

States of emergency in response to the coronavirus crisis: Situation in certain Member States IV

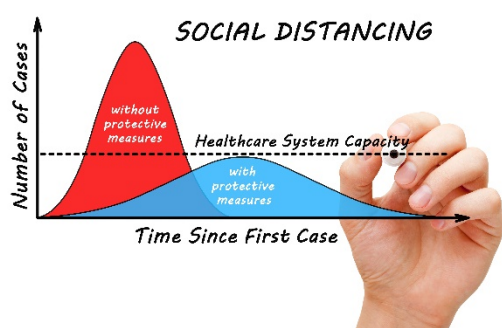
SUMMARY

With the virulence of the coronavirus pandemic gradually diminishing, and in the light of the restrictive measures adopted by Member States, attention remains on the way chosen by the various states to respond to the crisis. With states at various stages of relaxing emergency constraints, the effects of the coronavirus pandemic are likely to last in terms of health, economic, social, psychological and possibly even political impact.

Although public attention is now turned towards the widely differing measures that states are taking in order to live with the virus, new challenges are emerging as international and domestic traffic, trade and free movement of people are re-established, having been all but frozen.

In this context, it is still necessary to complete the overview of Member States' constitutional frameworks in response to the coronavirus pandemic with the hope that this might offer some guidance or insight, should a comparable crisis arise in the future.

This is the last in a series of four briefings and completes the comparative overview of Member States' institutional responses to the coronavirus crisis by analysing the legislation of Cyprus, Czechia, Greece, Ireland, Lithuania and Slovakia. The [first](#) in the series gave an overview of the responses in Belgium, France, Germany, Hungary, Italy, Poland and Spain, the [second](#) covered Austria, Bulgaria, Estonia, Latvia, Malta, Romania and Slovenia, while the [third](#) covered Croatia, Denmark, Finland, Luxembourg, the Netherlands, Portugal and Sweden.



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Introduction

All six states considered in this briefing have some form of emergency mechanism available in their constitution. Although some of the countries analysed have mechanisms designed to respond to extreme situations of tension, typically a conflict or threat to state sovereignty (Cyprus, Greece, Ireland), other countries have more than one emergency mechanism in order to be able to differentiate between threats of different types and levels of intensity and provide responses accordingly (Czechia, Lithuania). Slovakia has a mechanism that expressly mentions the risk of epidemic as a reason for declaring a state of emergency. In some states, excessively strict conditions led governments either to resort to ordinary rules enabling them to fast-track legislation to tackle the crisis (Greece) or to rely on legislation geared specifically towards tackling infectious diseases (Cyprus). Ireland chose not to depart from ordinary law-making. All the states under examination put in place some form of parliamentary oversight, although to varying degrees, ranging from the possibility only to modify the law, authorising the executive to exercise special powers (Cyprus), to the possibility of not ratifying an act with legislative content issued by the government (Greece). Where special emergency mechanisms have been used, parliaments have either had to ratify the decision (Czechia) or have used their ordinary oversight mechanisms (Lithuania). The extreme novelty of the threats posed by the coronavirus and the urgency of the reaction needed have however resulted in responsibility for dealing with the crisis lying firmly in the hands of the executive. In two countries (Cyprus and Czechia), challenges to the constitutionality of the restrictive measures adopted were dismissed by the argument that the acts of government concerned were not open to judicial review.

Cyprus

Constitutional framework for emergency situations

In a country whose recent history has been marked by constitutionally challenging events, the reaction to the coronavirus pandemic was rather surprising. In past crises, Cyprus has relied on the **doctrine of the state of necessity**, developed in the [Ibrahim case](#) (1964), which offers a way round constitutional impasses created by the inability of the bi-communal system (Turkish and Greek), on which the Cypriot Constitution of 1960 was based, to function. The 'constitutional emergency' caused by the retreat of all Turkish Cypriots from state bodies prevented the state from functioning according to constitutional rules that required the presence of both communities. The doctrine of the state of necessity, recognised as a source of law, therefore, enabled a departure from constitutional requirements as to the composition of state bodies and organs in order so as to ensure the continuation of state functions. The state of necessity, rather than being enshrined in a constitutional rule, was a judicial construct based on Article 179 of the 1960 Constitution, which proclaims the Constitution to be the supreme law of the Cypriot state.

