



# **Continuity of Legislative Activities during Emergency Situations in Selected Countries**

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# Comparative Summary

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## I. Introduction

This report by the foreign law research staff of the Global Legal Research Directorate surveys the law of 36 foreign jurisdictions on the functioning of legislatures under emergency measures, arrangements in legislatures for a designated sub-group to constitute a kind of “emergency parliament” with devolved powers from the whole legislature, and arrangements made by national legislative bodies to ensure their work during the COVID-19 pandemic.

In the vast majority of countries surveyed, legislatures have adopted preventative measures in response to the public emergency posed by the COVID-19 pandemic. Meanwhile, no country surveyed has explicitly invoked the powers of an “emergency parliament” with devolved power from the whole legislature. However, several countries surveyed give various other emergency powers to the legislature in times of emergencies.

## II. Functioning of National Legislatures in Times of Emergency

Of the countries surveyed, **Germany, Guatemala, Israel, Jamaica, Kenya, Malta, Mexico, Norway, Philippines, South Africa, Sweden, Switzerland, and Turkey** have special rules for legislatures in times of “emergency” (e.g., public emergencies, natural disasters, war, threats to democracy, contagious diseases, or armed external attacks). However, the existing emergency legislation identified in these countries does not designate a subgroup of legislators with devolved powers to respond to these crises. Rather the special “emergency” rules aim to facilitate legislative operations during times of crisis through other means, such as meeting outside the capitol (Norway), extending legislative time limits (Jamaica, Kenya, Mexico, Turkey), or simplifying/expediting legislative procedures (Germany, Guatemala, Israel, Malta, Philippines, South Africa, Switzerland).

Moreover, while the identified legislation of the countries surveyed does not designate a subgroup of legislators with devolved powers to respond to emergencies, the various quorum requirements still apply in **Australia, Azerbaijan, Belgium, Canada, China, Côte d’Ivoire, France, Germany, India, Kenya, Malta, Norway, Russia, South Africa, Sweden, Switzerland, Taiwan, Turkey, United Kingdom**. Beyond quorum requirements, several legislative bodies employ or envision employing “pairing” or “proxy” arrangements to minimize the number of physical votes required in times of emergency, while maintaining equal representation, as further described below.

## III. Operational Arrangements by Legislatures during the COVID-19 Pandemic where Movement and Travel Are Restricted

Operational arrangements by legislatures while restricting the movement and travel of members and staff include utilizing videoconferencing and other electronic means to maintain legislative

activities, formulating special voting procedures to reduce necessary travel and attendance, and providing new accountability measures in cases where legislative activity has been interrupted. Measures also include temporary suspension of scheduled events and travel.

Many countries, including **Argentina, Azerbaijan, Brazil, China, Mexico, New Zealand, Norway, Philippines, Portugal, Spain, and Taiwan**, have utilized videoconferencing and/or other electronic means to maintain some legislative activities. For example, Brazil's Chamber of Deputies has adopted a resolution to use a remote deliberation system to allow the plenary Chamber to continue functioning during the pandemic by allowing remote discussion and voting on matters under the plenary's consideration. In Mexico, while the House of Representatives will stop holding regular sessions until further notice, House members will be permitted to file bills and conduct work performed in committees remotely. In New Zealand, procedures have been adopted in the House allowing adjustment of the limit on proxy votes that may be cast, allowing oral questions to be lodged electronically, and allowing select committees to conduct meetings and other forms of decision making by electronic means. In the Philippines, on March 23, 2020, the House of Representatives held a special session to consider a measure declaring a national emergency and granting the Philippines president pertinent powers; for the first time in the House's history, this session took place in a "virtual" manner, with about 20 members attending personally while 279 other members joined online through teleconference means. In Spain, the legislative work of the Congress of Deputies is being carried out electronically as much as possible during the pandemic, including through the use of an electronic vote registry.

**Australia, France, Malta, South Africa, Sweden, and the United Kingdom** have employed or are exploring options to maintain legislative operations with fewer members present. For example, Australia's lower house is planning an upcoming session with a significantly reduced number of members, with sufficient numbers to deal with procedural motions needed to quickly enact stimulus legislation in response to the pandemic; pairing arrangements will allow MPs from both major parties to miss votes without affecting the outcome. Sweden's Parliament adopted measures to have 55 members instead of the full 349 members, with the number of votes represented by each party reflecting their proportion in Parliament. In the United Kingdom's House of Commons, only front bench MPs and a limited number of others are being permitted to enter into the Commons, and they are required to follow social distancing requirements and stay two meters apart; the procedure for divisions (votes) has been varied to stagger the entry of MPs into the lobbies, enabling MPs to maintain an appropriate social distance.

In addition, **Argentina, Belgium, Canada, China, Israel, Kenya, the Philippines, South Africa, and Spain** have partially and/or temporarily suspended legislative activities. Finally, **Brazil, Estonia, Malta, and Taiwan** have temporarily suspended domestic and or/international travel of legislators in response to the pandemic.

