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

**WORKING GROUP ON GOVERNANCE  
(GT-G)**

**BACKGROUND PAPER ON THE CONCEPT OF MULTILEVEL  
GOVERNANCE AND GENERAL / PRELIMINARY ISSUES  
FOR CONSIDERATION**

**For information and discussion by the GT-G**

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

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The present document was drafted as a starting point for the work of the GT-G, to prompt discussions on a series of preliminary questions that may need to be solved in order to define a frame to the work on the drafting of a recommendation on multi-level governance and a report on the same subject which includes also the management of emergencies.

Preliminary questions could include:

- **The need for a working definition of multilevel governance:** to delimit the vertical extent (how to deal with the supranational level and specificities of the EU) and the horizontal outreach (horizontal cooperation schemes, participatory processes, cross-border dimensions, including or not informal links also with non-official governance bodies etc)
- In the context of the Council of Europe's work, what would be **the content and added value of the future Recommendation** (relative to the Charter and other instruments) and how to avoid redundancies or inconsistencies with existing texts? what are the issues that have not yet been addressed? should the Recommendation focus on practical aspects and lessons learnt from practice with the existing national arrangements and monitoring activities (e.g. by the Congress?) – a tour de table is planned for all attendees to feed in
- **Which information to use?** contributions by working group members? questionnaire to all CDDG members? information already provided for the report on Covid 19? academic expert(s), etc
- **the topic is potentially huge and it may need to be narrowed down** in order to produce a recommendation that is feasible. For a report, the matter might be less of an issue although the management of emergencies (health crisis, migrants/refugees, earthquakes and other major catastrophes, energy / water / food shortages, consequences of war etc), the number of research areas could be vast and possibly require interactions with a number of bodies
- **How to deal with the two drafting tasks given to the GT-G:** should these be merged or kept separately despite the risk of redundancy?

## Introduction

1. Territorial reforms are pullulating in Europe and the Council of Europe (and other organisations) is assisting in the implementation of reforms and cooperation activities (sharing of experience, peer reviews, training, legal advice etc) through various bodies: the Congress of Local and Regional Authorities, the Parliamentary Assembly, the Centre of Expertise (which is close to the CDDG), the Venice Commission etc.
2. The CDDG is confronted with a variety of trends in administrative-territorial reforms:
  - horizontal ones: municipalities were defined in early industrial stages, where most of them were agrarian and people needed easy access to the fields but hardly any public services. Today they expect services comparable to those received by inhabitants of large cities. These are expensive and can't be offered by each (small) municipality. Different solutions are applied: amalgamations (the Centre of expertise has produced a toolkit on it) or co-operative integration models (we also have a toolkit about it). Sometimes, co-operation schemes can be both horizontal and vertical forms of multilevel governance (MLG) when they become new layers of government.
  - Vertical ones, especially the issue of intermediate levels of government. Some countries have tried to suppress one (Italy, law adopted but rejected in referendum), Georgia which practically dissolved municipalities and kept rayons as first level of government...), some on the contrary, want to add new ones (creation of regions with increased capacities especially).

## 1. Origins and definition of the concept of multilevel governance (MLG)

### 1.1 From an academic concept use for research purposes....

3. The concept of "multilevel governance" (or "multilevel territorial government") reportedly<sup>1</sup> appeared in the early 1990s in academic literature in connection with efforts to understand the operations of the European Structural Funds which had raised basic questions about decision making across the European Community, Member States and regional governments. The implementation of regional development policies had required direct dialogue of the European Commission with representatives of regional governments, which had challenged the traditionally centralised decision-making with member States and had at least given subnational governments a new arena for pressing their demands.

