



Strasbourg, 27 October 2020

GT-RE(2020)6

EUROPEAN COMMITTEE ON DEMOCRACY AND GOVERNANCE (CDDG)

WORKING GROUP ON ACCOUNTABILITY (GT-RE)

REPORT OF THE 2ND MEETING

28-29 September 2020, held by videoconference

1. Opening of the meeting

The Chair of the Working Group, Mr Paul-Henri PHILIPS (Belgium, Region of Brussels-Capital), opened the meeting and welcomed the participants of the Working Group. The list of participants is set out in Appendix I.

2. Agenda

The agenda was adopted as set out in Appendix II.

3. Information by the Secretariat

The Secretariat recalled the state of play following the GT-RE's first meeting on 13-14 February 2020. Videoconferencing would allow to pursue the work despite the pandemic, so that the CDDG could be in a position to discuss the draft recommendation and accompanying report by the end of 2021, as foreseen by the terms of reference. The GT-RE might hold one or two more meetings in 2021, depending on the workplan and budget, and written consultations could be explored should the need arise.

As previously announced, a restricted access webpage¹ had been set up to gather working documents in one place and to enable members to upload documents and share information also in between meetings.

¹ See "Members' access" on the CDDG homepage <https://www.coe.int/en/web/good-governance/cddg>

4. Drafting a recommendation on the democratic accountability of elected officials and bodies at local and regional level

The Chair recalled that according to the terms of reference, the legal instrument to be drafted will need to complement Recommendation [CM/Rec\(2019\)3](#) on the supervision of local authorities' activities and to update previous work in this area. The GT-RE had agreed at its 1st meeting to follow a broad approach as regards the concept of democratic accountability of local and regional elected officials and bodies (not strictly limited to mechanisms focused on the direct intervention of citizens). This could also lead to a reflection concerning national elected officials.

Other background instruments to be borne in mind include:

- the Report on the recall of mayors and local elected representatives, adopted by the Council for Democratic Elections (65th meeting, Venice, 20 June 2019) and by the Venice Commission (119th Plenary Session, Venice, 21-22 June 2019), [CDL-AD\(2019\)011rev](#);
- [Recommendation No. R \(99\)8](#) of the Committee of Ministers on the financial liability of local elected representatives for acts or omissions in the course of their duties;
- [Report](#) on Liability of local elected representatives for acts or omissions in the course of their duties (CDLR, 1998);
- [Recommendation No. R \(84\)15](#) of the Committee of Ministers relating to public liability.

In light of the discussions held by the GT-RE, the Secretariat, with the assistance of scientific experts, would prepare a preliminary draft Recommendation and accompanying report for consideration by the GT-RE at its next meeting(s) in 2021.

A questionnaire had been circulated in the summer to collect information from all CDDG member countries with regard to a broad range of accountability mechanisms (democratic, political, administrative, financial) and liability mechanisms (criminal, pecuniary). 20 countries had provided responses. The compilation of these (document GT-RE(2020)5) will be updated with further replies. The agenda of the 2nd meeting was structured along the various mechanisms of accountability.

In his presentation, Mr Duranthon referred notably to the following:

- there was a need to refine certain definitions; concerning the object, purpose and structure of the Recommendation: there was a narrow meaning usually associated with "responsabilité" in French and possibly other languages, whereas in English the concept of accountability has broader implications ("redevabilité" might thus be a better equivalent); the future instrument would have to clarify in which cases the individual, the public body or the local/regional community as a legal person bears the weight of accountability and/or liability; there did not seem to be a real need to distinguish between local and regional mechanisms

- the various forms of accountability raised issues to be addressed by the Recommendation: as regards financial and criminal liability, criteria were important to set limits to the individual liability of elected officials; financial accountability raised a number of questions: should it be administrative or judicial? Should it have criminal and/or political consequences? Was it aimed at the self-governing community or elected representatives? Should one party be held solely criminally liable, particularly in the event of wrongdoing?

Mr Teles pointed out the following:

- accountability at the local and regional level had gained more and more interest in the scholarly and political debate during the last 20 years in Europe. Declining trust in political institutions as well as the emergence of new governance institutions had highlighted the need to provide for, and review existing accountability mechanisms of core policy makers. Public administration reforms had also led to new players from the private and third sectors being involved in the policy and governance area, leading to new accountability challenges (intermunicipal associations, quangos etc). The variety of local tasks and of collaborative arrangements in service delivery called for different (combinations of) mechanisms of accountability;
- the drive for greater accountability had been pursued in particular through enhancing openness and transparency and by clarifying the lines of responsibility and division of work between the different bodies; accountability required two conditions: standards to follow and the availability of information (in order to check compliance) – hence the importance of disclosure policies and adequate rules on access to information;
- important prerequisites had to be borne in mind, e.g. the proportionality of accountability mechanisms and their consequences, as well as the need for clear standards and procedures.