# Algeria

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The Chairman of Algeria's National People's Assembly has postponed all sessions and activities of the Assembly as a preventive measure against the COVID-19 pandemic.<sup>1</sup>

While the National People's Assembly is suspended, the President of the Republic may legislate on urgent matters by issuing ordinances after consultation with the Council of State (the administrative court). Such ordinances issued by the President must be submitted to the legislative branch at its next session for ratification.<sup>2</sup>

There appear to be no regulations on how members of the National People's Assembly operate their offices when they are unable to travel during an emergency.

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<sup>1</sup> *Due to the Coronavirus, The National People's Assembly in Algeria Postpones Its Activity*, Voices of Maghreb (Mar. 12, 2020), <https://perma.cc/FP4R-74DP> (in Arabic).

<sup>2</sup> Alg. Const. of 1989, art. 142 (amended 2016), <https://perma.cc/A3S6-KFR5> (in Arabic).

# Argentina

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## I. Functioning of National Legislature

Neither the Regulation of Argentina's Chamber of Deputies (Cámara de Diputados)<sup>1</sup> nor the Regulation of the Senate<sup>2</sup> provide for specific measures for the functioning of the body in the case of emergencies. However, the National Constitution provides that the president may, under exceptional circumstances, depart from ordinary legislative procedure and take necessary measures by decrees of immediate need and urgency. The decrees so enacted must be submitted for consideration and approval of Congress within ten days, and discussed and approved by the full Congress.<sup>3</sup>

President Alberto Fernández issued Decree 297/2020 on necessity and urgency due to the COVID-19 outbreak on March 19, 2020, mandating preventive social isolation.<sup>4</sup>

## II. Emergency Parliament

No provisions for a prearranged subgroup or "emergency parliament" has been identified.

## III. Working During COVID-19 Pandemic

On March 13, 2020, in compliance with the guidelines established by the Ministry of Health, the Chamber of Deputies adopted preventive measures against COVID-19 aimed at stopping the spread of contagion and protecting the health of lawmakers and their staff.<sup>5</sup> In line with those guidelines, all events scheduled for March have been suspended upon a decision from the leadership of the Chamber of Deputies under Resolution 0578/20.<sup>6</sup> In addition, the presence of advisors in committee meetings is restricted (those meetings may only be accessed by members), but advisors and staff will be able to participate through internal TV or via the web.<sup>7</sup>

High risk employees of the Chamber of Deputies, such as, those over 65 years of age, pregnant and puerperal women, and those with disabilities or pathological and/or immune-depressed

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<sup>1</sup> Reglamento de la Cámara de Diputados, <https://perma.cc/2WLP-4K4Q>.

<sup>2</sup> Reglamento del Senado, 2016, <https://perma.cc/8997-HQEB>.

<sup>3</sup> Constitución Argentina, art. 99.3, <https://perma.cc/5TLN-4BAB>.

<sup>4</sup> Decreto 297/2020, Boletín Oficial Mar. 19, 2020, <https://perma.cc/5AXX-J69H>.

<sup>5</sup> Press Release, Honorable Cámara de Diputados de la Nación, La Cámara de Diputados Medidas de Prevención Frente al Coronavirus, (Mar. 13, 2020), <https://perma.cc/49CU-VMPM> (citing Ministry of Health guidelines).

<sup>6</sup> Id.

<sup>7</sup> Id.

health histories, are allowed to take special paid leave under a permit provided by the General Directorate of Human Resources of the Chamber of Deputies, in order to comply with the health precautions recommended by the Ministry of Health.<sup>8</sup> In addition, the Chamber of Deputies has implemented telework for most of its employees for fourteen days starting on March 17, 2020, except for essential services necessary to allow for the Chamber to carry out its functions.<sup>9</sup> It also provides that meetings of members and other government officials will be conducted by videoconference or Webex.<sup>10</sup> Similar measures were taken by the Senate.<sup>11</sup> Until March 31, the Senate will only have legislative sessions if the National Executive power sends a bill for a vote.<sup>12</sup>

The Senate has implemented the “Senate Mobile” platform allowing for remote work so that its operations are not adversely affected by the mandatory social isolation ordered by the national government within the context of the COVID-19 pandemic.<sup>13</sup> The new platform, developed by the Senate IT teams, will allow staff who are currently working remotely to access the Senate’s intranet, their institutional emails, and the internal administrative system. This tool will allow staff to carry out most internal activities, including having access to shared files in order to perform coordinated tasks in work groups, and other applications commonly used in administrative processes.<sup>14</sup>

Staff will be able to enter the platform directly with their internal username and password. In addition, a remote help desk will be made available for consultations and advice.<sup>15</sup>

#### **IV. Operation of Legislative Offices when Members and Staff Are Unable to Travel**

No pre-existing law or regulation was located specifically addressing the operations of Congressional offices when the travel and movement of members and staff are restricted. However, the information provided in the previous section addresses specific measures adopted under the COVID-19 situation.