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<sup>1</sup> See A. Faludi ["Multi-level \(Territorial\) Governance: Three Criticisms"](#)

4. Early expressions and definitions have rapidly abandoned the adjective “territorial” for it was redundant with the concept of “government”. The latter however, continued to be used and this has been criticised for the emphasis on governments and state functions, thus obscuring the role played by non-state actors (private sector, public/private partnerships and quangos, associations of regional/local actors etc), and for their focus on a vertical and quasi-hierarchical vision of power.
5. Academics also sought to identify typologies of MLG. For instance, in the two-fold typology often mentioned in academic material but also reports of the EU:
  - Type I, which has echoes of federalism, describes system-wide governing arrangements in which the dispersion of authority is restricted to a limited number of clearly defined, non-overlapping jurisdictions at a limited number of territorial levels, each of which has responsibility for a set of functions;
  - type II, by contrast, describes governing arrangements in which the jurisdiction of authority is task-specific, where jurisdictions operate at numerous territorial levels and may be overlapping. In Type I, authority is relatively stable, but in Type II it is more flexible, to deal with the changing demands of governance
6. Definitions used exclusively for analytical and research purposes retained a strong scientific connotation, or they focused on the nature of relationships in the specific context of the EU. For instance: *“an arrangement for making binding decisions which engages a multiplicity of politically independent but otherwise interdependent actors – private and public – are at different levels of territorial aggregation in more-or-less continuous negotiation/deliberation/implementation, and that does not assign exclusive policy competence or assert a stable hierarchy of political authority to any of these levels”*.

## **1.2 ... to a self-standing, public management policy concept**

7. Initially conceived as an analytical tool to apprehend the evolving distribution of powers and responsibilities as well as interactions of various government levels, MLG was progressively recognised as a self-standing model of public affairs management involving the various levels of government and other actors.
8. When referring to MLG, many policy documents today refer to a vertical and a horizontal dimension:
  - the “vertical” dimension refers to the linkages between higher and lower tiers of government, including their institutional, financial, and informational aspects;

- the "horizontal" dimension refers to co-operation arrangements between entities of a given level (regions, municipalities etc.), as well as interactions between public government bodies and other actors/participants – hence the concept of governance - who may be entrusted with tasks of public interest (private companies, intercommunal ad hoc bodies, quangos and public-private partnerships, associations involving a variety of public and private actors) or not entrusted with such tasks (citizens, civil society organisations).

9. There are at least three reasons for this<sup>2</sup>:

- the evolution of territories : for instance, so-called rural communities are now located in the orbit of cities following urban development, boundaries between town and country are becoming blurred, and housing and employment areas are expanding. More and more urban areas now straddle several departments, several regions, and even several countries, especially in border regions - leading to their recognition and the establishment of legal frameworks<sup>3</sup>;
- a number of public policy areas (e.g. education, health, housing, waste management) can't be dealt with by one level or category of governance on its own. In order to design/implement an effective, reasonably coherent and global policy, these different levels must work together. More and more sectors of particular concern are also cross-jurisdictional by nature (environment, transportation infrastructure, energy, the management of major emergencies) and they can't rely on a patchwork of approaches that would be too specific or incompatible with each other. At the same time, the needs of local populations need to be addressed in a manner taking into account local specificities. In other words, governance, if it is to meet society's expectations, should be based on rules of cooperation between levels of governance and not on rules of distribution of exclusive competences between levels;
- the element of (multilevel) "governance" referred increasingly to the art of (public affairs) management and of managing the above-mentioned interactions. It can currently also be seen as the art of producing both more unity and more diversity:
  - unity, in particular to ensure that certain fundamental rights and principles apply equally across the larger territory where such rights and principles are guaranteed;
  - diversity, because governance is all the better if it knows how to ensure cohesion also by encouraging local initiatives and creativity to adapt general principles to each concrete reality.

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<sup>2</sup> These reasons have been put forward by the French NGO Citego: [http://www.citego.org/bdf\\_fiche-document-204\\_fr.html](http://www.citego.org/bdf_fiche-document-204_fr.html)

<sup>3</sup> At the level of the Council of Europe: establishment of a legal framework adapted to Euroregions via the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 106), also known as "Madrid Convention", and its additional protocols, including the 3rd protocol, which allows the creation of "Euroregional cooperation groupings" (ECG).

At the European Union level: financial support for projects through the Interreg programs; possibility of creating adapted legal structures in the form of "European Grouping of Territorial Cooperation".

