EUROPEAN COMMITTEE ON DEMOCRACY AND GOVERNANCE (CDDG)

WORKING GROUP ON E-DEMOCRACY (GT-ED)

REPORT ON THE SECOND MEETING OF THE WORKING GROUP 14-15 MARCH 2019, COUNCIL OF EUROPE, STRASBOURG

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

Introduction

The Chair of the Working Group on E-Democracy (GT-ED), Ms Gordana Gapikj-Dimitrovska (North Macedonia), opened the meeting. The agenda was adopted as set out in Appendix II. Appendix III contains the list of participants.

The working group took note of the report of its first meeting on 27 November 2018 [document GT-ED(2018)3] recalling the points raised. It reiterated the need to ensure that the guidelines in the form of a toolkit would be a practical and coherent instrument which should set out possible approaches for implementing e-democracy solutions.

Although e-democracy might appear to be different, new technologies and digital tools complement and strengthen democratic processes and values, contributing to improved trust (on the part of citizens and public administration), inclusiveness and greater opportunities to engage citizens in democratic processes.

In relation to the structure and content of the draft outline and possible approaches, the working group considered that the first section of the guidelines should also set out general concepts, considerations and principles but should first and foremost focus on the practical aspects and processes of e-democracy and the use of new technologies as well as how e-democracy can contribute to democracy by way of new opportunities to engage with citizens and improved participation.

Although risks associated with e-democracy should also be addressed as well as steps and measures to manage those risks, the guidelines should be centred around the opportunities and constructive contribution of new technologies and how to maximise those opportunities. In doing so, the issue of cost associated with introducing e-democracy solutions should also be dealt with as new technologies are often deployed with a view to cost-savings.

As regards the legislative aspects of e-democracy, the guidelines in the form of a toolkit should assist authorities in addressing the digital dimensions of democratic processes and identifying how e-democracy can be strengthened through a) the overall legal framework, b) specific data protection, c) e-identification ('e-ID') and digital signatures; and d) IT-security.

Attention should be paid to the specific role and contribution of each stakeholder and how they can implement, or contribute to the implementation of, the technology at their level (e.g. central/regional/local level). Consideration could also be given to the role of private industry/companies as stakeholders and issues to be considered by member States in this respect.

As regards their structure, the guidelines could usefully make a distinction between the use of technologies and different platforms in the context of a) formal (representative and participative) democracy and b). informal (internet-/media-based) democracy.

In relation to social media, the working group considered that the guidelines should address the role and use of social media in how people communicate, the use of social media as a means for authorities to inform citizens of issues and to invite them to engage and how to handle views from those who are not directly affected by specific issues or questions or contributions by virtual 'persons' or bots.

An overview of reflections raised at its second meeting of the working group in relation to different chapters of the draft outline is set out in Appendix I.

The working group agreed that a revised draft outline and preliminary text for a number of chapters should be presented to the CDDG Bureau and the working group for consultation in writing.

Based on the input and guidance provided, the draft guidelines on e-democracy in the form of a toolkit should then be drafted by the expert(s) for consideration and possible approval by the working group at its meeting in September 2019 with a view to presenting those to the CDDG at its December meeting 2019.

Standards on e-voting

The working group noted that implementation of the Recommendation, adopted in June 2017, is still at a very early stage. The technological, legal and operational developments in relation to e-voting do not appear to have evolved so significantly as to render either the recommendation or the guidelines contained therein obsolete.

It also heard presentations by some of the member States (Austria, Estonia, Finland) on the use of electronic tools in relation to voting or the election process overall.

It was suggested that the working group follow the developments in consultation with the CDDG Bureau. The CDDG would be kept informed and could then decide on appropriate action to be taken. To obtain a better understanding of member States' positions and the issues involved, the Secretariat was asked to prepare a questionnaire for member States on the use of e-voting and possible experience with and implementation of Recommendation CM/Rec(2017)5.

The questionnaire should be presented to the CDDG Bureau at its May meeting for approval before circulating it to the member States. The working group on e-democracy would examine the responses at its next meeting and formulate suggestions for possible action by the CDDG.