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<sup>8</sup> Id.

<sup>9</sup> Resolución 0611/20, Presidencia Cámara de Diputados, Mar. 17, 2020, arts. 1-3, <https://perma.cc/7KT4-2GLA>.

<sup>10</sup> Id. arts. 7, 8.

<sup>11</sup> Senado de la Nación Argentina, *Coronavirus: Estado de Situación y Medidas de Prevención Implementadas* (updated Mar. 18, 2020), <https://perma.cc/DR3B-GF5G>.

<sup>12</sup> Id.

<sup>13</sup> Press Release, Senado de la Nación Argentina, *El Senado Móvil: Nueva Plataforma de Trabajo a Distancia del Senado de la Nación* (Mar. 23, 2020), <https://perma.cc/7P5M-WDW6>.

<sup>14</sup> Id.

<sup>15</sup> Id.

# Australia

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## I. Public Statements and Media Reports

On March 16, 2020, the presiding officers of the two houses of the Australian Parliament (the Speaker of the House of Representatives and the President of the Senate) issued a joint statement regarding “temporary and precautionary changes to Parliament House operations” in response to COVID-19.<sup>1</sup> The statement announced various measures to restrict public access to Parliament House and ensure social distancing. It also advised parliamentary committees to “give serious consideration to whether their business is essential” and to transition to using video or teleconference facilities for hearings.<sup>2</sup> Members and senators were asked to only bring essential staff to Canberra and Parliament House.

A news report further stated “it is expected many MPs and senators, particularly those who travel more than two hours on a plane and those battling poor health, will be ‘paired’ if they choose not to attend. Pairing arrangements allow MPs from both major parties to miss votes without affecting the outcome.”<sup>3</sup>

On March 18, 2020, the Australian Associated Press reported that the major parties represented in the Parliament “have worked together to decide what parliament should look like during its final scheduled sitting before the May budget.”<sup>4</sup> According to the leader of the main opposition party, “it was likely some 60 lower house members would be given leave to avoid travelling to Canberra, meaning decisions would be made by about 90 of the 151 MPs.”<sup>5</sup> The arrangement, which was being finalized by the Attorney-General and the manager of opposition business, “would give the lower house enough numbers to deal with the procedural motions needed to speed through the stimulus legislation” developed in response to the pandemic.<sup>6</sup> The article also stated that the Senate has a “standing deal” to grant leave to five senators from each side, “but it is up to the whips and business managers of each major party to decide whether to expand this.”<sup>7</sup>

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<sup>1</sup> Press Release, Tony Smith & Scott Ryan, COVID-19: Statement by the Presiding Officers Regarding Temporary and Precautionary Changes to Parliament House Operations (Mar. 16, 2020), <https://perma.cc/Y9Q8-XSBY>.

<sup>2</sup> Id.

<sup>3</sup> Rob Harris, *Scaled-Back Parliament to Meet for Stimulus Legislation as Building Access Restricted*, Sydney Morning Herald (Mar. 16, 2020), <https://perma.cc/U3MG-K7Y9>.

<sup>4</sup> Katina Curtis, *Parties Considering Scaled-Back Parliament*, AAP (Mar. 18, 2020), <https://perma.cc/2Z2S-H4DH>.

<sup>5</sup> Id. See also *Coronavirus: Scott Morrison Slims Down Federal Parliament to Slow Virus Spread*, news.com.au (Mar. 17, 2020), <https://perma.cc/HC2U-NEZW>.

<sup>6</sup> Curtis, *supra* note 4.

<sup>7</sup> Id.

On March 21, 2020, the Prime Minister announced that the annual budget, which would normally be presented to the Parliament in May, would be postponed until October.<sup>8</sup>

## II. Extraordinary Sitting of Parliament

On March 23, 2020, members and senators returned to the federal Parliament for an “extraordinary one-day sitting” in order to pass legislation authorizing government spending in response to the coronavirus pandemic, including “urgent coronavirus economic stimulus bills.”<sup>9</sup> One news article explained that

[t]here are 227 federal politicians that sit in the Parliament, across two chambers.

Of those, 129 politicians must be present in Parliament House for the House of Representative and Senate to function.

That means almost half of the Parliament has been excused to limit the number of people needing to travel to the nation’s capital.<sup>10</sup>

In addition, the full 129 members and senators would not sit in the chambers all day:

To deal with any business, the Parliament needs a quorum, which is 31 MPs in the Lower House and 19 senators in the Upper House.

But if there are any votes on legislation, or attempts to change the day’s schedule, all the politicians present at Parliament House will rush into the chambers.