10. The issue of territorial inequalities mentioned above is of particular importance. Some stem from special (usually geographical) situations (such as areas of low population density, mountain regions, islands and remote areas...) which influence unitary prices of services, some from demographic situations (either many young or many old people so the need for expensive services like education and health care will need to be higher; more often disadvantaged population which can contribute less in taxes so this affects the tax basis of the municipality). The issue of equalisation is mentioned in Council of Europe documents, especially from the Congress (should it be vertical or horizontal?), but there is also the possibility to have other levels of government or intercommunal arrangements stepping in to offer some services, in an asymmetric way, **which could make any work on MLG quite complex.**

## 2. Formalising MLG

### Council of Europe

11. The Council of Europe established in 1980 a first milestone on the road to MLG with the [European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities \(ETS No. 106\)](#) – 39 countries have ratified it to date. The Preamble refers to the importance of co-operation between territorial communities or authorities at frontiers in such fields as regional, urban and rural development, environmental protection, the improvement of public facilities and services and mutual assistance in emergencies, as well as to past experience which shows that co-operation between local and regional authorities makes it easier for them to carry out their tasks effectively.
12. In 1985, the [European Charter of Local Self-Government \(ETS 122\)](#), which ensured a legal basis for multilevel governance within a member State through a series of principles to be applied to relations between the national (State) level, regional level and local level. All Council of Europe member States have to date become parties to it.
13. In 2007, the 15<sup>th</sup> Conference of European Ministers responsible for local and regional government (Valencia, 15-16 October 2007) endorsed a challenging initiative, the Council of Europe Strategy on Innovation and Good Governance at Local Level, which was seen as a major contribution to the achievement of effective democratic local self-government across Europe and an example of partnership between governments and local authorities and their associations, at national level and within the Council of Europe. The strengthening of this co-operation was a significant outcome of the Conference. The Conference consecrated the text of the 12 Principles of good democratic governance (at local and regional level).

14. In 2009, the Charter was complemented by the [Additional Protocol on the right to participate in the affairs of a local authority \(CETS No. 207\)](#) – ratified by 21 countries to date – ensuring the (horizontal) participation of any person by means of consultative processes, local referenda and petitions; procedures for access to official documents held by local authorities; measures for meeting the needs of categories of persons who face particular obstacles in participating; mechanisms and procedures for dealing with and responding to complaints and suggestions regarding the functioning of local authorities and local public services; encouraging the use of information and communication technologies for the promotion and exercise of the right to participate set out in the Protocol.
15. The concept of multilevel governance as a policy concept made its appearance probably around 2009. In a [Recommendation 278 \(2009\) “Regions with legislative powers”](#) (adopted by the Congress on 15 October 2009), it was stated that *“good regional governance brings an added value which can be seen in the fact that regionalisation has spread across many of the member states over recent years. New regional institutions have been introduced or existing ones endowed with additional responsibilities. This has led to a rich diversity of regions based on the coexistence of a number of different models.”* It reiterated the importance of “democratic functioning and composition based on citizen participation; respect for regions’ autonomy in the law/constitution; the principle of subsidiarity; the responsibilities of regions with regard to the integrity and sovereignty of states; and the principle of loyalty and mutual respect between the different levels of governance (national, regional and local)”. It stated that **“Multilevel governance must be guided by mutual co-operation and interaction between European, national, regional and local authorities with due regard to the respective roles, functions, competences and activities of each level. Former schemes are about to be abandoned in favour of a co-operative approach based on solutions. A clear delineation of responsibility as regards subordination issues is a prerequisite for sound and successful multilevel governance.”**
16. The CDDG itself, in 2020, held a special meeting and produced a report on “Democratic Governance and Covid 19”, on the basis of information provided by member States (all can be found on the [dedicated webpage](#)). The report contained a chapter on multilevel governance, giving an account of vertical and horizontal coordinated actions.

