States and partner organisations. In January 2021 she presented her four-year strategic framework to the Committee of Ministers on the occasion of an exchange of views. On 4 February 2021, her [report on the safety of journalists](#) was released. The report recalls the importance of the subject for the proper functioning of democracy, the fundamental role of freedom of expression in a democratic society, in particular where, through the press, it serves to impart information and ideas of general interest, which the public is entitled to receive. States are required to create a favourable environment for participation in public debate by all persons concerned.

3. Committee of Ministers

Germany took over the **Presidency of the Committee of Ministers of the Council of Europe** from Greece on 18 November. Greece's Alternate Minister for Foreign Affairs Miltiadis Varvitsiotis gave an overview of his country's [achievements](#) during its Presidency. The new Chair of the Committee of Ministers, Heiko Maas, Federal Minister for Foreign Affairs of Germany, presented the [priorities](#) of the German Presidency, which will run for six months. These include strengthening the implementation of rights and obligations under the European Convention on Human Rights, defining standards in the field of artificial intelligence and human rights, the fight against hate speech online, the situation of Roma and Travellers as well as youth participation.

On 26 November, the Committee of Ministers, adopted **the (third) Action Plan for the Republic of Moldova for the years 2021-2024**, which aims to bring the country's legislation, institutions and practice further in line with European standards in the areas of human rights, the rule of law and democracy. The action plan builds on the work already done in various fields of previous action plans. These include aligning national legislation and practice with anti-discrimination and gender equality European standards, strengthening the national child protection framework to combat sexual exploitation and abuse of children, enhancing the independence and accountability of the judicial system, and improving electoral legislation and practice ([link](#) to further information).

On 17 March 2021, the Committee of Ministers published two declarations:

- one [declaration](#) draws the attention of member States, inter alia to: the **possible risks to human rights, including social rights, that might follow from the use of computer-assisted or Artificial Intelligence-enabled decision making by public authorities** in the area of social services; the need to ensure that computer-assisted or Artificial Intelligence-enabled decision-making systems are developed and implemented in accordance with the principles of legal certainty, legality, data quality, non-discrimination and transparency; the need for human oversight of computer-assisted or Artificial Intelligence-enabled decisions in order to mitigate and/or avoid errors in the management; the need for effective arrangements to protect vulnerable persons from serious or irreparable harm.
- in another [declaration](#) on equality between women and men, the Committee of Ministers points to the importance of **tackling pay and opportunities inequalities** in employment and refers to a series of resources to do so.

Developments concerning the CDDG

It is recalled that following the adoption by PACE of Recommendation 2179 (2020) "Democracies facing the COVID-19 pandemic" and Recommendation 2181 (2020) "Need for democratic governance of artificial intelligence" (on 13 and 22 October respectively), the Committee of Ministers agreed to communicate these to the European Committee on Democracy and Governance (CDDG) and other bodies for information and possible comments.

The CDDG adopted comments by written procedure (see annex 1 and 2) and these were submitted on 15 February 2021 to the Committee of Ministers.

The Rapporteur Group on Democracy (GR-DEM) will prepare a draft reply for adoption at one of their forthcoming meetings (on 13 April as regards follow-up to Recommendation 2179).

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

"The gender dimension of foreign policy" - [Resolution 2351](#) (2020) adopted on 20 November 2020: the Assembly calls on Council of Europe member and observer States, as well as those enjoying observer or partner for democracy status with the Parliamentary Assembly, i.a. to engage in developing an inclusive gender dimension of their foreign policy; to actively promote and prioritise the equal participation of women and men in decision making.

In its [Resolution 2357](#) (2021) adopted on 25 January 2021 on **Progress of the Assembly's monitoring procedure** (January-December 2020), the Assembly assesses the progress achieved and what remains to be done in the countries concerned, urging them to step up their efforts to fully honour their membership obligations and accession commitments to the Council of Europe. Many reforms concern important aspects of a democracy.

