

Improving urgency procedures and crisis preparedness within the European Parliament and EU institutions ¹

Rationales for democratic, efficient and effective governance under emergency rule

ABSTRACT

This study, commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the AFCO Committee, analyses the obstacles to democratic, transparent and efficient decision-making in urgency situations at the EU level, with a specific focus on the European Parliament. It provides a systematic overview of Parliament's role and functions as well as the interinstitutional cooperation during recent crisis situations and concludes with proposals on how to improve the existing set-up and Parliament's internal procedures.

Background and aim of the study

Unpredictable crises that challenge public safety and health or the stability of a society's socio-economic foundations put the pillars of parliamentary democracy to the test. As the management of such crises increases the need to take rapid decisions, some of which significantly encroach on fundamental and civil rights, political systems resort to instruments and procedures of emergency legislation that expand the decision-making rights of governments at the expense of those of parliaments. Most recently, the COVID-19 pandemic has forced countries around the world to confront a novel and dynamically changing health threat. States and confederations of states such as the European Union (EU) have had to make decisions, often without fully understanding the short-, medium-, and longer-term implications of the various options. The EU's response options were extremely limited: both the Member States and the European Commission had long underestimated the danger and virulence of COVID-19 infection. In the absence of clearly defined procedures under the EU's competence framework, the member states resorted to their own emergency instruments.

The role of Parliament has often been constrained by emergencies and other situations necessitating urgent reaction, relating to, for example, the economic and financial crisis of 2009–2012, the so-called migratory crisis of 2015–2016, the conclusion of the Multiannual Financial Framework (MFF), the provisional application of international agreements, and most recently the COVID-19 pandemic. In a number of situations, Parliament has also had to adapt its decision-making procedures in order to respond to an emergency or urgency. These adaptations included curtailing certain procedures, restricting the role and the fulfilment of the parliamentary

¹ Full study in English: [https://www.europarl.europa.eu/RegData/etudes/STUD/2022/730838/IPOL_STU\(2022\)730838_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2022/730838/IPOL_STU(2022)730838_EN.pdf)



mandate of its members, the involvement of parliamentary committees and reducing the time required for scrutiny. COVID-19 related legislative measures were typically dealt with under Rule 163 (urgency procedure) of Parliament's Rule of Procedure (RoP).

In order to draw lessons from the management, both within Parliament and between the EU Institutions, of past urgency situations, this study analyses obstacles preventing democratic, transparent, prompt and efficient decision-making in Parliament and the EU Institutions and looks for solutions to improve the situation. More specifically, we reflect on the situations in which Parliament has been obliged to take a decision under exceptional circumstances or within very short deadlines.

We analyse whether Parliament's internal processes and procedures need to be reviewed and enhanced in order to cope efficiently with such circumstances, while preserving Parliament's fundamental role as a legislative, budgetary and political control authority on the one hand and safeguarding its representation and interaction, policy-making, elective, and system-development functions on the other.

To examine how the internal capacity of Parliament could be improved to properly handle files in situations of urgency under the current constitutional set-up, we look into the current procedures and practices within Parliament at Committee and Plenary level. Moreover, we explore specific situations that can be identified as requiring urgent action on the side of Parliament. In this context, we consider, in particular, the following:

- Parliament's legislative powers and its policy-making function;
- Scrutiny powers and Parliament's control function;
- Appointment powers and Parliament's elective function;
- Para-constitutional powers and Parliament's system-development function; and
- The deliberative powers of Parliament and its interaction and/or representation function.

The study also reflects on whether specific procedures should be put in place in order to ensure proper scrutiny of the files under consideration; in this regard, we analyse whether **good practices on how to cope with emergency situations** can be identified at the level of **national parliaments** and **federal, confederal as well as international assemblies**.

With a view to Parliament's role within the larger, inter-institutional fabric of governance, we examine how to enhance the **cooperation between EU institutions** in times of urgency. We provide for a systematic overview of the current set-up and on how the cooperation between EU institutions has worked in recent emergency situations, such as the COVID-19 crisis, and analyse how such cooperation can be enhanced within the existing legal and procedural framework, in particular in the context of the Framework Agreement on relations between the European Parliament and the European Commission (FA-IIA), the inter-institutional agreement (IIA) on Better Law-Making (BLM-IIA), the IIA on Interinstitutional agreement on budgetary discipline, cooperation, sound financial management and own resources and the IIA between the European Parliament and the European Central Bank (ECB) on the practical modalities of the exercise of democratic accountability and oversight over the exercise of the tasks conferred on the ECB within the framework of the Single Supervisory Mechanism.