If a division is called for a vote to change the proceedings, a minimum of 76 people will be required in the House of Representatives and 39 in the Senate in some circumstances.<sup>11</sup>

The government stated that those in the chambers would adhere to social distancing guidelines. In addition, as all the major parties had agreed on the economic package, there may not be any divisions called, meaning that the legislation could pass “on the voices” of those present. “This can all happen because of ‘pairing’ arrangements that allow two MPs or senators from opposite sides to agree they will be absent and their votes can cancel each other out if required.”<sup>12</sup>

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<sup>8</sup> Brett Worthington, *Coronavirus Pandemic Prompts Federal Government to Delay Budget until October*, ABC News (Mar. 21, 2020), <https://perma.cc/G395-WKLK>.

<sup>9</sup> Anna Henderson, *Why Are Politicians Returning to Canberra Amid a Coronavirus Crackdown?*, ABC News (Mar. 23, 2020), <https://perma.cc/UL7F-U6UL>.

<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> Id.

Any politician self-isolating was given a leave pass, as well as any who have a compromised immune system and anyone traveling from a remote community or facing a long journey to get to Canberra. Furthermore, members were “only bringing essential staff.”<sup>13</sup>

The relevant bills were passed by the Parliament without objection on the evening of March 23, 2020, and the House agreed to a new sitting calendar, with members next due to return on August 11, 2020. Included in the measures was the approval of an “advance” of AU\$40 billion (about US\$23.62 billion) “for the finance minister to spend on unforeseen events from July 1 without needing parliamentary approval.”<sup>14</sup>

### III. Legislation and Standing Orders

#### A. Access to Parliamentary Precincts

The control and management of the parliamentary precincts are governed by the Parliamentary Precincts Act 1988 (Cth). This legislation provides that

- (1) The precincts are under the control and management of the Presiding Officers.
- (2) The Presiding Officers may, subject to any order of either House, take any action they consider necessary for the control and management of the precincts.
- (3) In respect of the Ministerial Wing in Parliament House, the powers and functions given to the Presiding Officers by subsections (1) and (2) are subject to any limitations and conditions agreed between the Presiding Officers and the Minister.<sup>15</sup>

#### B. Power to Make Rules for Conduct of Business

The Australian Constitution provides that

Each House of the Parliament may make rules and orders with respect to:

- (i) the mode in which its powers, privileges, and immunities may be exercised and upheld;
- (ii) the order and conduct of its business and proceedings either separately or jointly with the other House.<sup>16</sup>

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<sup>13</sup> Id.

<sup>14</sup> Melissa Clarke, *Coronavirus Stimulus Package Worth \$84 Billion Passed without Objection by Parliament*, ABC News (Mar. 23, 2020), <https://perma.cc/G4T9-C52Y>.

<sup>15</sup> Parliamentary Precincts Act 1988 (Cth) s 6, <https://perma.cc/Z9TU-LBT9>. See also “Parliamentary Precincts and the Exercise of Authority,” in *House of Representatives Practice* (7th ed. June 2018), <https://perma.cc/H4KR-9GJ2>.

<sup>16</sup> Commonwealth of Australia Constitution Act s 50.

The House of Representatives and Senate each have their own Standing Orders as well as procedural orders and resolutions with respect to the exercise of their powers and conduct of business.<sup>17</sup>

### C. Quorums and Leaves of Absence

The Constitution establishes the quorum for the House and the Senate as requiring the presence of at least one-third of the whole number of members or senators. However, the Parliament has the power to change the requirements.<sup>18</sup> The Senate (Quorum) Act 1991 (Cth) altered the quorum of the Senate to one-quarter of the senators (19 of 76 senators).<sup>19</sup>

In both the House and Senate, the place of a member or senator is deemed to become vacant under the Constitution if the member or senator fails to attend, without permission, the relevant chamber for two consecutive months of any session of the Parliament.<sup>20</sup> According to *House of Representatives Practice*, “[a] motion to grant leave of absence does not require notice, states the cause and period of leave (for individually identified Members), and has priority over all other business. Leave is usually granted for reasons such as parliamentary or public business overseas, ill health or maternity/paternity. A further motion may be moved to extend the period of leave.”<sup>21</sup> Long periods of leave have been granted during both world wars. More recently, members on leave have participated in committee proceedings by teleconference and been involved in drafting committee reports.<sup>22</sup> Similarly, the Senate’s Standing Orders provide for a leave of absence to be granted to a senator on motion after notice “stating the cause and period of the absence.”<sup>23</sup>

### D. “Pairing” Arrangements

The “pairing” arrangements referred to above are not reflected in the Standing Orders of either the House or the Senate. Instead, they exist as a matter of convention.<sup>24</sup> *House of Representatives Practice* explains that

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<sup>17</sup> See *House of Representatives Standing Orders*, Parliament of Australia, <https://perma.cc/TH7D-E95Q>; *Standing Orders and Other Orders of the Senate*, Parliament of Australia, <https://perma.cc/LKT9-HVLB>.