[Article 183](#) of the Cypriot Constitution also contains a rather regulated **state of emergency**, which has however never been triggered or proclaimed. The article allows the Council of Ministers to proclaim a state of emergency in the event of war or another public event that endangers the life of the Republic or any part of it. The president and/or vice president can veto the proclamation of the state of emergency within 48 hours of its reception. The proclamation is also submitted to the House of Representatives for ratification; if rejected, it is deprived of any effect *ex nunc*, if approved it is promulgated on publication in the official Gazette of the Republic. The state of emergency cannot last more than two months, unless prolonged by the House of Representatives. During the state of emergency, the Council of Ministers can take strictly necessary measures (ordinances with the force of law) that are also subject to veto of the president and/or vice president (Article 183(7)). These ordinances cease to have effect at the end of the period of emergency at the latest. Article 183(2) requires the proclamation of emergency to indicate the articles of the Constitution that may be suspended during the emergency. This might include for instance the right to liberty, to free movement within Cyprus, to the inviolability of the home, to secrecy of correspondence, to

compensation upon requisition of property, to strike, and even to life (Article 7), if death is inflicted by a permissible act of war. Article 33(1) of the Constitution also stipulates that [fundamental rights and liberties](#) cannot be limited beyond the Constitutional provisions relating to the state of emergency.

Main measures adopted to address the coronavirus pandemic

Given the stringent conditions of Article 183 of the Constitution and because it does not specifically mention public health as justification for proclaiming an emergency, on 10 March the Cypriot Government [decided](#) to 'go back in time' and use the March 1932 [Quarantine Law](#),¹ legislation dating back to colonial times, long before the entry into force of the 1960 Constitution. This was possible by virtue of Article 188(1) of the Constitution, which allows legislation predating the Constitution to continue to apply unless modified or repealed. The Quarantine Law empowers the governor (i.e. now the government) to declare an area as an infected area and therefore to adopt measures necessary to tackle the public health emergency. With its [decision](#) of 10 March 2020, the government delegated the special powers derived from the Quarantine law to the Ministry of Health for a period of six months. The ministry exercised these powers through a series of [30](#) successive [decrees](#) issued from 11 March. In this way, several progressive measures were taken, such as a [prohibition](#) of gatherings with more than 75 people. From [24 March](#), by means of a comprehensive decree, several restrictions were introduced in the provinces of Lefkosia, Lemesos, Larnaka, Ammochostos and Pafos, notably: limitation to the freedom of movement with only defined exceptions (e.g. journeys for work or health, physical exercise or other identified reasons), closure of markets and bazars, prohibition to attend any place of worship and of some traditional Easter celebrations (lighting of bonfires), closure of retail businesses with strictly defined exceptions (e.g. orthopaedic and optic material, food, pharmacies, laboratories dealing with industrial gases, vehicle repair, dry cleaners, pet shops, etc.). From [11 March](#), schools in the province of Nicosia were closed, a measure subsequently [extended](#) to schools and educational establishments throughout the country. On 28 February, the Council of Ministers [decided](#) to close the four check-points along the ceasefire line separating the Republic of Cyprus from the Turkish-controlled north of the island. A [curfew](#) was introduced on 31 March. On [16 March](#) the Cypriot Supreme Court announced that the functioning of judiciary would be [limited](#) to urgent or specific cases. One controversial measure was introduced with the Ministry of Health [decree](#) of 15 March requiring Cypriot citizens to show a medical certificate stating they were free of coronavirus infection in order to be allowed into the country. [This measure](#), plus an obligation to quarantine for 14 days regardless, was strongly contested as it essentially prevented Cypriot citizens living abroad from returning home, as in some countries the medical tests required to obtain the certificate were not possible. Many felt this measure ran [counter](#) to the Constitution, in particular Article 14, which states that 'no citizens shall be banished or excluded from the Republic under any circumstances'. Two students submitted a [request](#) for an interim order of suspension to allow repatriation from abroad. The [administrative court](#) dismissed the claim, however, as concerning an act of government and therefore not subject to judicial review. As of [21 May](#), the restrictive [measures](#) were gradually [lifted](#), subject to [guidelines](#) issued by the competent authorities.

Parliamentary control over emergency measures

While according to the Cypriot Constitution the proclamation of an emergency is subject to the parliamentary oversight of the House of Representatives, which must ratify it by a simple majority (Article 78) and of the president and the vice president, who may exercise their right of veto within 48 hours of the Proclamation (Article 183(1)), in practice, the measures adopted to tackle the coronavirus pandemic were predominantly, if not exclusively, the result of the exercise of executive power. The measures derived either from the exercise of direct powers entrusted to the executive by the Quarantine Law, or delegated by the Council of Ministers to the ministry of health (e.g. Decision of the Council of Ministers of [10 March](#)). The role of the parliament has therefore been

[qualified](#) as that of an 'observer that nonetheless can intervene in amending the relevant law', the Quarantine Law being amenable to modifications.