"Restrictions on NGO activities in Council of Europe member States" – [Resolution 2362](#) and Recommendation 2194 (2021) adopted on 27 January 2021, in which the Assembly recommends i.a. that the Committee of Ministers: fully implement its decision on "the need to strengthen the protection and promotion of civil society space in Europe", adopted on 17 May 2019; call on the member States to implement its recommendations CM/Rec(2007)14 on the legal status of non-governmental organisations in Europe and CM/Rec(2018)11 on the need to strengthen the protection and promotion of civil society space in Europe; continue to strengthen the synergy between all the stakeholders concerned within the Council of Europe, including where appropriate, relevant expert bodies, and establish a working group composed of representatives of these entities; establish an alert mechanism for receiving warnings of possible new restrictions on the right of association and other NGO rights and freedoms in member States.

"Covid-19 vaccines: ethical, legal and practical considerations" – [Resolution 2361](#) (2021) in which the Assembly urges member States and the European Union to take a series of measures with respect to the development of Covid-19 vaccines; their allocation; ensuring high vaccine uptake; Covid-19 vaccination for children; ensuring the monitoring of the long-term effects of the COVID-19 vaccines and their safety. With reference to Resolution 2337 (2020) on Democracies facing the Covid-19 pandemic, the Assembly reaffirms that, as cornerstone institutions of democracy, parliaments must continue to play their triple role of representation, legislation and oversight in pandemic circumstances.

"Ethnic profiling in Europe: a matter of great concern" – [Resolution 2364](#) (2021) adopted on 28 January 2021, in which the Assembly calls on the Council of Europe member States to take determined action to tackle ethnic profiling and, i.a., to: clearly condemn and prohibit ethnic profiling in national legislation; call for the adoption of codes of conduct by police forces with content aiming at preventing racist behaviours and ethnic profiling; provide adequate resources to the police to carry out its tasks, including with regard to the recruitment of staff, and ensure diversity in the recruitment of police forces; set up independent police complaints mechanisms, and ensure that they are sufficiently staffed and have the means to follow up on sanctions delivered.

5. Congress of Local and Regional Authorities

In December 2020, the Congress released a **document entitled "A contemporary commentary by the Congress on the explanatory report to the European Charter of Local Self-Government"** ([link](#)) which incorporates in particular experience gathered through the monitoring activities.

On 7 December 2020, the Congress held an **on-line event to share experience between those who have been organising, coordinating and delivering responses to the Covid-19 crisis in municipalities, counties and regions**. The results of these discussions fed into the Congress' cross-cutting report "Ensuring the respect of the European Charter of Local Self-Government in times of crisis", which is to be presented to the [40th Congress Session of 23-24 March 2021](#).

On 11 February, The Monitoring Committee of the Congress adopted the following reports (see [link](#)):

- **report on "Holding referendums at local level"**. It alerts to the risk that referendums be misused by populist movements to circumvent, by a simple majority and after a misleading campaign, higher ranking laws or principles whose change would normally require more substantial debate and broader consensus and stressed that it is essential that local referendums are held in a way that voters are familiar with procedures, being able to understand the referendum question and consequences of their vote and able to access quality information to be able to make an informed choice. The report invites local authorities i.a. to make more use of citizens' assemblies and similar deliberative democracy tools to accompany the holding of local referendums in order to enhance citizens' informed decisions.
- **report on "Ensuring the respect of the European Charter of Local Self-Government in major crisis situations"**. The report finds that the COVID-19 pandemic has led to a centralisation of competences in some countries to the detriment of local autonomy and has deepened social and territorial inequalities regarding access to healthcare and prosperity. It asks central governments to prioritise appropriate consultation with local authorities and the allocation of adequate financial resources, as well as refrain from excessive supervision, among others. The rapporteurs also underlined the positive impact of the COVID-19 pandemic, which in some cases has led to strengthening multi-level governance, inter-municipal co-operation and the role of local associations in consultation. Moreover, the digitalisation triggered by the pandemic should be used as a tool of public participation in local affairs to increase transparency and citizens' engagement.
- **report on the "Recurring Issues Based on Assessments Resulting from Congress Monitoring and Election Observation Missions (Reference Period 2017-2020)"** together with a resolution and recommendation.