Council of Europe activities in relation to disinformation, social media and elections

The Head of the Democratic Governance Department, Mr Dan Popescu, introduced the topic and informed the members of the Conference "Governing the Game Changer – Impact of artificial intelligence development on human rights, democracy and the rule of law" (26-27 February 2019, Helsinki) organised under the Finnish Chairmanship of the Committee of Ministers.

He recalled the position expressed by the Secretary General of the Council of Europe, Mr Thorbjørn Jagland regarding the need for the Council of Europe to take "a leading role in helping our member states to harvest the opportunities that come with technological innovation while safeguarding the standards emanating from the European Convention on Human Rights and other legal benchmarks". He further drew attention to the conclusions of this high-level conference which were unambiguous and which call on member states and the Council of Europe to take measures to ensure that threats associated with new technologies do not undermine democracies based on respect for the equality of all sections of the populace.

The working group held an exchange of views on the issues in relation to risks of disinformation, the need to strike the right balance between the individual's right to freedom of expression and a secure and equitable democracy.

The working group agreed that the Secretariat, in consultation with the Steering Committee on Media and Information Society (CMSI), the Venice Commission, and other Council of Europe Committees and bodies, should prepare a paper for the next meeting of the Bureau on possible action that could be taken within the CDDG's remit.

APPENDIX I

European Committee on Democracy and Governance (CDDG)
E-Democracy Working Group

Guidelines on e-democracy in the form of a toolkit
Issues raised by the working group at its meeting on 14-15 March 2019

The working group by and large welcomed the draft outline and the addendum to the document which presented general reflections in relation to the future guidelines. The members made a range of suggestions in relation to the structure and content to be covered in different sections.

Section I:
In addition to defining e-democracy, the section should include definitions of key concepts and general principles that are expected to apply, clarifying for example the concepts of e-democracy versus e-governance.

The document should not be a wide theoretical study but should focus on the practical aspects of e-democracy and assist authorities in addressing the digital dimensions of democratic processes and identifying how e-democracy can be strengthened.

It should also clearly set out that guidelines on e-democracy are about democracy, democratic society and values, and how new technologies and digital tools relate to this and how they (can) contribute to democracy, thus contributing to improved:
  - Trust (by citizens and public administration)
  - Inclusiveness
  - Opportunities to engage citizens and for the latter to participate in democratic processes
  - Clarification and simplification of complex concepts and processes

The document should communicate how e-democracy complements traditional democratic tools and how they can be used in a complementary fashion. In some ways also, e-democracy can (appear to) be radically different. The document should thus also demonstrate how e-democracy should set out democratic issues and the role of relevant tools and how they relate to those issues.

In terms of general concepts, it should set out the basic concepts in relation to trust:
- How this can be strengthened by a) the overall legal framework, b) specific data protection, c) e-identification ('e-ID') and digital signatures; and d) IT-security.

Other than the main title, which defines the theme of e-democracy, there is generally no need for the different sections to refer to 'e-'where this is not strictly necessary; Thus participation, consultation, etc did not require the prefix whereas 'e-ID' and 'e-Citizenship' for example, would be exceptions to this rule.

It was suggested that the structure should reflect the distinction that could perhaps be made between formal (representative and participative) democracy and informal (internet-/media-based) democracy.

In relation to *Section I.2*
Some members considered that the reflections generally went into the right direction.
However, members felt that whilst stakeholders should be made aware of risks and on steps and measures to manage/mitigate those risks (in particular in Section B- Toolkit) but that the focus should be on the opportunities, how to fully use them and on the contribution to a constructive debate.

This section could also consider how government reflects the will/needs of citizens or how can this be done better with the help of technology. Specifically, it was again underlined that the guidelines should be kept practical.

Section I.3
The working group agreed with the general considerations in general.

Attention should be paid to the specific role of each stakeholder and how they can implement the technology at their level (central/regional/local level) or facilitate it and what the specific contribution could be (innovating/testing at local level).

