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Thematic meeting of the European Committee on Democracy and Governance (CDDG)

A democratic governance response to COVID-19

18 June 2020, by videoconference

**Summing up and conclusions by the Chair,
Mr Markku Mölläri, Chair *ad interim* of the CDDG**

1. Introduction

1. On 18 June, the European Committee on Democracy and Governance (CDDG) held a thematic meeting on *A democratic governance response to COVID-19*, under the auspices of the Greek chairmanship of the Committee of Ministers.¹

2. Over 100 participants – high-level officials from Council of Europe member States, CDDG members and observers, representatives of the Parliamentary Assembly, the Congress of Local and Regional Authorities and the INGO Conference of the Council of Europe and many other partners and stakeholders – gathered online to share experience, information and practical solutions on how to respond to the COVID-19 emergency while continuing to ensure democratic governance, in line with Council of Europe standards and principles. The Deputy Minister for Civil Protection of Greece, Mr Nikos Chardalias, the Secretary General of the Council of Europe, Ms Marija Pejčinović Burić, and the Minister of Public Administration of Croatia, Mr Ivan Malenica, addressed the audience during the opening session while Ms Snežana Samardžić-Marković, Council of Europe Director General of Democracy, presented concluding remarks.

The role of the Greek chairmanship

3. Participants expressed support for the choice of the Greek authorities to have as the main theme of the Greek chairmanship the “*protection of human life and public health in the context of a pandemic – Effectively responding to a sanitary crisis in full respect for human rights and the principles of democracy and the rule of law*”. They also welcomed the impetus given by the Greek chairmanship to the elaboration of a political declaration on COVID-19, to be adopted at the ministerial session in Athens, and called for the aspects relating to democracy and democratic governance to be taken into account in the declaration.

Preparedness

4. The COVID-19 pandemic has proved to be one of the greatest and most unexpected challenges that Council of Europe member States have faced in many years. Preparedness to handle a sanitary crisis of these proportions was poor, to say the least. A major lesson learnt from this experience is that Council of Europe member States should be better equipped to prevent, identify and manage emergencies, including pandemics. The Council of Europe Centre of Expertise for Good Governance has already initiated activities to support member States in this effort: it is piloting a new training module

¹ The programme, speeches, list of participants and other documents can be found on the dedicated webpage of the thematic meeting: <https://www.coe.int/en/web/good-governance/thematic-meeting>

on *Leadership in times of crisis*² and preparing a toolkit on *Emergency preparedness and resilience* to be finalised in November 2020. Both initiatives are addressed to the local level, given the frontline role of municipal bodies in the response to the crisis. The Centre of Expertise is also carrying out surveys of local authorities in the countries in which it implements projects, with a view to better understanding their needs in the context of the pandemic.

Response

5. To respond to the COVID-19 emergency, Council of Europe member States have introduced a wide range of legal and administrative measures under great pressure due to the gravity of the threat on public health, and repeatedly adapted them to respond to the evolution of the pandemic, which was fast and barely predictable. Many member States have introduced the state of emergency and/or declared a derogation from the European Convention on Human Rights.³ The measures taken to tackle the pandemic have affected the functioning of society and people's normal way of life.

Standards and principles

6. The meeting commended the *Toolkit for member States "Respecting democracy, rule of law and human rights in the framework of the COVID-19 sanitary crisis"*,⁴ published by the Secretary General of the Council of Europe, as a valuable tool providing clear guidance as regards the red lines not to be crossed under the state of emergency. The meeting also took note of the report on *Respect for Democracy Human Rights and Rule of Law during States of Emergency – Reflections*, recently published by the Venice Commission.⁵

7. Furthermore, participants reaffirmed the continued relevance of the 12 Principles of Good Democratic Governance: fair conduct of elections, representation and participation; responsiveness; efficiency and effectiveness; openness and transparency; rule of law; ethical conduct; competence and capacity; innovation and openness to change; sustainability and long-term orientation; sound financial management; human rights, cultural diversity and social cohesion and accountability are principles that should guide public action not only in normal times but also during emergencies and at all levels of government.

Role of the Council of Europe

8. The meeting highlighted the important role of the Council of Europe as a multilateral forum for dialogue and exchange of experience in responding to the pandemic. In the area of democratic governance, the CDDG is the intergovernmental platform where representatives of member States can share information and support each other in developing policies and legal measures based on best European practice. To this end, the CDDG has set up a dedicated webpage where its members are invited to share information on relevant domestic policies⁶ and will publish a report on *Democratic governance and COVID-19* before the end of the year. The contributions from the participants in the thematic meeting will be taken into account in the preparation of this report.

2. Main themes

9. During the thematic sessions and the ensuing debate, participants explored the following areas relating to democratic governance:

Fair conduct of elections, representation and participation

10. Since the outset of the pandemic in Europe, a number of elections and referendums have been postponed. Some of them have been rescheduled to take place after the lifting of confinement measures.

