



Strasbourg, 22 March 2021

GT-RE(2021)2

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

**WORKING GROUP ON ACCOUNTABILITY
(GT-RE)**

REPORT OF THE 3rd MEETING

8-9 March 2021, held by videoconference

1. Opening of the meeting

The Chair of the Working Group, Mr. Paul-Henri PHILIPS (Belgium, Brussels Capital Region), opened the meeting and welcomed the participants, in particular from Norway who recently decided to participate in the Working Group. The list of participants is attached as Appendix I.

2. Agenda

The agenda as shown in Appendix II was adopted.

3. Elaboration of a Recommendation for the Committee of Ministers on the democratic accountability of elected representatives and elected bodies at local and regional level

Information by the Chair

The Chair recalled the state of play following the two previous meetings of the GT-RE on 13-14 February and 28-29 September 2020, the support given to the work by scientific experts, and the fact that the present meeting would allow for the examination of a preliminary draft recommendation prepared by the Secretariat on the basis of the lines identified at the previous meetings. He welcomed Professor Mark Philp from the University of Warwick (United Kingdom), who will assist the working group along with Mr. Arnaud Duranthon (Senior Lecturer at the University of Strasbourg).

Information from the Secretariat

Dan Popescu, Head of the Democracy and Governance Department, recalled the context of the elaboration of this new recommendation, the political sensitivity of the subject, its importance in view of the growing demand of citizens to have a say in the management of public affairs (including the recourse to direct election of mayors, according to some surveys), the need to achieve a balance in the future recommendation with increased accountability that would not paralyse the institutions of representative democracy, the concern of local elected representatives in view of the risks of prosecution and of the inflation of regulations. He also recalled that the notion of democratic accountability was understood by the working group as accountability in accordance with democratic principles, and that at its first meeting, the working group agreed to take up the acquis of [Recommendation No. R \(99\) 8](#) of the Committee of Ministers to member states on the financial liability of local elected representatives for acts or omissions in the course of their duties, which could be integrated into the new legal instrument (which would thus replace that of 1999). Finally, he expressed the hope that the new text would be ambitious and not limit itself to minimum common standards.

Presentation by Professor Mark Philp

In his presentation, Professor Philp made an inventory of the issues that he felt were important to address in a draft recommendation. The preliminary draft text discussed by the working group should take more broadly into account the diversity of situations concerning local elected officials (directly appointed by voters or by an elected assembly, and/or accountable to state representatives) and the consequences for accountability (who is accountable to whom, for which responsibilities) and consequences to be drawn from it if necessary (and by whom). Respecting certain logics and the fact that democratic accountability does not necessarily imply an increased direct role for voters leads to forms of "intelligent accountability" that Professor Philp identified in a paper made available to the group.

Democratic accountability is also a matter of trust: both on the part of citizens in the existing institutions and mechanisms that ultimately contribute to democratic accountability (whether administrative, financial, penal or other), but also on the part of elected officials through their behaviour. The 12 Principles of Democratic Governance should therefore be emphasised more, particularly with regard to ethics and codes of conduct. Strengthening the democratic character of accountability does not necessarily mean more rules, which might increase the risk of paralysis and of disincentives for the renewal of elected officials and candidates who accept these offices, often with little or no remuneration. Rather, it means making existing rules more effective and efficient, hence the importance of accountability. Finally, the recommendation should emphasise both the contribution of individuals/voters to the accountability process and the modalities of that contribution, as expressions of populism can thwart democratic processes.

In the ensuing discussion, the importance of transparency in general was stressed (however, not everything is meant to be published immediately and for the greatest number). The diversity of situations in Europe was recalled, even within a given country (for example in the United Kingdom some mayors are directly elected, others not), and accountability is also sometimes exercised towards the top/State (which finances local authorities), with the latter being able to call into question the responsibility of certain local elected officials.

Discussion of the draft recommendation

The Secretariat of the CDDG presented the general structure of the draft text, which included, on the model of previous texts elaborated by the CDDG, the operative part of the Recommendation and the guidelines in an annex. Thereafter, the Working Group successively examined these various parts and chapters, heard additional comments and contributions from Professor Philp and clarifications provided by the Secretariat. At the end of the discussions, the Secretariat summarised the discussions and listed elements to be considered for a revision of this first draft of the text. These elements include what follows.

In general

A more systematic approach is desirable in distinguishing between accountability mechanisms, their forms, implications and modalities of implementation and the consequences that can be drawn in a logic of proportionality, and the various actors involved. A principle of symmetry between the mode of designation and the accountability link (who reports to whom) should be kept in mind. It was also necessary to insist on the effectiveness of the rules and general norms of good conduct and mutual trust as well as on the 12 Principles and their contribution.

As for the operative part of the Recommendation

The justifications/considerations should also refer to the desire for greater citizen participation, to some additional texts, to the need to strengthen democracy, and be ranked in order of importance. A definition of accountability should be included here (rather than in the appended guidelines). The link between the general accountability of elected officials and bodies, and the accountability of other entities under their influence or authority should be clarified (for whose activities elected officials and bodies may be held accountable even if they are not directly responsible for the services which are provided). Participants considered that the protection of elected officials is an increasingly important issue.