Finally, we turn to reflect on whether it would be conceivable to **develop a separate (original) emergency mechanism for Parliament and the other EU institutions** in order to be able to act effectively in emergency situations.

Conclusions and recommendations

The study shows that even under conditions of emergency, Parliament is able to perform its core functions efficiently. In doing so, there are non-negligible costs in terms of democratic quality and transparency.

Parliament was willing and able to react quickly and effectively to the challenges of the COVID-19 pandemic. In particular, in the exercise of its legislative functions, Parliament has shown that, **with the help of**

new digital procedures and voting arrangements, it is able **to maintain its policy-making function** throughout all stages of the decision-making cycle. As we have seen in the MFF negotiations or in the debates on international agreements, Parliament demonstrated that it is able **to operate as a fully legitimate co-legislator** even under the more difficult conditions of the COVID-19 crisis.

Nevertheless, **the political costs of the special procedures** introduced should not be underestimated: **Virtually organised committee and plenary debates** are characterised by considerable sterility, as the usually observable, **spontaneous or informal role profiles of MEPs are reduced** to a minimum.

If the activation of an urgency procedure already leads to **considerable restrictions with regard to the possibilities of introducing and negotiating amendments**, the conversion to virtual deliberation and decision formats represents an additional constraint. Normally, MEPs consider and discuss proposed amendments to reports, resolutions and legislative measures in a free, cross-party exchange. In this process, compromise motions to combine individually tabled amendments are negotiated – often in informal exchanges and with the intensive participation of the parliamentary group staff, committee secretariats and parliamentary assistants. In the virtual consultation format, these possibilities are also given with the help of videoconferences arranged at short notice. However, **the imposed timing and quantity restrictions** under the conditions of the state of emergency **prevent an open, informal exchange**.

It is precisely this **free, not strictly timetabled exchange**, however, that represents **an essential aspect** of the visualisation **of the parliamentary interaction and representation** function. Spontaneous responsiveness and informality make an essential contribution to MEPs being able to take the floor directly, unplanned and unpredictably in order to demand accountability from their counterparts.

Informational asymmetries are particularly striking **in virtual environments**: If the political decision-makers – in our case the **MEPs** – have to deliberate and decide physically detached from their assisting institutions (committee secretariats, parliamentary group staff, personal assistants) that are normally within reach, they **have less capacity to obtain negotiating information** than is the case with the Council or the Commission. After all, these two institutions also normally practise written or other distance-related procedures.

We identify advantages and drawbacks of the practice of virtual deliberation, decision-making and voting procedures. **The tested virtual procedures are suitable for the post-pandemic time**, in order to facilitate the participation of MEPs and staff who are prevented by force majeure from carrying out their duties at the places of meeting of Parliament. In this context, it would have to be considered within Parliament how **the principles of equality, multilingualism and the exercise of the free mandate** can be made compatible with the technical requirements of a virtually sitting parliament. In addition, it would be urgently necessary for **Parliament**, especially with the **Commission** and the **Council**, to **agree on jointly usable infrastructures and rules for virtual, inter-institutional negotiations across all phases of the policy cycle**. The **IIA on Better Law-making** would be a good place to start, as it already contains basic rules for inter-institutional cooperation in legislative planning, consultation, adoption, implementation and evaluation. **Specific rules for remote negotiations** could be integrated into the **Joint Declaration on practical arrangements for the codecision procedure**, especially with regard to points 7 and 8 on practical arrangements for trilogues as well as to the chapter of conciliations. In addition, the institutions should consider to **review the IIA on budgetary discipline, cooperation, sound financial management and own resources**, especially its annex I on inter-institutional cooperation during the budgetary procedure, to take into account the constraints of emergency situations. As to relations between Parliament and the ECB, the **IIA on the practical modalities of the exercise of democratic accountability and oversight over the exercise of the tasks conferred on the ECB** within the framework of the Single Supervisory Mechanism could be revised in order to integrate provisions with regard to the operation of Parliament's oversight and hearing procedures on the basis of remote procedures.

Additional efforts could be made to **increase the transparency and accountability of the EU decision-making process** in general. This should include publishing voting results in a more readable, visual, open and accessible format as the votes are proceeding. **The transparency of trilogues** could also be improved by

organising **regular media briefings before and after trilogues**. The newly employed, digital tools of Parliament will allow for many activities to become purely online or hybrid in a post-pandemic situation.

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