The ensuing discussions concerning the various forms of accountability were summarised by the Secretariat:

- a revision of accountability mechanisms appeared to be justified by a number of factors including the lack of trust of citizens, the evolution of administrative structures, the trend towards more transparency and information and all forms of accountability mechanisms appeared to be important also in the light of the 12 Principles of good Democratic Governance;
- the concept of “democratic accountability” was still a source of confusions and needed to be understood as the democratic forms of accountability. It was clear that accountability concerned both the actions and inactions;

- some forms of accountability needed to be considered together: democratic and political accountability were a direct / indirect form of the same mechanism. In this context, the differences between the concepts of voters, citizens and population more broadly (possibly including foreigners and civil society organisations) had to be borne in mind. Some mechanisms needed perhaps to be renamed, e.g. financial liability;
- certain factors were instrumental, in particular: transparency in the action of local / regional elected bodies (including as regards the application of accountability mechanisms); access to information - including on the basis of the Council of Europe Convention on Access to Official Documents – CETS 205, the European Charter of local self-government and its additional protocol – CETS 122 and CETS 207; training and awareness-raising of elected officials and the population on their respective rights and obligations with respect to accountability;
- likewise, proportionality, clear rules / circumstances / consequences, guarantees against arbitrariness etc. were important considerations in a context of increasing fears of elected officials and preserving the rule of law (e.g. predictability of rules, effectiveness of mechanisms etc.);
- the work of other bodies needed to be taken into account (e.g. the Venice Commission);
- the diversity of functions associated with certain elected officials needed to be borne in mind, e.g. a mayor is also possibly part of the public / State administration as well as the head of a local administration, the chair of a local elected council and s/he could as well exert a national mandate in addition (e.g. as a member of parliament enjoying immunity).

4. Date and venue of next meeting

The next meeting of the working group could be held in the end of February or early March 2021, either by videoconference or in Strasbourg, depending on the agenda of work to be agreed upon by the CDDG and upcoming budgetary decisions for 2021. The Secretariat would inform the GT-RE about the date and place of the meeting as soon as more information becomes available.

APPENDIX I**LIST OF PARTICIPANTS****CHAIR / PRESIDENT**

Ms Paul-Henri PHILIPS, Coordinateur pour les Organisations Internationales, Relations multilatérales et Organisations Internationales, BRUXELLES

AUSTRIA / AUTRICHE

Mr Peter ANDRE, Ministry of Interior, Senior Expert for Legal Affairs, Wien, Austria

BELGIUM / BELGIQUE

Mr Edwin LEFEBRE, Ministry of the Flemish Community, Agency for Home Affairs, BRUSSELS

CZECH REPUBLIC / REPUBLIQUE TCHEQUE

Apologised for absence / excusé

FINLAND / FINLANDE

Mr Markku MÖLLÄRI, Ministerial adviser, Department for Local Affairs and Regional Administration, Ministry of Finance, HELSINKI

DENMARK / DANEMARK

Ms Lise BRANDI-HANSEN, Ministry of Social Affairs and the Interior, COPENHAGEN

GREECE / GRECE

Mr Georgios CHRYSAFIS, Directorate of Organisation and Functioning of Local Government, Ministry of the Interior, ATHENS

Mr Athanasios ATHANASSIADIS, Directorate of Organisation and Functioning of Local Government, Ministry of the Interior, ATHENS

ICELAND / ISLANDE

Mr Björn Ingi ÓSKARSSON, Department of Local Government and Regional Affairs, Ministry of Transport and Local Government, REYKJAVIK

ITALY / ITALIE

Mr Francesco GIUSTINO, Presidenza del Consiglio dei Ministri, D.A.R.A. - Ufficio Attività Internazionali, ROMA

POLAND / POLOGNE

Ms Justyna PRZYWOJSKA, Expert for methodology of public services research National Institute of Local Government

SLOVAK REPUBLIC / REPUBLIQUE SLOVAQUE

Ms Nad'a KURILOVÁ, Local Self-Government Unit, Local State Administration, Self-Government and Foreign Relations Department, Public Administration Section, Ministry of Interior of the Slovak Republic, BRATISLAVA

SLOVENIA / SLOVENIE

Ms Helena KAVČIČ, Local Self-Government Service, Ministry of Public Administration, LJUBLJANA

SPAIN / ESPAGNE

Ms Ana Cristina LÓPEZ LÓPEZ, Joint Deputy Director for European and International Relations, General Secretariat of Territorial Coordination, Ministry of Territorial Policy and Civil Service, MADRID

UNITED KINGDOM / ROYAUME-UNI

Mr Paul ROWSELL, Head of Governance Reform and Democracy Unit, Ministry of Housing, Communities and Local Government, LONDON

Ms Siobhan SMYTH, Senior Policy Adviser, Governance Reform and Democracy Unit, Ministry of Housing, Communities and Local Government, LONDON

Ms Gurpal CHEEMA, Policy Adviser, Governance Reform and Democracy Unit, Ministry of Housing, Communities and Local Government, LONDON

OTHER PARTICIPANTS / AUTRES PARTICIPANTS**CONFERENCE OF INGOS OF THE COUNCIL OF EUROPE / CONFERENCE DES OING DU CONSEIL DE L'EUROPE**