17. The concept of MLG was used recently in [Recommendation CM/Rec\(2022\)10 of the Committee of Ministers to member States on multilevel policies and governance for intercultural integration](#), with the following definition:

**“Multilevel governance” is a model of governance which embraces central, regional and local governments, as well as civil society organisations. The ways in which it is organised may vary greatly from one country to another. Ideally, it includes a bottom-up element and implies the setting up of participatory processes for policy co-creation, co-operation and co-ordination among all relevant public authorities, at all levels of governance, and with all relevant stakeholders, in areas of shared competence or common interest.”**

#### EU level

18. At EU level, the Committee of the Regions adopted in 2009 a [White Paper on Multilevel Governance](#) which recommended i.a. the elaboration of a Charter on Multilevel Governance, with the purpose to take the principles set out in the (Council of Europe) Charter of Local Self-Government to a higher plane, and apply them to relations between the EU, the member States and the subnational level (local and regional)<sup>4</sup>. A [Charter on multilevel Governance in Europe](#) was eventually adopted in June 2014, with a set of general principles rather than a set of rules reiterating the European Charter of Local Self-Government; although not legally binding, the text is meant to commit its signatories to explain and promote the principle of multilevel governance.

#### TITLE 1: FUNDAMENTAL PRINCIPLES

We commit ourselves to respecting the fundamental processes that shape multilevel governance practices in Europe by:

- 1.1. developing a TRANSPARENT, OPEN and INCLUSIVE policy-making process;
- 1.2. promoting PARTICIPATION and PARTNERSHIP involving relevant public and private stakeholders throughout the policy-making process, including through appropriate digital tools, whilst respecting the rights of all institutional partners;
- 1.3. fostering POLICY EFFICIENCY, POLICY COHERENCE and promoting BUDGET SYNERGIES between all levels of governance;
- 1.4. respecting SUBSIDIARITY and PROPORTIONALITY in policy making;

<sup>4</sup> “a European Union Charter on multilevel governance, which would establish the principles and methods for developing a common and shared understanding of European governance, based on respect for the principle of subsidiarity, which would support local and regional governance and the process of decentralisation in the Member States, candidate countries and neighbouring states, and which would stand as a guarantee of the political will to respect the independence of local and regional authorities and their involvement in the European decision-making process”.



1.5. ensuring maximum FUNDAMENTAL RIGHTS PROTECTION at all levels of governance.

## TITLE 2: IMPLEMENTATION AND DELIVERY

We commit ourselves to making multilevel governance a reality in day-to-day policy-making and delivery, including through innovative and digital solutions. To this end, we should:

2.1. PROMOTE CITIZEN PARTICIPATION in the policy cycle;

2.2. COOPERATE closely with other public authorities by thinking beyond traditional administrative borders, procedures and hurdles;

2.3. FOSTER A EUROPEAN MIND-SET within our political bodies and administrations;

2.4. STRENGTHEN INSTITUTIONAL CAPACITY BUILDING and invest in policy learning amongst all levels of governance;

2.5. CREATE NETWORKS between our political bodies and administrations from the local to the European levels and vice-versa, whilst strengthening transnational cooperation.

19. The White Paper defined MLG as follows: "The Committee of the Regions considers multilevel governance to mean **coordinated action by the European Union, the Member States and local and regional authorities, based on partnership and aimed at drawing up and implementing EU policies**. It leads to responsibility being shared between the different tiers of government concerned and is underpinned by all sources of democratic legitimacy and the representative nature of the different players involved. By means of an integrated approach, it entails the joint participation of the different tiers of government in the formulation of Community policies and legislation, with the aid of various mechanisms (consultation, territorial impact analyses, etc.)."
20. In the definition retained subsequently in the Preamble to the Charter, additional references were added, especially to the principles of "subsidiarity" and "proportionality": "**coordinated action by the European Union, the Member States and regional and local authorities according to the principles of subsidiarity, proportionality and partnership, taking the form of operational and institutional cooperation in the drawing up and implementation of the European Union's policies**".