Czechia

Constitutional framework for emergency situations

The Czech constitutional framework allows emergency situations to be tackled in three different ways depending on the intensity, territorial extent and nature of the situation in question.

Under the [Czech Constitution](#), the Czech parliament can declare a '**state of war**' if the country is under attack, or in order to fulfil international treaty obligations on collective self-defence against aggression. In addition to the state of war, [the Constitutional Act on the Security of the Czech Republic](#) (No 110/1998 Coll.) provides for a '**state of threat (to state sovereignty)**' and a '**state of emergency**'.

A **state of threat** may be declared by the Czech parliament on a proposal from the government if the state's sovereignty, territorial integrity, or democratic foundations are directly threatened. Further rules relating to a state of threat or a state of war are laid down in [the Act on Defence Provision of the Czech Republic](#) (No 222/1999 Coll.) which enables the government to restrict people's freedom of movement, residence and assembly where necessary.

A **state of emergency** may be declared by a government resolution in cases of natural catastrophe, ecological or industrial accident, or other danger that threatens life, health, property, or national order or security to a significant extent. The prime minister may also declare a state of emergency, but the government is required to either ratify or annul his or her decision within 24 hours of the declaration. A state of emergency may be declared for a period of no more than 30 days but this period can be extended. Concurrently with the declaration of a state of emergency, the government must specify which rights are to be restricted, and to what extent, and which duties are to be imposed, and to what extent. In this regard, [the Crisis Management Act](#) (No 240/2000 Coll.) empowers the government to order restrictive measures such as the restriction of movement, assembly and business operation, and the protection of national borders, but that power may be granted only for a limited period of time and to the extent necessary to address the emergency situation. Prior to the coronavirus pandemic, a state of emergency was declared at regional level owing to [floods](#) in 2002, 2006 and 2013 and a hurricane in 2007.

Main measures adopted to address the coronavirus pandemic

On **12 March 2020** the Czech government declared a **state of emergency** across the entire country for a period of 30 days starting from 2 p.m. of that day ([No 69/2020 Coll.](#)). The declaration included a [general reference](#) to the restriction of rights listed in the Crisis Management Act; several hours later the government adopted five crisis measures specifying individual restrictions. The state of emergency was extended twice, on [9 April](#) and on [30 April](#) 2020, and **ended on 17 May 2020**. Between 12 March and 12 May 2020 **the government issued 65 government resolutions on crisis measures** on the basis of the Crisis Management Act, while other ministries adopted further measures. For instance, the [Ministry of Health](#) banned events with more than 30 participants, and closed gyms, swimming pools, music clubs, libraries and galleries, acting pursuant to [the Act on the Protection of Public Health](#) (No 258/2000 Coll.), which empowers it to adopt measures to prevent the spread of an epidemic. Meanwhile, the government adopted [crisis measures](#) ordering shops and restaurants to close, with the exception of grocery stores, pharmacies and some other shops, closing the external borders, significantly limiting movement within the national territory and also ordering people to cover their mouths and noses in public places.

The declaration of the state of emergency, together with measures adopted by the government and the Ministry of Health, was challenged by an individual before the **Czech Constitutional Court** ([Pl. US 8/20](#)). The Court, however, concluded that it lacked the competence to review the declaration

and that although the steps that the government took suffered from a formal shortcoming, they were not unconstitutional. It [also ruled](#) that, unlike the measures adopted by the Ministry of Health, which could be challenged before administrative courts by individuals personally affected by them, the government's measures could only be directly challenged by privileged applicants.

Parliamentary control over emergency measures

As a state of emergency may be declared only by the executive power, [the Constitutional Act on the Security of the Czech Republic](#) guarantees parliamentary oversight over the decision on the declaration and the extension of a state of emergency. The government is required to inform the Chamber of Deputies (lower chamber of the Czech parliament) without unnecessary delay that it has declared a state of emergency and the Chamber of Deputies may annul the decision. Moreover, the state of emergency can only be extended with the prior consent of the Chamber of Deputies.

During the coronavirus-related state of emergency,² most emergency measures were enacted by the government or ministries without consulting the parliament. However, the opposition was offered the chance to participate in the crisis working body and ordinary means of government oversight, such as petitions to the Constitutional Court, remained available to parliament members. The parliament also adopted some emergency legal acts, at the request of the government, following an [accelerated procedure](#) that allows for more flexible and swift decision-making.