Mr Gerhard ERMISCHER, CIVILSCAPE, Representative of the INGOs Conference to the CDDG, ASCHAFFENBURG, Germany

CONGRESS OF LOCAL AND REGIONAL AUTHORITIES OF THE COUNCIL OF EUROPE / CONGRES DES POUVOIRS LOCAUX ET REGIONAUX DU CONSEIL DE L'EUROPE

Mr Kjartan MAGNUSSON, Secretariat of the Governance Committee / Secrétariat de la Commission de la gouvernance

EXPERT-CONSULTANTS / CONSULTANT-EXPERTS

Mr Filipe TELES, Pro-rector, University of Aveiro, Portugal

Ms Arnaud DURANTHON, Maître de conférences de droit public, Faculté de droit, de sciences politiques et de gestion, France

SECRETARIAT

Ms Sonia SIRTORI, Head of the Democratic Governance Division – Secretary of the CDDG - Directorate of Human Dignity, Equality and Governance, Directorate General of Democracy

Mr Christophe SPECKBACKER, Administrator – Democratic Governance Division - Directorate of Human Dignity, Equality and Governance, Directorate General of Democracy

Ms Isabelle ETTER - Assistant / Assistante

Interpreters / Interprètes

Ms Katia DI STEFANO

Ms Clarissa WORSDALE

APPENDIX II

AGENDA

Monday 28 September / lundi 28 septembre	
1. Opening of the meeting / ouverture de la réunion	
2. Adoption of the agenda / adoption de l'ordre du jour	[GT-RE(2020)OJ2]
3. Information by the Secretariat / information par le Secrétariat	
4. Drafting a recommendation on the democratic accountability of elected officials and bodies at local and regional level / préparation d'une recommandation sur la responsabilité démocratique des représentants élus et des organes électifs aux niveaux local et régional	
10.45 State of play following the first meeting, and other information by the Chair / état des lieux après la première réunion et autres informations du Président	[report 1 st meeting GT-RE/rapport de la 1 ^{ère} reunion du GT-RE (2020)4]
Introduction to the compendium of responses by the Secretariat / introduction au recueil des réponses au questionnaire par le Secrétariat	[GT-RE (2020)5]
11.10 Présentation by Mr Arnaud Duranthon, expert consultant, lecturer in public law, Strasbourg University (France) / présentation par M. Arnaud Duranthon, expert consultant, maître de conférence en droit public, Université de Strasbourg (France) Discussion	
12.00 Presentation by Mr. Filipe Teles, expert consultant, Pro-rector, University of Aveiro (Portugal) / présentation par M. Filipe Teles, expert-consultant, Pro-recteur, Université d'Aveiro (Portugal) Discussion	
Discussion on the content of a draft recommendation / discussion du contenu d'un projet de recommandation	
14.30-15.20 Democratic accountability / responsabilité démocratique discussion of the goals of a recommendation, means to achieve these, best practices etc. / discussion sur les objectifs d'une recommandation, les moyens d'y parvenir, les bonnes pratiques etc.	[pm: list of questions addressed at the 1 st meeting / liste des questions abordées à la 1 ^{ère} réunion GT-RE(2020)2]
15.20-16.00 (possibly/si nécessaire 16.30) Political accountability / responsabilité politique discussion of the goals of a recommendation, means to achieve these, best practices etc. / discussion sur les objectifs d'une recommandation, les moyens d'y parvenir, les bonnes pratiques etc.	

Tuesday 29 September / mardi 29 septembre	
<p>10.30-11.20 Administrative accountability / <i>responsabilité administrative</i>:</p> <p>discussion of the goals of a recommendation, means to achieve these, best practices etc. / <i>discussion sur les objectifs d'une recommandation, les moyens d'y parvenir, les bonnes pratiques etc.</i></p>	
<p>11.20-12.10 Financial accountability / <i>responsabilité financière</i></p> <p>discussion of the goals of a recommendation, means to achieve these, best practices etc. / <i>discussion sur les objectifs d'une recommandation, les moyens d'y parvenir, les bonnes pratiques etc.</i></p>	
<p>12.10-13.00 Criminal liability / <i>responsabilité pénale</i></p> <p>discussion of the goals of a recommendation, means to achieve these, best practices etc. / <i>discussion sur les objectifs d'une recommandation, les moyens d'y parvenir, les bonnes pratiques etc.</i></p>	
<p>14.30-15.20 Financial liability / <i>responsabilité financière</i></p> <p>discussion of the goals of a recommendation, means to achieve these, best practices etc. / <i>discussion sur les objectifs d'une recommandation, les moyens d'y parvenir, les bonnes pratiques etc.</i></p>	
<p>15.20-15.50 Other aspects to be taken into account in the draft Recommendation, summing up of discussions and next steps / <i>autres aspects à prendre en compte dans le projet de Recommandation, synthèse et suite des travaux</i></p>	
<p>5. Date and place of the next meeting / <i>date et lieu de la prochaine réunion</i></p>	