<sup>18</sup> Commonwealth of Australia Constitution Act ss 22 & 39, <https://perma.cc/VEY4-BCDZ>.

<sup>19</sup> Senate (Quorum) Act 1991 (Cth) s 3, <https://perma.cc/HX9A-HDMR>. See also “Quorum,” in *Odgers’ Australian Senate Practice* (14th ed., updated to June 30, 2019), <https://perma.cc/T3GR-RHFZ>.

<sup>20</sup> *Id.* ss 20 & 38.

<sup>21</sup> “Attendance,” in *House of Representatives Practice* (7th ed. June 2018), <https://perma.cc/6GPC-U9ZV>.

<sup>22</sup> *Id.*

<sup>23</sup> Standing Orders of the Senate ch 7 standing order 47, <https://perma.cc/GAV9-NDPT>. See also “Leave of Absence,” in *Odgers’ Australian Senate Practice* (14th ed., updated to June 30, 2019), <https://perma.cc/P9J7-U5RX>.

<sup>24</sup> Campbell Rhodes, *Pairing Up: What is Pairing in Parliament?*, Museum of Australian Democracy Blog (Aug. 25, 2016), <https://perma.cc/CWR7-MZKU>.

[t]he pairs system, a practice of some antiquity, is an unofficial arrangement between Members, organised by party whips, which can be used to enable a Member on one side of the House to be absent for any votes when a Member from the other side is to be absent at the same time or when, by agreement, a Member abstains from voting. By this arrangement a potential vote on each side of a question is lost and the relative voting strengths of the parties are maintained. The system also allows the voting intentions of absent Members to be recorded.

With the development of the modern party system pairing arrangements were facilitated and Members have been paired not only on particular questions or for one sitting of the House, but sometimes for extended periods. In some periods the Prime Minister and the Leader of the Opposition have been automatically paired unless one indicated that he or she wished to vote on a particular issue.

...

Although there is no rule or order of the House requiring a Member to observe a pair, there is a considerable moral and political obligation on his or her part to adhere to such an agreement. The consistent attitude of the Chair on this question was summed up by Speaker Watt when, in reply to a question as to whether it would be a breach of honour if a Member did not observe a pair, he observed that the Chair knew nothing of pairs, the question of honour being a matter for the Members and not the Chair to decide.<sup>25</sup>

Similarly, *Odgers' Australian Senate Practice* explains pairing as follows:

By arrangement between parties in the Senate, a system of pairing operates, whereby a senator who is absent and who is expected to vote on one side in a particular question is "paired" with a senator who is expected to vote on the other side and who is either also absent or who deliberately does not vote in order to cancel out the effect of the other senator's absence. Pairs are also arranged for vacant places in the Senate. This system ensures that the result of votes is not determined fortuitously by the absence of particular senators. Pairs are usually not arranged, however, for secret ballots, for the reason that voting is meant to be secret and it should not be known how individual senators vote.

Pairing arrangements are determined by the party whips, and may last for days, weeks or months, or may be varied from vote to vote. Pairs are entirely an informal arrangement between the parties and not part of the procedures of the Senate. The chair therefore does not consider any matters relating to pairs. In earlier years rulings were made to the effect that pairs could not be referred to in the course of proceedings. These rulings are now not followed, and it is common for senators to make statements concerning pairing arrangements. This practice has been upheld by a President's ruling. Pairs are not referred to in the Journals record of votes, but lists of pairs are included in the voting lists shown in Hansard.<sup>26</sup>

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<sup>25</sup> "Divisions," in *House of Representatives Practice* (7th ed. June 2018), <https://perma.cc/R2MB-UJWC>.

<sup>26</sup> "Pairs," in *Odgers' Australian Senate Practice* (14th ed., updated to June 30, 2019), <https://perma.cc/TAW9-7YP3>.

# Azerbaijan

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The legislature of the Republic of Azerbaijan is the National Assembly (Milli Məclis, Assembly). The Assembly has a unicameral structure and is constituted by 125 members of parliament (MPs), elected for a five-year term.<sup>1</sup>

The Assembly's rules of procedure are set by the Internal Regulation of the Assembly.<sup>2</sup> Neither the Constitution nor the Internal Regulation include a procedure whereby the powers of the Assembly can be delegated to an ad hoc body, such as an "emergency parliament." Moreover, the Internal Regulation does not include a rule whereby an MP can delegate his or her vote to a proxy.

Eighty-three MPs constitute a quorum for the Assembly's plenary session, where all legislative acts are adopted.<sup>3</sup> The Internal Regulation does not provide for a procedure for remotely participating or voting in the plenary session of the Assembly; for the adoption of any decision or act by the Assembly, MPs must be physically present for voting in either one of the open or closed ballot procedures provided by the Internal Regulations.<sup>4</sup> MPs are expected to be physically present in all Assembly meetings, and an unexcused absence is subject to disciplinary proceedings.<sup>5</sup>

Nevertheless, on March 18, 2020, the Speaker of the National Assembly issued a decision establishing, among others, the following measures:

- Suspension of the physical meetings of all committees and commissions of the Assembly and the administrative staff of the Assembly, authorizing these to manage their affairs via remote means such as telephone or internet
- Suspension of all visits of MPs and their staff members to foreign countries
- Suspension of the reception of citizens on the premises of the Assembly

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<sup>1</sup> Constitution of Azerbaijan (adopted Nov. 12, 1995, effective Nov. 27, 1995, as amended) arts. 81-84.