Greece

The constitutional framework for emergency situations

The Greek constitution contains two mechanisms to tackle emergency situations. The first is enshrined in Article 48 of the [Greek Constitution \(1975\)](#) and addresses situations of war or mobilisation owing to external dangers, an imminent threat to national security, or an armed coup aimed at overthrowing the democratic regime. In this situation, the parliament on a proposal of the cabinet, may declare a **state of siege** in all or part of the national territory. This declaration entails the attribution of very special powers to the executive, which may suspend constitutional rights such as the right of assembly, *habeas corpus*, the right of association, and freedom of speech and press. In cases of war or mobilisation or for the purpose of facing an immediate social emergency that may endanger public order, other provisions come into play, such as Article 18(3), which allows the requisition of property, or Article 22(4), which allows the requisition of personal services. The state of siege is decided by resolution of the parliament, published by the President of the Republic. It may not last more than 15 days and any extension must be validated by the parliament. During a state of siege, the President of the Republic may, upon proposal of the cabinet, issue emergency legislation aimed at restoring the functioning of the constitutional institutions. The state of siege is a mechanism of a very specific and invasive nature, with stringent conditions and subject to restrictive interpretation. [Commentators](#) agreed that the strict conditions made it inappropriate for use during the coronavirus pandemic. The [abuse](#) made of the measure in Greek history also provided a strong deterrent for using the state of siege during the Covid-19 pandemic.

A second tool offered for emergency situations by the Greek constitution is that of issuing legislation under a 'state of normality' but with the possibility to use a fast track. Accordingly, Article 44(1) of the Constitution provides the possibility, where extraordinary circumstances of an urgent and unforeseeable nature require it, for the president to issue **acts of legislative content** with the same legal effect as ordinary laws. These must be submitted to the parliament for ratification within 40 days and thereafter ratified within three months, failing that they cease to have effect. This provision is considered to be [more suitable](#) for facing natural, social, economic or other types of emergency situations not implying the exercise of military force or unrest. Acts of legislative content adopted under Article 44 were used during the economic and financial crisis that Greece faced in the last decade. Dedicated bodies are responsible for implementing the State's emergency response. These include the General Secretariat for [Civil Protection](#) and, in the area of public health,

the [National Public Health Organisation](#). The Greek legal system also empowers the secretary general of the civil protection secretariat to declare a state of emergency for natural or technological disasters (Article 25 of [Law 4662/2020](#)), which may not last more than six months. However, no such state of emergency has been declared for the coronavirus pandemic. Acts of legislative content are supplemented by joint ministerial decisions and circulars to allow their implementation. Emergency measures to address the coronavirus pandemic have been adopted in Greece under Article 44(1) of the Constitution.

Main measures adopted to address the coronavirus pandemic

With the first piece of emergency legislation adopted on [25 February 2020](#), one day before the [first case](#) of coronavirus was detected on the national territory, [Greece](#) ranks among the least affected countries of the EU, with a [rate of mortality](#) proportionate to population among the four lowest. The Act of 25 February provided the possibility to introduce a number of preventive measures such as mandatory medical checks and pharmaceutical treatment, confinement and vaccination, closure of public spaces and suspension of artistic and sports events, to be implemented and decided by the competent minister. That legislative act gave rise to a number of implementing measures adopted in quick succession by ministerial decisions, imposing the closure of [schools](#) and all educational institutions as of 11 March, [hotel](#) premises as of 15 March, individual retail shops, museums, cinemas, restaurants, libraries and sports centres [as of 14 March](#), a ban on travelling to and from islands with few exceptions, and a total lock down as of [23 March](#). As a result, the population was permitted to leave home only for specific reasons (e.g. to buy food or for health reasons) and had to complete a certificate or send a justification [text message](#) to the appropriate authority. Breaches of this rule were subject to fines (€150 for each violation). In addition to measures impacting [individual rights](#) to limit contagion, measures of an economic or financial nature were also issued e.g. legislative [Act](#) of 14 March containing support measures for workers such as the postponement of insurance payment and tax obligations for self-employed and businesses and the extension of the unemployment benefit for a two-month period. Some other relief measures, e.g. suspension of rent payments for qualifying enterprises and individuals were issued via [ministerial decision](#). On [28 April](#) the Greek prime minister announced the gradual lifting of coronavirus-related measures in three phases starting on 4 May.

Parliamentary control over emergency measures

The successive measures that produced the emergency laws to tackle the pandemic were adopted under 'ordinary' fast-track modalities, with the executive as protagonist and initiator, but involving the parliament in the phase of converting acts of a legislative character into laws, in accordance with Article 72 of the Constitution, which regulates discussions and voting in the parliament's plenary sessions and committees. This legislation 'fast-tracked' by the executive, the widespread use of which was highly [controversial](#) during the financial crisis, has been accepted in the current situation, with [commentators](#) taking a less contentious stance, notwithstanding the high level of personal constraints it introduced. From a content perspective, it has been highlighted that emergency legislation finds counter-limits in the protection of public health and the principle of proportionality, which is set out in Article 25 of the Constitution. In this respect, [commentators](#) believe that the way individual and collective rights were balanced with public health during the pandemic was not controversial. Although in the place of a constitutional court Greece has a tradition of diffused [constitutional review](#) of laws, and although the role of [constitutional reviewer](#) has been assumed *de facto* by the three supreme courts, i.e. Areios Pagos (Supreme Civil and Criminal Court), the Council of State (Supreme Administrative Court), and the Court of Auditors, commentators argue that the judiciary will likely exercise [self-restraint](#) when jeopardy of the [public interest](#) is at stake.