21. Subsequent working definitions used by EU bodies, for instance for reporting purposes in relation to the structural funds, were drafted in broader terms, for instance: **"the participation of a range of different types of actors (public, private and societal) in policymaking and implementation through formal and informal means"**<sup>5</sup>

#### Other initiatives

22. The UN Habitat Programme has established a [webpage dedicated to multilevel governance](#) where various resource documents of the UN are compiled. [Specific reports](#) have been elaborated on the management of emergencies. The definition used is the following: **"Multilevel governance concerns the vertical and horizontal integration of governance systems, necessary to enable efficient policy making, service delivery, and cohesive leadership by and among all spheres of governance."** MLG is presented as a means to facilitate achievement of the Sustainable development goals".
23. In the OECD's work, "multilevel governance" is a sector of activities (see [link](#) and [link](#)) implemented in support of regional, rural and urban development. The need for domestic coordinated approaches has been justified primarily by the fact that governments at all levels are increasingly required to do more and better with less. They are searching for solutions to improve the quality of public services, the effectiveness of public investment and the fiscal sustainability of public finances. On other occasions, it has been stated that *"In the context of growing regional inequality, the advent of megatrends, and the "geography of discontent", governments at all levels must work in a strategic, collaborative and evidence-based fashion."* A multi-level governance framework has been formulated by the OECD and has been used in several areas of work including on public investment, regional development, urban development, local finances, water governance, regulatory policy or environmental issues such as climate change.

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<sup>5</sup> European Parliament, Directorate General for Internal Policy, "[An assessment of Multi-Level Governance in Cohesion Policy in the programming period of 2007-2013](#)" (Vol. 1, Study, 2014)

### 3. Addressing particular challenges

24. Various challenges have been identified in relation to the development and implementation of MLG-based approaches<sup>6</sup>; the following is a tentative list of these:

- the adequate sharing and distribution of competencies: when there is a mismatch between the general framework defining the distribution of competencies and those actually exerted because of incidental limitations (other contradicting rules) or practical constraints (lack of resources, available expertise etc);

Recommendations issued by the Congress to individual countries:

- clarify the allocation of competences between the central government and the municipalities to ensure that the latter have full and exclusive powers within the meaning of Article 4.4;
- avoid situations of overlap between local and central competences and to ensure that the subsidiarity principle is applied in practice;
- reduce the level of interference by State authorities with municipal independent functions,
- make sure that the supervision is proportional to the importance of the interests that it is intended to protect and limit the state supervision of their own tasks to the control of legality;
- avoid overregulation of delegated tasks and allow local authorities to have more discretion in adapting their exercise to local conditions;
- recognise to local authorities a substantial share of public affairs under their own responsibility through decentralisation of competences, in line with the principle of subsidiarity;
- and ensure that local authorities dispose of the necessary legal and administrative means, property and finances to regulate and manage their affairs;
- in some cases: to reverse the centralisation trend and stop the allocation of local competences to the State administration thus ensuring that the subsidiarity principle is applied in practice.

- the adequacy of financial/budgetary rules and regulations, and resources at the sub-national levels, commensurate with the distribution of powers and responsibilities including new ones in a context of decentralisation or general policies decided at the upper tiers of decision-making.

<sup>6</sup> This list compiles a series of issues identified by :

- The Congress of Local and Regional Authorities, in Report CG(2021)40-10Final "Recurring issues based on assessments resulting from Congress monitoring of the European charter of local Self government and election observation missions (reference period 2017-2020)
- Bache, I. (2012) 'Multi-level Governance in the European Union' in D. Levi-Faur (ed.) Oxford Handbook of Governance, Oxford: Oxford University Press, 628-41

Recommendations issued by the Congress to individual countries:

- ensure the allocation of adequate resources to municipalities, respecting the connectivity principle that the resources should match the functions;
- accompany the delegation of the tasks from central to local level with concomitant financial resources;
- modernise the equalisation system and ensure its fairness and transparency, so that it can respond to current needs of local authorities (through revision of the formula of calculation of equalisation transfers and distribution criteria, an increase in the equalisation fund to smooth out regional and inter-municipal disparities);
- strengthen local fiscal autonomy and enhance the local authorities' capacity to generate their own resources (through further enlarging the tax base or capacity to determine surcharges or enabling local authorities to establish local taxes and to determine their rate);
- rationalise and simplify legal regulations of certain tasks and responsibilities at local level to allow more discretion to local authorities in adapting their exercise to local conditions;
- establish clear and transparent criteria for the distribution of state grants;
- allow for municipalities' access to capital markets to finance investment expenditures;
- ensure proper implementation of consultation procedures and mechanisms in practice to permit effective consultations with local authorities, in due time and in an appropriate way on all financial matters that directly concern them.