11. The decision whether to hold or postpone elections during a pandemic requires a difficult balancing exercise. The legitimacy of elected mandates depends on holding free and fair elections at

² <https://rm.coe.int/lap-module-28-leadership-in-time-of-crisis/16809e7472>

³ <https://www.coe.int/en/web/conventions/full-list/-/conventions/webContent/62111354>

⁴ [SG/Inf\(2020\)11](https://www.coe.int/en/web/conventions/full-list/-/conventions/webContent/62111354)

⁵ [https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI\(2020\)005rev-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI(2020)005rev-e)

⁶ <https://www.coe.int/en/web/good-governance/cddg-and-covid>

regular intervals; on the other hand, protecting public health, providing a level-playing field for candidates to campaign and ensuring that the conduct of the vote is not only free of irregularities but also safe for all those who take part in the process are elements to be taken into account.

12. The Venice Commission has provided guidance on elections under states of emergency.⁷ Participants, however, expressed the wish for the Council of Europe to give further guidance and to facilitate exchange of good practice on how elections can be held in the specific situation of the current pandemic. The meeting took note that the Congress of Local and Regional Authorities is preparing a report on holding or postponing local and regional elections during the pandemic.

13. The difficulty of respecting the electoral calendar in the present circumstances had led to a renewed interest in e-enabled elections in some member States. *Recommendation CM/Rec(2017)5 of the Committee of Ministers to member States on standards for e-voting* remains a reference for States that are considering introducing e-voting and for those which already use it.⁸ Further guidance could be provided in future months: under its current mandate, the CDDG is looking at the use of new technologies in the different stages of the electoral process (including voter registration, transmission and tabulation of results, etc.). This work, which was already under way, becomes particularly timely in the present situation. It will lead to a Committee of Ministers' recommendation or guidelines.

14. It was suggested that the COVID-19 emergency offers the opportunity to further explore the role that consultative and participatory approaches can bring to reinforce representative democracy. On the other hand, it was also observed that the need for a rapid response to the crisis had shrunk the space for meaningful participation of civil society in public decision-making, despite the fact that the success of the response greatly depends on the active participation of all actors of society, as regards not only the respect of confinement measures but also the direct involvement in initiatives that support or complement the action of public bodies. Due to its significant economic impact, the COVID-19 emergency has *de facto* reduced the resources of the voluntary sector and its capacity to contribute to a well-functioning system of checks and balances. This is moreover the case as part of the voluntary sector is not equipped for being operational in the digital world. The current crisis has highlighted that how a robust system of civil participation in public decision-making can be maintained during an emergency remains an open question.

Horizontal distribution of powers

15. Participants observed that the need to respond swiftly and effectively to the sanitary crisis has altered the balance between the different powers of the State, strengthening the role of the executive to the detriment of the others. The emergency has affected, to varying degrees in different member States, the capacity of parliament to carry out its legislative work and to effectively exert oversight of the government's actions.

16. The meeting reiterated the need to uphold parliamentary oversight of the executive and to embed an effective system of checks and balances in all measures taken to respond to the COVID-19 emergency. The exceptional powers of the executive are conditional to the respect of the principles of legality, necessity, proportionality and limited duration.

Vertical distribution of powers

17. The need to respond swiftly and effectively to the crisis has often led to a recentralisation of competences, with central government playing a leading role, including in federal or strongly decentralised States. During the meeting, representatives of the Congress of Local and Regional Authorities expressed concern at signs that this may be contrary to the commitments taken by member States under the European Charter of Local Self-Government. The Congress will assess this situation in the context of its monitoring work.

18. As indicated by the Secretary General of the Council of Europe in her *Toolkit for member States "Respecting democracy, rule of law and human rights in the framework of the COVID-19 sanitary crisis"*, bypassing the standard distribution of competences "*should be possible only to the extent permitted by the constitution, with reference to certain specific, limited fields, to ensure a more co-ordinated response*

⁷ [https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI\(2020\)005rev-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-PI(2020)005rev-e), paragraphs 92-120.

⁸ [Recommendation CM/Rec\(2017\)5 of the Committee of Ministers to member States on standards for e-voting](#)

to the crisis and on the understanding that full rights of local and regional authorities should be re-established as soon as the situation allows it”.

19. It should also be noticed that, in evaluating the response to COVID-19, a reflection has started in some member States on whether a greater decentralisation of competences would better equip authorities at sub-national levels to tackle crises of this kind. The CDDG and the Centre of Expertise for Good Governance stand ready to provide its expertise to member States that wished to embark on this path.

Local authorities, sustainability and long-term orientation

20. The crisis has highlighted the unique frontline role of local authorities, the level of government which is the closest to citizens. In the face of the pandemic, municipalities had to react urgently to deliver basic services, provide care for people in a vulnerable situation and reduce the impact of the crisis on the economic fabric of their communities, mobilise the solidarity effort, raise awareness on COVID-19 and ensure compliance with lockdown measures by the population.

21. Many municipalities had to shoulder these responsibilities without having the necessary means, because of the unforeseen needs and the fall in local tax revenues resulting from fiscal and other relief measures. What is also a source of concern for the future is that the recovery plans often envisage the tightening of local budgets to overcome economic downturn caused by the pandemic.