Ireland

Constitutional framework for emergency situations

The Irish Constitution, enacted in 1937, provides for a [state of emergency](#), though narrowly defined and limited to situations of political violence. According to [Article 28.3.3°](#), the Irish parliament, the Oireachtas, may [declare a national emergency](#) 'in time of war or armed rebellion'. In this case, the parliament gains the power to pass broad emergency legislation, even restricting fundamental rights, in order to maintain or restore 'public safety'. This parliamentary emergency legislation is almost [immune](#) from legal challenge, its sole constitutional limit being the prohibition of the death penalty (Article 15.5.2, Article 28.3.3 of the Constitution). Such a state of emergency is deemed to exist 'until each of the Houses of the Oireachtas shall have resolved that the national emergency occasioned by such war, armed conflict, or armed rebellion has ceased to exist' (Article 28.3.3 of the Constitution).

The constitutional framework for emergency situations was [not activated](#) in response to the coronavirus pandemic, as the provisions are limited to situations of war and internal unrest. Instead, the Irish parliament adopted a comprehensive legislative package, addressing both the public health crisis and the economic consequences. In absence of the declaration of a state of emergency, both pieces of ordinary legislation may be [subject to legal challenge](#) before the Constitutional Court. In the past, the Irish constitutional emergency powers have been invoked [twice](#). In 1939, Article 28.3.3° of the Constitution was activated and the state of emergency was declared as a result of the outbreak of World War II. This state of emergency was lifted in September 1976, but then immediately replaced with a new state of emergency due to the escalating conflict in Northern Ireland. Hence, the Republic of Ireland was under a [state of emergency](#) for several decades, lasting from World War II until the IRA ceasefire in 1995. Throughout this period, no emergency legislation was, however, adopted.

Main measures adopted to address the coronavirus pandemic

In mid-March 2020 Ireland passed the '[Health \(Preservation and Protection and other emergency measures in the public interest\) Act 2020](#)' (hereinafter the Health Act 2020) and the '[Emergency Measures in the Public Interest \(Covid-19\) Act 2020](#)' (hereinafter Emergency Act 2020). The measures provided for in this legislation were implemented by the [interim government](#), which administered government business until the formation of a [new coalition](#), which took office on 27 June, in accordance with the outcome of the February 2020 elections.

The 2020 Health Act amended the [1947 Health Act](#) and authorised the minister of health to enact [far reaching regulations](#) designed to prevent, limit or slow the spread of the coronavirus (Part III). Based on this act, the Irish government issued [official guidelines](#) in late March affecting all areas of social life. These subsequently became legally binding regulations in April, and entailed the imposition of a travel ban, a curfew, the closure of schools, universities and cultural institutions, and of restaurants, bars, non-essential shops and businesses. Beyond that, the 2020 Health Act also contains a section allowing for the 'Detention and isolation of persons in certain circumstances' (Section 10), according to which a medical officer may order the isolation and subsequent detention of a Covid-19 positive patient if this person is unlikely to respect self-isolation orders or previously refused to do so. As noted by the [European Fundamental Rights Agency](#), this chapter has been subject to strong criticism, notably by the Irish Council for Civil Liberties ([ICCL](#)). Part III of the 2020 Health Act is set to expire on 9 November 2020, unless both houses of parliament vote in favour of its extension (Part I (2)).

In addition, the Irish government adopted a number of economic relief measures under the 2020 [Emergency Act](#). In order to tackle the adverse financial impact of Covid-19, a [temporary wage subsidy scheme](#) was introduced, covering up to 70 % of employees' wages, as well as a '[Covid-19 unemployment scheme](#)', designed to support workers who lost their jobs owing to the pandemic.

Furthermore, Part II of the 2020 Emergency Act imposes a ban on evictions and a [rent freeze](#) prohibiting landlords from raising the rent during this time of distress. These latter measures will remain in place for the entirety of the 'emergency period', which began on 27 March and is now set to [end on 20 July 2020](#). However, Part II of the Emergency Act allows government to [extend](#) this period, if such prolongation turns out to be necessary and in the public interest.