The Congress adopted a **recommendation on the status of capital cities** on 12 February 2021 ([link to further information](#)). The report promotes a better understanding of specific realities of capital cities and advocates for enhanced guarantees of their autonomy, and for modalities of interaction with central State bodies. It also calls for mechanisms to bring public affairs closer to the people and to increase citizens participation in local decision-making.

It is also worth mentioning that on the same date, the **Congress adopted a new Code of Conduct for its members** and revised its Rules and Procedures to strengthen its ethics regime, including the obligation to declare conflicts of interest.

At its [40th session](#) held online on 23 to 24 March 2021 the Congress elected as its new President Leendert Verbeek (Netherlands, SOC/G/PD) (elections to designate chairpersons of the various Congress bodies also took place). It also adopted its **priorities for the next five years**. The Congress will focus on the contribution of local and regional authorities to the UN Sustainable Development Goals by promoting: a) Resilient societies: effective responses to public health crisis; b) Democratic societies: quality of representative democracy and citizen participation; c) Cohesive societies: reducing inequalities; d) Sustainable societies: environmental issues and climate action; e) Digital societies: digitalisation and artificial intelligence in the local context.

In the reference period, some monitoring missions were conducted, on-line.

6. European Court of Human Rights

The registry of the Court has released a series of new or updated information documents on its case law, including:

- the [annual compendium of selected key cases](#) for the year 2020 which contain a number of references to the (in)appropriate actions and functioning of public bodies and authorities, policing issues, breaches of the freedom of expression, association, and participation in elections, among other subject matters
- [case law guides](#) on mass protests, on prisoner's rights and on data protection
- [factsheets](#) on the independence of the justice system and on the use of force in the policing of demonstrations.

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

As reported previously, the Venice Commission adopted and released in October 2020, at the request of the Parliamentary Assembly, an interim [report on the impact of the Covid-19 crisis on democracy, the rule of law and fundamental rights](#). A study on "Fostering Healthy Democracy in Europe", is being prepared also in response to the request of the Assembly, and expected to be released in June 2021.

At its 125th session (11-12 December 2020) the Venice Commission adopted a series of opinions on national developments but also reports of a more general nature such as:

- "Principles for fundamental rights - compliant use of digital technologies in electoral processes"
- Revised Joint Guidelines on Political Party Regulation (2nd Edition), jointly prepared with OSCE/ODIHR

In January 2021, a Compilation of Venice Commission Opinions and Reports concerning Freedom of Religion and Belief was released.

8. Group of States against Corruption (GRECO)

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

Evaluation topic	Evaluation reports	Compliance reports
Criminalisation of corruption; transparency of political financing See table with links to the reports concerning round 3		Bosnia-Herzegovina (16/12/2020) Liechtenstein (16/12/2020) San Marino (02.03.2021) Turkey (18/03/2021)
Integrity / corruption concerning members of parliament, judges and prosecutors See table with links to the reports concerning Round 4	Liechtenstein (16/12/2020)	Austria (01/03/2021) Bosnia-Herzegovina (16/12/2020) Cyprus (17/11/2020) Greece (16/11/2020) Hungary (17/11/2020) Ireland (18/11/2020) Latvia (11/01/2021) Serbia (26/11/2020) Slovakia (03/02/2021) Turkey (18/03/2021)
Integrity / corruption concerning central governments (top executive functions) and law enforcement authorities See table with links to the reports concerning Round 5	Albania (03/12/2020) Germany (15/12/2020) Norway (15/01/2021)	Finland (11/12/2020) Iceland (16/11/2020) Latvia (11/01/2021)

9. Conference of International Non-Governmental Organisations

The Conference of INGOs adopted in December 2020, among other texts, a “Declaration on the place and role of civil society in safeguarding human rights, democracy and the rule of law” and a “Recommendation on the COVID-19 pandemic: call for ethical and human rights' compliant management” ([link](#) to all recent texts). On 26 February, the Conference organised a webinar entitled 'Challenges Facing NGOs in Conflict and Post-Conflict Situations' to celebrate World NGO Day.