<sup>2</sup> Internal Regulation of the National Assembly of the Republic of Azerbaijan (adopted by Law No. 74-IQ, May 17, 1996, as amended), <https://perma.cc/3MDY-ZTCH> (in Azerbaijani).

<sup>3</sup> Id. art. 3(1).

<sup>4</sup> Id. arts. 25-26.

<sup>5</sup> Id. arts. 1(3), 45(3).

- Requesting the staff of MPs to receive requests from constituents only via remote means and not have physical contact
- Ordering the chief of the administrative staff to provide flexible work schedules or leave for women employees with young children and employees who have relatives with respiratory diseases or are otherwise in need of assistance
- Ordering administrative staff not to leave workspaces and not to have social contact with other persons during work hours unless necessary.<sup>6</sup>

On March 18, the Press Service of the Assembly reported that the Assembly's Committee of Culture had met via an online system to discuss amendments to laws and the preparation of a work plan.<sup>7</sup> On March 24, the Press Service reported that pursuant to the Speaker's March 18 decision, three online information exchange groups had been created to maintain communication between the Speaker's office and the chairpersons of the parliamentary committees, leaders of the political parties represented in the Assembly, and the responsible officers of the administrative staff of the Assembly.<sup>8</sup>

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<sup>6</sup> Decision of the Speaker of the National Assembly, No. 05-VI (Mar. 18, 2020), <https://perma.cc/AKP4-EAM7> (in Azerbaijani).

<sup>7</sup> Press Release, National Assembly, Mədəniyyət komitəsinin iclasında (Mar. 18, 2020), <https://perma.cc/R9F6-MEKA> (in Azerbaijani).

<sup>8</sup> Press Release, National Assembly, Milli Məclisdə internet üzərindən informasiya mübadiləsi qrupları yaradılmışdır (Mar. 24, 2020), <https://perma.cc/EY7X-WAXS> (in Azerbaijani).

# Belgium

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There does not appear to be any formal provision under Belgian law regarding the functioning of the national legislature under emergency measures, nor does Belgian law appear to provide for any sort of “emergency parliament” with devolved powers from the whole parliament to address crisis situations.

Both the Belgian Senate and the Chamber of Representatives are subject to a quorum requirement, whereby a majority of their members need to be present for a vote to occur.<sup>1</sup> If a quorum is not present at the beginning of a session, the President of the Chamber of Representatives is supposed to postpone the session to a date no more than four days away.<sup>2</sup> In the Senate, the absence of a quorum does not necessarily cause a session to end, as the senators present can proceed to discussing subjects on the order of the day.<sup>3</sup> However, any vote must be postponed to the beginning of the following session.<sup>4</sup>

No information was found on how either chamber of the Belgian Parliament is to operate if members and staff are unable to travel or are under any sort of confinement. Due to the current Covid-19 pandemic, the Senate has canceled all meetings and sessions since March 16, 2020.<sup>5</sup> By contrast, it appears that the Chamber of Representatives is continuing to operate, but on a reduced and greatly modified basis.<sup>6</sup> Only crucial meetings are to take place, and staff must stay home and telework.<sup>7</sup>

For the commission meetings that must still take place, only the members and staff who are indispensable to the commissions’ work are allowed to enter the building and meeting rooms, always keeping a minimum 1.5 meter distance from anybody else. While members of the press are allowed in the press gallery, no other visitors are allowed in the building, and the Chamber of Representatives encourages videoconferencing instead of in-person interviews.<sup>8</sup> The Chamber’s proceedings are streamed online to guarantee transparency.<sup>9</sup>

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<sup>1</sup> Const. art. 53.

<sup>2</sup> Règlement de la Chambre des Représentants, art. 42 (June 2019), <https://perma.cc/HY3D-WD4C>.

<sup>3</sup> Règlement du Sénat de Belgique, art. 45 (2019), <https://perma.cc/36KB-W3U2>.

<sup>4</sup> Id.

<sup>5</sup> Sénat de Belgique, *Commissions et Séance Plénière Annulées* (Mar. 16, 2020), <https://perma.cc/7X6A-4GGD>.

<sup>6</sup> La Chambre des Représentants, *Mesures de Prévention Covid-19* (Mar. 23, 2020), <https://perma.cc/QN5Z-APP5>.

<sup>7</sup> Id.

<sup>8</sup> Id.

<sup>9</sup> Id.