Parliamentary control over emergency measures

Both the 2020 Health Act and the 2020 Emergency Act are of [limited duration](#) (respectively 9 November 2020 and 27 June – since [extended](#) to 20 July – for most of the measures in the 2020 Emergency Act) and in both instances the parliament plays a central role in extending or terminating the validity of these laws. In this regard, under the 2020 Emergency Act, parliament has the power to [annul](#) the government's decision to prolong the application of the extraordinary regulations of the housing market (i.e. the rent freeze) within the 21 days of such decision being taken (Part II (4)). In the same way, Part I of the 2020 Health Act states that the extraordinary powers of the health minister will cease on 9 November 2020 at the latest, unless both houses of parliament decide on an extension. Further, the parliament may exercise scrutiny over the governmental measures taken in execution of both acts according to ordinary procedures.

Lithuania

Constitutional framework for emergency situations

Lithuanian law provides for several legal regimes to deal with unforeseen crises. First of all, a **state of emergency** can be declared when a threat arises to the constitutional system or social peace in the state, under to [Article 144](#) of the Constitution of the Republic of Lithuania. A state of emergency is declared by the parliament (the *Seimas*). In urgent cases and when the parliament is not sitting, the president has the right to adopt a decision on the state of emergency, but this decision must be immediately approved by the parliament. Second, on the basis of legal acts, there are other ways to address emergencies – namely, a possibility to declare a **state of extreme situation** under the [law on civil protection](#) and, for public health-related emergencies a quarantine regime can be invoked in accordance with [the law on the prevention and control of communicable diseases in humans](#).

Main measures adopted to address the coronavirus pandemic

Unlike its closest neighbours, Lithuania did not choose to invoke a state of emergency to control the coronavirus pandemic. This decision was presumably taken on the basis of considerations that the new pandemic did not jeopardise the constitutional system, nor did it threaten social peace. Historically speaking, Lithuania has never declared a state of emergency.

In the absence of sufficient grounds to declare a state of emergency, on 26 February 2020 the government adopted [Decree No 152](#), declaring a state of extreme situation for the entire national territory on the basis of Articles 9(11) and 26(1)(2) of the [law on civil protection](#). This measure was taken before the first case of coronavirus was registered in Lithuania on 28 February 2020.

With the number of registered cases of infected people increasing, on 14 March 2020 the government adopted a second measure – [Decree No 207](#) (the 'Quarantine Decree') – declaring a **quarantine** on the whole Lithuanian territory. This decree was adopted on the basis of Article [21\(2\)\(1\)](#) of the law on civil protection and [Article 21\(3\)\(1\)](#) of the law on the prevention and control of communicable diseases in humans. Initially, the quarantine was introduced until the end of March, but later it was prolonged several times with the last prolongation until 16 June. In this way, the government, exercising the powers conferred upon it by the two above-mentioned legal acts, introduced, by means of the Quarantine Decree, a number of limitations and prohibitions, including, 1) the closing of the borders to foreign nationals, with the exception of those legally residing in Lithuania, citizens of neighbouring countries or close family members, as well as essential

workers and consular staff (Article 3.1.1); 2) a ban on Lithuanian citizens leaving the country, with the exception of those permanently residing abroad, travelling for work or essential workers whose job required foreign travel (Article 3.1.4); 3) an obligation to observe self-isolation of 14 days after coming back from abroad; 4) a prohibition on public events and gatherings (Article 3.2.3); 5) a prohibition on the operation of restaurants, cafés, bars, nightclubs and other places of entertainment, except where food could be taken away or delivered (Article 3.2.6); 6) the obligatory closure of shopping malls, with the exception of grocery stores, pharmacies and veterinary shops (Article 3.2.7).

A governmental commission was set up for the purpose of managing the state of extreme situation. Furthermore, the prime minister appointed the minister of health protection as chief operational officer, entrusting him with special powers to manage the emergency situation. The chief operational officer is also responsible for implementation of the Quarantine Decree. In that regard he adopted many [decisions](#) with an impact on various fields of public life and on the exercise of fundamental rights and freedoms.

The fact that the above restrictions imposed by the quarantine affected a wide range of fundamental rights has led to extensive debates in Lithuania as to whether the measures chosen to manage the emergency caused by the coronavirus pandemic were the right ones. Some argue that the limitations that were or are still in place can be compared to prohibitions that may be introduced only where the state of emergency applies, i.e. according to the Constitution, after a vote in the parliament. However, [according](#) to the parliament's legal department, the measures taken by the government were appropriate considering the circumstances.