The Expert Council on NGO Law released two opinions on the compatibility with European standards of recent and planned amendments to the Greek and the Russian legislation affecting NGOs. It also published a review that examines practices related to participation of NGOs in policy development in the member States of the Council of Europe. It underscores the need for the latter to take on a holistic approach with regard to NGOs participation, so that they are included at all stages of policy development as appropriate, as well as ensure that consultation is open, inclusive and non-discriminatory ([link](#) to further information on the above).

10. Elections and civil participation

In the reference period, several cooperation activities (workshops, e-learning courses etc) were implemented mostly on-line in cooperation with programme countries (Georgia, Moldova and Ukraine) on such subjects as countering the misuse of administrative resources in electoral periods, disinformation during election campaigns, training and capacity building generally for members of the central election management body, furthering alternative voting, learning lessons from the last local elections, and so on ([link to various news](#)).

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

11. World Forum for Democracy (WFD)

As announced previously, the 9th edition of the WFD “Can democracy save the environment?” was officially launched on 18 November 2020 and a series of events are being held under the umbrella of a one year campaign with a different subject every month: Human rights for the environment; Deliberative democracy for climate; Disasters, displacement and climate change; Inequality, democracy and climate change; Environmental action at local level; Defending the defenders; Children and youth leading the fight against climate change; The environment and the economy; Technology, the environment and democracy; Greening democratic institutions; The future of energy; Can democracy save the environment? (closure event in November 2021 in Strasbourg, situation permitting). [Link](#) to further information including the calendar of the campaign.

12. Other developments

On 1 December 2020, the Council of Europe **Convention on Access to Official Documents** (CETS No.205), also called the Tromsø Convention, entered into force after 10 countries had ratified it. Since then, Iceland ratified the treaty in February 2021.

The **Anti-racism commission (ECRI)** in its [2020 annual report](#) published ahead of the International Day against Racial Discrimination on 21 March 2021, identified four key challenges Europe was facing last year: mitigating the disproportional impact of the Covid-19 pandemic on vulnerable groups, tackling deep-rooted racism in public life, combating anti-Muslim racism and antisemitism in the face of terrorism, and addressing the backlash against the protection of human rights of LGBTI people.

APPENDIX 1

ELEMENTS FOR A REPLY BY THE MINISTERS' DEPUTIES TO ASSEMBLY APPROVED BY THE CDDG BY WRITTEN PROCEDURE

RECOMMENDATION 2179 (2020) OF THE PARLIAMENTARY ASSEMBLY ON "DEMOCRACIES FACING THE COVID-19 PANDEMIC"

At their 1388th meeting, the Ministers' Deputies agreed to communicate for information and possible comments to the European Committee on Democracy and Governance (CDDG) and other bodies, the Parliamentary Assembly's [Recommendation 2179](#) (2020) "Democracies facing the Covid-19 pandemic" and the accompanying [Resolution 2337](#)(2020).

The Recommendation, inter alia, states the following:

"5. In light of the principles applicable to situations of emergency drafted by the Venice Commission and on the basis of information, available on the website of the observatory of such situations in Venice Commission member States, the Assembly invites the Committee of Ministers to build on national experiences and good practice in responding to the Covid-19 pandemic with a view to developing a checklist of parameters to enable the fullest democratic participation possible in situations of emergency.

6. Noting that co-operation, co-ordination and exchange of information and good practice between different tiers of government (national, regional and local) have proved crucial for the efficiency and effectiveness of the response by member States to the Covid-19 pandemic, the Assembly invites the Committee of Ministers to prepare a recommendation with guidelines on multilevel governance and response to emergencies."

The CDDG agrees with the Assembly that lessons should be drawn from the health crisis which is currently affecting the Council of Europe member States.

The CDDG contributed to this reflection throughout 2020, by holding a thematic meeting on *Democratic governance and Covid-19* (18 June 2020) and acting as a forum where CDDG members could share information on their countries' response to the crisis. All this information was made easily accessible on a [dedicated webpage](#). The CDDG also gave input to the preparation of a new toolkit of the Centre of Expertise on Good Governance aimed at strengthening emergency preparedness and resilience in member States. In addition, at its 12th plenary meeting in November 2020, the CDDG approved a report on *Democratic governance and Covid-19*. Considering that the crisis deserved ongoing attention and that relevant national experience should be gathered throughout the various stages of the response to the pandemic, the CDDG decided to pursue its work and to update the report by the end of 2021.