# Brazil

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## I. Functioning of the National Legislature

According to article 16 of the internal rules of Brazil's Chamber of Deputies (lower house of Congress), the president of the Chamber is its representative when it expresses itself collectively and the supervisor of its activities and process, in terms of its internal rules.<sup>1</sup>

The duties of the president of the Chamber, in addition to those identified in the internal rules, include deciding, together with the president of the Federal Senate, on the extraordinary convening of the National Congress in the case of urgency or relevant public interest.<sup>2</sup>

## II. Emergency Parliament

The legislation does not provide any arrangements for a designated subgroup of members of the National Congress to constitute a kind of "emergency parliament" with devolved powers from the whole Congress to address crisis situations.

## III. Work During COVID-19 Pandemic

The two houses of Brazil's National Congress have taken a series of actions concerning their operations in direct response to the COVID-19 pandemic, including enactment of measures that will allow them to function remotely.

- On March 11, 2020, the Chamber of Deputies enacted Act No. 118 (Ato da Mesa), which provides for procedures and rules for preventing infection and the spread of COVID-19 within the scope of the Chamber of Deputies;<sup>3</sup> the measure provides for limited access to the Chamber of Deputies;<sup>4</sup> the cancellation of events on the premises of the Chamber;<sup>5</sup> the suspension of authorizations to travel for officials (*servidores*) and members to areas listed by the Ministry of Health as having COVID-19 infections;<sup>6</sup> and the administrative removal for fourteen days of officials, members, and associates who were in places where there was a

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<sup>1</sup> Regimento Interno Da Câmara Dos Deputados, Resolução No. 17, de 1989, art. 16, <https://perma.cc/69HA-32YW>.

<sup>2</sup> Id. art. 17(VI)(c).

<sup>3</sup> Ato da Mesa da Câmara dos Deputados No. 118, de 11 de Março de 2020, art. 1, <https://perma.cc/LBT3-WBBM>.

<sup>4</sup> Id. art. 2.

<sup>5</sup> Id. art. 3.

<sup>6</sup> Id. art. 4.

COVID-19 infection.<sup>7</sup> Actions or omissions that violate the Act subject the violator to criminal, civil, ethical (resulting in a warning, for example), and administrative sanctions.<sup>8</sup>

- On March 13, 2020, the Chamber of Deputies enacted Administrative Act No. 70 (Portaria), which regulates Act No. 118 of March 11, 2020, and implements, among other things, telework for specific personnel according to their age and other criteria;<sup>9</sup> mandatory communication of visits made by members, officials, and associates to areas with COVID-19 infections;<sup>10</sup> restrictions on visitor access to the Chamber of Deputies;<sup>11</sup> and an increase in sanitation procedures.<sup>12</sup>
- On March 17, 2020, the Chamber of Deputies enacted Resolution No. 17, which creates, within the scope of the Chamber, a remote deliberation system (*sistema de deliberação remota*, SDR), an exceptional measure to be activated by the president of the Chamber, which is aimed at allowing the plenary to continue functioning during this public health emergency of international importance related to COVID-19. The system will provide remote discussion and voting on matters under the plenary's consideration.<sup>13</sup> The Resolution defines "remote discussion and voting" as conducting business through a technological solution that dispenses with the physical presence of members in the plenary.<sup>14</sup> Once the SDR is activated by the president of the Chamber, the plenary deliberations will be taken through virtual sessions and the meetings of the Chamber's commissions will be suspended.<sup>15</sup> The president of the Chamber will call for the resumption of in-person deliberations as soon as the return of members to Brasília from their states and the holding of sessions and meetings of the organs of the Chamber are, in his opinion, compatible with the recommendations of the Ministry of Health.<sup>16</sup> The SDR will be based on one or more platforms that will allow debate by both audio and video among the members.<sup>17</sup>
- On March 17, 2020, the Direction Committee of the Federal Senate enacted Act No. 7, also creating a remote deliberation system,<sup>18</sup> which is similar to that of the Chamber of Deputies.

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<sup>7</sup> Id. art. 5.

<sup>8</sup> Id. art. 7.

<sup>9</sup> Portaria da Câmara dos Deputados No. 70, de 13 de Março de 2020, art. 2, <https://perma.cc/CZL5-8JDH>.

<sup>10</sup> Id. arts. 4, 9.

<sup>11</sup> Id. art. 5.

<sup>12</sup> Id. art. 6.

<sup>13</sup> Resolução da Câmara dos Deputados No. 14 de 2020, arts. 1, 2, <https://perma.cc/6S43-X4CW>.

<sup>14</sup> Id. art. 1(sole para.).

<sup>15</sup> Id. art. 2(§ 1).

<sup>16</sup> Id. art. 2(§ 2).

<sup>17</sup> Id. art. 3. Article 3 further determines the guidelines for the use of the SDR.