22. These aspects should be carefully looked at, taking into account the concerns expressed by the Congress of Local and Regional Authorities. Local authorities should be provided with the necessary financial resources to carry out their responsibilities, in line with the European Charter of Local Self-Government.

Multilevel governance

23. The response to COVID-19 has required increased efforts in terms of multilevel governance, with authorities at all levels of government being involved. Ensuring coordination, concertation, cooperation and communication between them has been crucial to the effective handling of the crisis. In the words of the Venice Commission, *“dealing with a state of emergency necessitates, perhaps even more than in ordinary times, respect by all state, regional and local institutions and bodies of the principle of loyal cooperation and mutual respect between them”*.⁹

24. In order to coordinate action across levels of government, Council of Europe member States are often relying on existing mechanisms; some countries, however, have set up new coordinating bodies. According to the preliminary findings by the OECD Network for Fiscal Relations, despite these efforts, vertical coordination remains a challenge especially as regards financial compensation, lockdown measures, ownership and/or accountability of measures, allocation of sanitary equipment, overlapping activities, public communication and cross-border issues.¹⁰

25. The need to ensure effective multilevel governance was acknowledged as a key requirement to tackle the current crisis and the recovery period which will follow it, as well as to ensure public trust in the authorities' actions.

Human rights, cultural diversity and social cohesion

26. The protection of individual rights and freedoms is fundamental also in emergency situations. Several participants highlighted the situation of migrants, refugees, persons belonging to national minorities, children, the elderly, the chronically ill, persons with disabilities, victims of abuse and domestic violence, the homeless and persons living below the poverty threshold. Member States have stepped up measures to ensure that their vulnerability is not amplified by the lockdown and that they can have access to information and services in the most appropriate way for them. In addition to the authorities at all levels, the voluntary sector has played a considerable role in addressing the needs of vulnerable groups.

⁹ [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI\(2020\)005rev-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-PI(2020)005rev-e), para. 61.

¹⁰ <https://rm.coe.int/oecd-presentation-covid-19-cddg-meeting/16809ebf12>

Responsiveness, efficiency and effectiveness. Innovation and openness to change

27. Covid-19 has accelerated public administration reform. Member States had to find different, innovative ways to reach out to the public and to continue to provide essential services, to ensure in so far possible that people could continue to have a normal life. Thus, the crisis has acted as a catalyst for the modernisation of the public administration, with bureaucratic procedures being simplified and public services being digitalised in record-time, becoming more responsive, efficient, effective and easily accessible.

28. Measures such as increased teleworking possibilities for all employees, including in the public administration; videoconference meetings for elected and government bodies; digital tools for providing administrative services to the public could have a durable legacy as a number of member States approach return to normality.

29. It was recalled that strengthening democracy and governance through the use of technology is a core area for the work of the CDDG, which is about to finalise *Guidelines on e-democracy in the form of a toolkit*.¹¹

Openness, transparency and accountability

30. The response to Covid-19 is a reminder that openness and transparency are essential components of democratic governance: the public has the right to be informed and to be provided with up-to-date, transparent and reliable information on the pandemic and the measures to tackle it. This is also a matter of accountability to counterbalance the fact that governments and local authorities sometimes need to adopt emergency measures with a lower level of public consultation as would normally be expected.

Cross-border and international cooperation

31. Cross-border cooperation has been affected by restrictions on domestic and international movements, even if there have been exceptions such as for social and health workers. It has continued to be intense in border areas with a long tradition of cross-border or regional cooperation, namely as regards the repatriation of nationals; the exchange of information on travellers presenting symptoms of COVID-19, the hospitalisation of patients from across the border and the development of fast track customs. Sometimes, since the outset of the pandemic there has been close coordination between the central authorities of the countries concerned. In many cases, however, coordination has taken place directly at the local and regional levels.

32. It was recalled that E-DEN¹² a Council of Europe online tool and a database on cross-border cooperation – had been recently updated to include specific COVID-related case studies from Council of Europe member States, based on input from members of the CDDG.

3. Conclusion

33. Democracies which uphold human rights, the rule of law and the principles of good democratic governance are best placed to manage a challenge of the magnitude and complexity of COVID-19. Only a system of government which is based on legality, upholds parliamentary oversight of the executive, effective checks and balances, the principle of subsidiarity and ensures cooperation, coordination and communication between authorities at different levels can deliver durable solutions, which are trusted and supported by the population and all stakeholders in society.

34. The COVID-19 pandemic is not over. Even if Council of Europe member States are cautiously and progressively softening the confinement measures, the risk of a second cannot be excluded. Even once the virus is defeated, there will remain heavy social and economic consequences to deal with. In the difficult times that lie ahead, the lessons learnt in these last few months and reviewed during this thematic meeting will continue to be of great relevance.

¹¹ <https://www.coe.int/en/web/good-governance/democracy-and-technology>

¹² <http://cbc.isig.it/>