Looking back, Lithuanian government had already declared a state of extreme situation at state level on several occasions. The first time was back in May 2011 when the system for managing and disposing of medical waste failed and big volumes of medical waste accumulated, threatening to become the focus of an epidemic. In 2014, a state of extreme situation related to H1N1 was declared, and 2018-2019 saw a state of extreme situation relating to the consequences of drought for agricultural sector.

Parliamentary control over emergency measures

The Constitution ([Articles](#) 61, 67, 75, 101 and 130) provides for general parliamentary control over government activities. Some of the most relevant forms of this control are, for instance, the obligation of the prime minister and the government to account for their activities before parliament and to reply to inquiries or [questions](#) submitted to them by members of parliament; work by [parliamentary committees](#) and ad hoc inquiry committees to scrutinise government actions. As far as parliamentary scrutiny of the coronavirus-related emergency measures are concerned, no special control measures have been envisaged. The available general mechanisms have been applied. Under the legislation applicable to quarantine, the government had the discretion to adopt emergency measures and prolong or phase them out without the need to seek approval by the parliament. In the light of the above, the activities of the parliament during the pandemic were considered by some political analysts to be insufficiently visible or effective. Furthermore, there was no clarity as to what kind of scrutiny, if any, it was possible to apply to the decisions adopted by the chief operational officer.

Slovakia

The constitutional framework for emergency situations

The Slovak constitution, [Constitutional Act No 460/1992](#), does not govern emergency situations caused by pandemics in detail. However, Article 102(3) of the Constitution specifies that emergency situations shall be governed by constitutional law. Furthermore, Article 119(n) of the Constitution states that the government shall decide collectively on the declaration and end of certain

emergency situations. The relevant constitutional law was adopted by the parliament in 2002 as [Constitutional Act No 227/2002](#) on state security in times of war, hostilities, exceptional circumstances and emergency. According to its Article 5, where there is a threat to the people's life and health, including a pandemic, or a threat to the environment or to significant property values, as a consequence of natural disaster, catastrophe, or an industrial, traffic or other operational incident, the government can **declare an emergency** for no longer than 90 days and only for the territory that is affected or at risk. During the emergency, it is allowed to restrict basic rights and freedoms and to impose obligations within the scope and time period strictly necessary and within the limits stated by that act. The declaration and the end of the emergency must be announced in the press, on the radio and television and published in the official journal.

In addition, [Act No 42/1994](#) on civil protection provides for the possibility to declare an extraordinary situation, a measure a step down from an emergency. That measure can be taken by the government only if the territory that is affected or at risk is bigger than a region, otherwise it is up to the regional and local authorities to decide. When the extraordinary situation is declared, the government and the authorities may act faster and beyond their usual limits, and may oblige people to exercise certain activities and take action within the framework of civil protection, in order, for instance, to save lives and protect health, in response to an extraordinary event or the threat thereof. This measure is used regularly in Slovakia to address local damage caused by floods, landslides, etc.

Main measures adopted to address the coronavirus pandemic

Slovakia took a number of measures to mitigate the spread of the coronavirus on its territory very early on, when only a few dozen cases of infection had been identified. The very first measure was to restrict visits to hospitals, prisons and social care facilities as of 6 March 2020. A ban on public, cultural and sport events followed four days later, with possible fines of up to €1 650 for violations. On 11 March 2020, with Resolution No 111, the government declared an **extraordinary situation** for the whole territory of Slovakia. It did so in part to be able, if necessary, to oblige companies to deliver protective equipment and to forbid them from selling it abroad. Since 13 March 2020, international transport from and to Slovakia has been interrupted except for the transport of goods, and all airports have been closed. Controls at the borders have been reinstated.

In view of the continuing spread of the coronavirus worldwide and the threat it posed to Slovakia, the government decided to adopt stronger measures. On 15 March 2020, under Article 5 of Constitutional Act No 227/2002, an **emergency** was declared by Resolution No 114 for specific state healthcare facilities and regions. One of the reasons for this was to allow for the efficient deployment of staff and equipment in those medical facilities and to limit the right to strike of the relevant staff. This was not the first time that an emergency had been declared for the healthcare sector. An emergency was also declared in 2011 when more than 1 000 doctors threatened to resign following unsuccessful negotiations with the government. That emergency lasted only a couple of days however. With Resolutions No 115 of 18 March 2020 and No 169 of 27 March 2020, the government extended the scope of the emergency to the whole Slovak territory and to other entities providing medical care and finally to all social care facilities. On 16 March 2020, all schools were closed. That closure lasted until 1 June 2020 when schools started to open again under strict hygiene conditions and with limited number of kids. Also, all stores and services not providing goods of an essential nature, such as groceries, feed, fast food, medicines, gas and petrol, postal services, bank services, insurance services, newspapers, telecommunication services, e-shops and delivery services, were obliged to close on [16 March 2020](#) for 14 days, with a fine for non-compliance of up to €20 000. After that period, the ban began to be lifted gradually. Meanwhile, the Public Health Authority decided to make it compulsory to wear face masks in public places and imposed a 14-day quarantine in state quarantine centres or, later, at home, for anyone entering Slovakia from abroad. The fine for non-compliance with that measure was set high, up to €1 659. A system for e-quarantine (home quarantine controlled via a special app on smart phones) was put in place for a short time until the quarantine obligation was [cancelled](#) in its entirety on 10 June 2020. On 3 April 2020, not long before