Attention could be paid also to private industry/companies as stakeholders (benign or not) and general approach on how member States could deal with this, how risk is managed or mitigated.

In this context the role of the stakeholders should consider, in particular, who holds the data? – Data held by or on behalf of public authorities. Smart cities concept may require attention in this regard?

In terms of citizens as stakeholders, young people and vulnerable groups for example may need to be addressed separately (including e-literacy).

Section II.1
Questions that were raised in relation to legislation included:
How do we create a secure framework?
Is e-ID key to ensure trust and accountability?
How is e-identification obtained/granted?
Who can participate (petitions, referendums) and how can participation be verified?
Does legislation exist already for non-digital means?

A separate and new chapter could be included in section II on the required technical preconditions.

Section II.3
Issues raised included the following:
Decision-making and contributions to decision-making cannot be anonymous and a clear and tested way of verifying eligibility is needed.

Accountability for the rules and how are rules handled when they are delegated (responsibility for machine-based decisions?)

Chapter III
Here it was recommended to restructure and bring all forms together possibly in order of representative democracy (what is closest to the decision-makers first ranked to what is 'furthest' from them)
Looking then at aspects of participative democracy: participation (consultation, participation, co-decision) and to more informal democracy (new forms of political communication, social political movements and new phenomena in media (where anger at bad decisions is expressed instead of through existing formal complaints mechanisms. As a result, there is no official and measurable record).

E-decision-making should be addressed in the light of processes and there should be communication on how a decision was reached.

What are the existing e-democracy tools that are held by civil society/media and how can government manage those and make use of them?

e-Petitions, e-initiatives and e-referenda or elections should be grouped

How are the results/outcomes of e-initiatives/petitions measured in terms of effectiveness? What happens in practice when specific standards/requirements are met? What is the success rate?

Reference should be made here to existing international standards adopted by the Council of Europe).

In terms of structure this could be reflected along the following lines:

Representative Democracy

Ways in which citizens can express themselves: elections, referendums, etc.

Participative Democracy

Forms of participation and involvement at some stage during the decision-making process or in agenda setting.

'Internet'/Informal Democracy

It is not a concept of democracy per se but ways in which people express themselves on democratic issues and governance or contribute to the democratic debate in an informal manner. This could include 'e-democracy'-like tools used by civil society?

Issues raised in relation to the use of social media included the following:

a) Social Media and people who express themselves
b) Social Media as a means for authorities to inform citizens of issues and to invite them to engage
c) Social Media and views from those who are not directly affected by specific issues or questions (e.g. decisions at local level) or contributions by 'artificial/virtual' people/bots

As regards social media, the working group considered that the guidelines should address

a) the role and use of social media in how people communicate and how they express themselves (dissatisfaction, agreement, proposals for initiatives, etc …)
b) the use of social media as a means for authorities to inform citizens of issues and to invite them to engage and how to handle views from those who are not directly affected by specific issues or questions (in relation to decisions at local level for example) or
c)   contributions by virtual 'persons' or bots.
d) The responsibility of social media as platforms that publish specific content and views, compared to, for example, publishers or editors.

APPENDIX II

AGENDA

1.	**Opening of the meeting**	
2.	**Adoption of the agenda**	[GT-ED(2019)OJ1 rev.]
3.	**Report of the first meeting of the working group**	[GT-ED(2018)3]
4.	**Guidelines on e-democracy in the form of a toolkit**	

4.1 *Working paper*
- Presentation of the paper prepared by the expert [GT-ED(2019)1]
- Exchange of views and drafting proposals by the working group

4.2 *E-democracy initiatives*
- Presentation of case-studies in member States
- Lessons learned

5.	**Review meeting on Recommendation CM/Rec(2017)5 on standards for e-voting: preliminary exchange of views**	[GT-ED(2019)2]
6	**Council of Europe activities in relation to disinformation, social media and elections: exchange of views**	[GT-ED(2019)3]
7.	**Conclusions**	
8.	**Other business**	
9.	**Date and place of the next meeting** Strasbourg, 12-13 September 2019	

APPENDIX III

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