As regards the recommendation that the Committee of Ministers prepare a set of guidelines on multilevel governance and response to emergencies, as highlighted in its report, the CDDG fully agrees that a major lesson learned from the response to the Covid-19 pandemic is that strong and effective multilevel-governance is essential to prevent, identify and manage emergencies, including pandemics. The CDDG also believes that a set of guidelines elaborating on the characteristics of such strong and effective multilevel-governance will have added value, supporting member states to respond effectively to emergency situations in compliance with the fundamental values of democracy, human rights and rule of law. Should the Committee of Ministers decide to pursue this avenue, the CDDG stands ready to give its contribution.

Likewise, as the steering committee with lead responsibility in the field of democracy and governance, and in the light of its work in the area of civil participation and democratic governance which led to the adoption of **Recommendation CM/Rec(2018)4 of the Committee of Ministers to member States on the participation of citizens in local public life and the 2017 Committee of Ministers' Guidelines for civil participation in political decision making**, the CDDG stands ready to contribute to the possible drafting of a checklist of parameters to enable the fullest possible democratic participation in situations of emergency, based on the principles elaborated by the Venice Commission.

APPENDIX 2
ELEMENTS FOR A REPLY BY THE MINISTERS' DEPUTIES TO ASSEMBLY
APPROVED BY THE CDDG BY WRITTEN PROCEDURE

RECOMMENDATION 2181 (2020) OF THE PARLIAMENTARY ASSEMBLY – “NEED FOR DEMOCRATIC GOVERNANCE OF ARTIFICIAL INTELLIGENCE”

At their 1388th meeting, the Ministers' Deputies agreed to communicate for information and possible comments to the European Committee on Democracy and Governance (CDDG) and other bodies, the Parliamentary Assembly's Recommendation 2181 (2020) "Need for democratic governance of artificial intelligence" ([link to the Recommendation and accompanying documents](#)).

In this text, the Assembly recommends that the Committee of Ministers: *"4.1 express its support for the preparation of a legally binding instrument governing artificial intelligence, possibly in the form of a convention, taking into account, inter alia the elements contained in Resolution 2341 (2020); 4.2 ensure that such a legally binding instrument is based on a comprehensive approach, deals with the whole life cycle of AI-based systems, is addressed to all stakeholders and includes mechanisms to ensure the implementation of this instrument."*

In the opinion of the CDDG, artificial intelligence (AI) has become a major subject-matter to discuss and regulate in this early 21st century, due to its increasing use by a number of public bodies, business operators and other entities, and due to its potential impact not only on human rights, but also on many aspects of democratic governance and decision-making, including transparency, accountability, ethical conduct, responsiveness and efficiency, which are among the 12 Principles of Good Democratic Governance (2008). The CDDG agrees with the Assembly that because of the wide range of areas concerned, a comprehensive, multi-faceted and multi-disciplinary approach is needed.

The CDDG itself is involved in AI-related work. In accordance with its terms of reference for 2020-2021, the CDDG established a working group on democracy and technology (GT-DT) to carry out the preparatory work for a study on the impact of digital transformation, including artificial intelligence and automated decision-making, on democracy and good governance. This study will be finalised and adopted by the CDDG in the first half of 2021. Close liaison with the CAHAI is facilitated by the CDDG's rapporteur on democracy and technology. Moreover, in January 2020, the GT-DT participated in a hearing organised by the Committee on Political Affairs and Democracy of the Parliamentary Assembly, in the context of the preparation of the report on "Need for democratic governance of Artificial Intelligence".

As the steering committee with lead responsibility in the field of democracy and governance, the CDDG stands ready to continue to explore the various dimensions of AI in its areas of expertise, including the impact on democratic governance and its potential for more effective democratic decision-making. It will also continue to support, as necessary, the work of the CAHAI, providing input from the viewpoint of good democratic governance.