As for the attached guidelines

The first chapter on basic principles should become a general call to establish (or revise) the framework for accountability policies and practices, and to specify the various forms (formal, political), the actors concerned and the general implications. Some of the basic elements of the chapters that follow on the various forms of accountability and responsibility (including ethics) would logically need to be incorporated into this first part.

Chapters II, III and IV on political, legal/judicial and managerial mechanisms should follow a systematic approach distinguishing the various elements of accountability (who is accountable, how, to whom, in relation to which responsibilities and with what possible consequences). Regarding political mechanisms, a distinction should be made between the various forms of implementation (censure motion, no-confidence motion). Concerning legal/judicial mechanisms, this is the chapter under which the achievements of Recommendation CM/Rec(99)8 should be included. The management mechanisms should place more emphasis on the relationship with accountability and on entities outside the public sphere that carry out missions of general interest, as well as on the importance of auditing.

At the end of the discussion, it was agreed that delegations wishing to do so could submit drafting proposals in writing to the Secretariat, ideally by March 15.

4. Other matters

The Working Group discussed and agreed on the desirability of inviting organisations with relevant experience, such as the Council of European Municipalities and Regions (CEMR) or Transparency International, to exchange views on the draft recommendation, including preferably during future CDDG meetings. As the participants were invited to submit written proposals also after the meeting, Mr. Ermischer proposed to invite the European Ombudsman Institute.

5. Date and place of the next meeting

The Working Group agreed to hold its next meeting on 13-14 September, as foreseen in the 2021 work plan approved by the CDDG at its 12th meeting, either by video conference or in Strasbourg depending on the evolution of the health crisis.

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

Mr 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

Mr Kristian MALINA, Ministerial Assistant Principal, Department of Coordination of Public Administration and International Relations Ministry of the Interior of the Czech Republic

FINLAND / FINLANDE

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

GREECE / GRECE

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

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

Ms Elli STILIANIDI, Expert, Independent Department of International and European Relations

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

NORWAY / NORVEGE

Ms Nina Britt BERGE, Senior Adviser, Department for Local Government, Ministry of Local Government and Modernisation, OSLO

POLAND / POLOGNE

Ms Magda SADLAK, National Institute of Local Government

SLOVAK REPUBLIC / REPUBLIQUE SLOVAQUE

Ms Nad'á 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 Roman CHLAPAK, Secretariat of the Governance Committee / Secrétariat de la Commission de la gouvernance

HOLY SEE / SAINT-SIEGE

Mr Thierry RAMBAUD, professeur des Universités et avocat à la Cour, expert pour le Saint-Siège auprès du Conseil de l'Europe, Strasbourg

EXPERT-CONSULTANT / CONSULTANT-EXPERT

Prof. Mark PHILP, Department of History, University of Warwick, United Kingdom

SECRETARIAT

Mr Daniel POPESCU, Head of the Democracy and Governance Department / Chef du Service de la démocratie et de la gouvernance – Directorate of Human Dignity, Equality and Governance / Direction de la dignité humaine, de l'égalité et de la gouvernance - Directorate General of Democracy / Direction générale de la démocratie

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

Mr Nicolas GUITTONNEAU

Ms Sylvie BOUX

APPENDIX II

AGENDA

8 March / mars

10.30-13.00

1. **Opening of the meeting / ouverture de la réunion**
2. **Adoption of the agenda / adoption de l'ordre du jour** [GT-RE(2021)OJ1]
3. **Drafting a recommendation for the Committee of Ministers on democratic accountability of elected officials and bodies at local and regional level / élaboration d'une Recommandation pour le Comité des Ministres sur la responsabilité démocratique des représentants élus et organes électifs aux niveaux local et régional**
 - Information by the President / informations du Président
 - Consideration of a preliminary draft recommendation / examen d'un avant-projet de recommandation [GT-RE(2021)1]
 - Presentation by Professor Mark Philp, University of Warwick, United Kingdom, followed by questions and answers / présentation par le professeur Mark Philp, Université de Warwick, Royaume-Uni, suivi de questions et réponses
 - General introduction to the preliminary draft recommendation by the Secretariat / présentation générale de l'avant-projet de recommandation par le Secrétariat
 - Consideration and discussion of the operative part of the recommendation, page 1 to 4 / examen et discussion du dispositif de la recommandation, pages 1 à 4

13.00-14.30 lunch break / pause déjeuner

14.30-17.00

- Consideration and discussion of the appended guidelines, chapter I – general principles / examen et discussion des lignes directrices annexes, chapitre I – principes généraux

9 March / mars

10.30-13.00

- Consideration and discussion of the appended guidelines, chapter II – political accountability, chapter III – legal liability, chapter IV – managerial accountability / examen et discussion des lignes directrices annexées, chapitre II – redevabilité politique, chapitre III – responsabilité juridique, chapitre IV – redevabilité gestionnelle

13.00-14.30 lunch break / pause déjeuner

14.30-17.00

Continuation of discussions on the appended guidelines, chapters II to IV / poursuite des discussions sur les lignes directrices de l'annexe, chapitres II à IV

4. Other business / autres questions

5. Date and venue of the next meeting / date et lieu de la prochaine réunion