- Adequate consultation procedures in relation to various matters that concern local authorities directly (legislative processes, financial/budgetary matters, boundary delineation): when statutory consultations do not take place, or are carried out in an inappropriate manner, insufficient time-frames etc.

Recommendations issued by the Congress to individual countries:

- put in place or reinstate, where applicable, an institutionalised and systematic consultation mechanism of local authorities by higher levels of government;
- recognise the importance and strengthen the role and impact of associations on decision-making process;
- formalise the consultation process where it is not defined or clearly defined in law to make this process predictable and result-oriented;
- respect legal deadlines and request the extending of the existing deadlines, where necessary, to permit meaningful consultation;
- increase the regularity of consultations;
- ensure proper implementation of consultation procedures and mechanisms in practice to permit effective consultations with local authorities, in due time and in an appropriate way on all matters that directly concern them.

- the risk of complexity, additional coordination mechanisms and increased costs: when too areas of complementarity or overlapping coexist, when additional coordination or liaison structures are created and superimposed on existing structures, with excessively cumbersome decision-making processes and expensive coordinating teams
- transparency of decision-making: when the collective decision-making is shared, or the coordination/delegation/supervision is organised in such a way that it becomes excessively complex to manage and/or to understand for stakeholders, the public, those who have an interest in the rapid and effective delivery of services etc.
- the issue of accountability across the various governance bodies: when, as a result of the above and the splitting of decision-making, the responsibility for the implementation of policies and the delivery of services is shared between too many actors who can't account for their action and be held to account individually; or when certain (non-public) actors are involved in MLG with important functions but in an excessively informal manner that does not allow to hold them to account both within the MLG chain of cooperation and from outside it
- the need for proper involvement and consultation of the public: as a result of the horizontal dimension of MLG and in accordance with participatory democracy mechanisms and the principles enshrined, for instance, in the Additional Protocol on the right to participate in the affairs of a local authority.
- Implementing MLG in good faith and in the general interest, without undue political interference in horizontal cooperation schemes and also from the viewpoint of (upper) tiers of government and bodies which have a supervisory or other form of authority over other tiers of government, and especially to respect political pluralism without instrumentalising criminal and disciplinary procedures

Recommendations issued by the Congress to individual countries:

- find a more appropriate balance between the fight against corruption and the requirements of local democracy, so that the bringing of criminal charges against local elected representatives does not disrupt local political life, and refrain from exercising any type of pressure against local elected representatives;
- ensure that the arrest of a local elected representative is a decision duly substantiated in domestic law, taken in conformity with the standards of the Council of Europe;
- develop capacity building programmes for local council members, in particular in remote municipalities, with regard to the use of all available legal instruments for the protection of their rights and adopt various measures aimed at restoring mutual trust between the representatives of the ruling party and the opposition which is necessary for the proper functioning of local democracy.

(para 15) **“Multilevel governance” is a cooperative model of governance which embraces international, supranational, central, regional and local governments, including for cross-border cooperation purposes, as well as participatory processes involving the people, civil society, and other organisations, for the purposes of coordinated and efficient policy-making and the exercise of public duties/competencies [responsibilities and powers], as well as the fulfilment of good democratic governance, including in emergency situations.**

*It has due regard to the respective roles, functions, competences and activities of each level;*

*it aims in particular at the determination of the right area over which decisions must be taken and the right level to take action regarding economic issues [whilst preserving respective identities*

*it is ideally based on respect, a fair dialogue, transparency, trust, [and the seeking of consensus*

*It relies on processes which have the following features: they are agreed by all those concerned and need to be followed when those involved are seeking cooperation and joint activities, as well as in case of disagreement + clarity as to who makes the final decision + ; they facilitate coordination; leadership + communication, information (open data) + allocation and transfer of responsibilities between the levels and avoidance of overlaps + other purposes mentioned in the Charter (subsidiarity, efficiency, economy....)*