the Easter holidays, when people traditionally tend to travel and visit their families, the government decided with Resolution No 72/2020 to restrict freedom of movement on the whole territory from 8 to 13 April 2020. Since 6 April 2020, entry into Slovakia of foreigners not falling within pre-determined exemption categories has been prohibited. Those rules changed on [10 June 2020](#), when the Public Health Authority [announced](#) a list of [safe](#) countries and decided that travellers from those countries could enter Slovakia without restrictions. All those who travel to Slovakia from countries other than the safe ones, subject to certain exemptions, must follow requirements for testing and home isolation. With Resolution No 366 of 10 June 2020, the government declared that the emergency would end on its expiry on 13 June 2020. The extraordinary situation, the duration of which is not limited by law, has not yet been ended.

Parliamentary control over emergency measures

Based on Article 129(6) of the Constitution, the legality and constitutionality of the decision declaring the emergency and of the related decisions can be reviewed only by the Constitutional Court. However, the parliament and three other bodies have the right to initiate such a review. According to Act No 314/2018 on the Constitutional Court, for a request to be submitted it must be supported by at least one fifth of all members of parliament. The review procedure is fast: it must be initiated within five days of the adoption of the decision under review and the Constitutional Court must issue its findings within 10 days of receiving such a request. Furthermore, the constitutional framework identifies the parliament as the only legislative body and it is therefore the only body empowered to adopt and amend the constitutional act on emergency situations. Also, as part of the checks and balances, the parliament exercises its control powers over the government, in accordance with Article 114 of the Constitution. Consequently, under Article 86 of the Constitution, the parliament can hold a no-confidence vote *vis-à-vis* a member of the government or the government as a whole. Such a vote must be requested by at least one fifth of the members of the parliament and to be adopted must win a majority of votes of all members of the parliament.

ENDNOTES

- ¹ The Quarantine Law enables the government to impose restrictive measures by decree in areas that are declared as infected.
- ² ECPRD Request No 4370, Questions relating to the legislative and oversight role of parliaments in the context of the Covid-19 pandemic to be addressed to national parliaments of the Council of Europe member States, reply of Poslanecká sněmovna Parlamentu České republiky.

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Annex – Summary table on coronavirus states of emergency in six Member States

	Measures adopted at national level	Temporary	Parliamentary oversight *	Previous use
Cyprus	<p>Quarantine Law of 11 March 1932</p> <p>Decision of the Council of Ministers of 10 March 2020, No 89.037</p> <p>Decrees of the minister of health, in particular that of 24 March 2020</p>	Yes	Yes **	No
Czechia	<p>State of emergency (Constitutional Act on the Security of the Czech Republic (110/1998 Coll.));</p> <p>Government resolutions on the adoption of a crisis measure (Crisis Management Act (240/2000 Coll.)) and measures adopted by ministries.</p>	Yes	Yes	Yes
Greece	Acts of legislative content (Article 44(1) Constitution)	Yes	Yes	Yes
Ireland	Health (preservation and protection and other emergency measures in the public interest) Act 2020 Emergency Measures in the Public Interest (Covid-19) Act 2020	Yes	Yes	No
Lithuania	<p>Government Decree No 152 on declaring the state of extreme situation (26 Feb 2020)</p> <p>Government Decree No 207 declaring a quarantine (14 March 2020)</p> <p>Decisions of the chief operational officer (minister of health protection)</p>	Yes	Yes	No
Slovakia	<p>Government Resolution No 11/2020 on extraordinary situations</p> <p>Government Resolution No 14/2020 on emergency</p> <p>Government Resolution No 15/2020 on extension of emergency</p> <p>Government Resolution No 69/2020 on extension of emergency</p> <p>Government Resolution No 366/2020 on the end of emergency</p>	Yes	Yes	Yes

* Parliamentary oversight includes a set of tools to hold the government accountable, one of which is the duty of the institution concerned to provide Parliament with information on the measures adopted.

** The Quarantine Law of 1932 is amenable to amendments by the House of Representatives.