<sup>18</sup> Ato da Comissão Diretora do Senado Federal No. 7, de 2020, art. 1, <https://perma.cc/93PZ-3R8R>.

# Canada

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## I. Rules for Functioning under Emergency Measures

Canada's federal legislative branch consists of the monarch, the House of Commons, and the Senate. The Senate and House of Commons constitute Canada's bicameral Parliament. House of Commons proceedings are regulated by written rules known as the Standing Orders.<sup>1</sup> Senate proceedings are regulated by the Rules of the Senate.<sup>2</sup> There do not appear to be any special rules for the operation of Parliament in emergency situations.

On October 22, 2014, the House did not sit due to the shootings at Parliament Hill that had taken place earlier that morning. According to *House of Commons Procedure and Practice*, "[q]uestions arose as to how the Speaker could have modified the meeting times of the House had the House wished to meet later that day":

This question was in fact raised by Speaker Scheer in a letter to the Standing Committee on Procedure and House Affairs in which he proposed that it review the Standing Orders regarding the lack of provisions that would allow the Speaker to modify the hours or days of sitting in an emergency situation. Arguments could have been made, however, that the Speaker, pursuant to Standing Order 1, had the authority to do so. At its meeting on February 3, 2015, the Committee agreed to propose a change to the Standing Orders to that effect (Standing Committee on Procedure and House Affairs, Minutes of Proceedings, February 3, 2015, Meeting No. 66). The Committee did not report on the matter.<sup>3</sup>

The Emergencies Act provides for special temporary measures to ensure safety and security during national emergencies.<sup>4</sup> It allows the federal government to deal with security emergencies of five different types: national emergencies, public welfare emergencies, public order emergencies, international emergencies, and war emergencies. Declarations and regulations issued during the period of a national emergency are subject to the supervision of Parliament, with its oversight regulated by part VI of the Act.

## II. Arrangements for an "Emergency" Parliament

There does not appear to be any arrangement under the current rules for a designated subgroup of members to constitute a kind of "emergency parliament" with devolved powers from the

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<sup>1</sup> Standing Orders of the House of Commons (consolidated version as at Dec. 11, 2019), <https://perma.cc/FA6E-Z8RZ>.

<sup>2</sup> Rules of the Senate (Sept. 2017), <https://perma.cc/7WSQ-KDAN>.

<sup>3</sup> *Sittings of the House*, in *House of Commons Procedure and Practice* (3rd ed., 2017), <https://perma.cc/DBS7-66NQ>. See also note 54, *infra*.

<sup>4</sup> Emergencies Act (R.S.C., 1985, c. 22, <https://perma.cc/S28F-L677>; *Emergencies Act*, The Canadian Encyclopedia, <https://perma.cc/P952-98NZ>).

whole parliament to address crisis situations. Under the Constitution Act, 1867, a quorum of 20 members (including the Speaker) is required “to constitute a meeting of the House for the exercise of its powers.”<sup>5</sup> This requirement is also reflected in the Standing Orders. According to *House of Commons Procedure and Practice*, “[t]he attendance of any 20 Members is sufficient for quorum, regardless of their party affiliations or whether they are in government or in opposition.”<sup>6</sup> The quorum in the Senate is at least 15 senators, including the Speaker.<sup>7</sup>

As part of its strategic outlook for the current Parliament, the House Administration is implementing a series of initiatives to “upgrade technology services and facilities, as well as to ensure their security and resiliency, so Members and employees can better serve Canadians.”<sup>8</sup> One of the initiatives is a Business Continuity Program, where “business continuity plans for the essential functions of the House of Commons will be refined and tested to ensure that the operations can continue in the event of an emergency situation that requires relocation.”<sup>9</sup>

### III. Adjustments to Operations during COVID-19

Canada’s federal political parties unanimously agreed to suspend Parliament on March 13, 2020, until at least April 20, 2020, “to help prevent parliamentarians from contributing to the spread of COVID-19.”<sup>10</sup> However, Parliament was called back into session during the week of March 23, 2020, to pass the federal government’s “emergency measures in response to the COVID-19 pandemic.”<sup>11</sup> One news report states that, “in keeping with social distancing protocol and safety measures only a small number of MPs are expected in Ottawa.”<sup>12</sup> The article notes that the rules governing the House of Commons “have no provisions for online votes from MPs or teleconferencing, meaning some MPs will have to be in there in person.”<sup>13</sup> However, as also stated above, “only 20 MPs, including the Speaker, have to be present for a vote to be valid.”<sup>14</sup> The House Leader said that the House is “looking at a setup that will enable as few MPs as possible to be physically present.”<sup>15</sup> On March 24, 2020, 32 members of Parliament returned to the House

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<sup>5</sup> Constitution Act, 1867 30 & 31 Victoria, c. 3 (U.K.), § 48, <https://perma.cc/Q3XK-H2F6>.

<sup>6</sup> *Quorum*, in *House of Commons Procedure and Practice* (3rd ed., 2017), <https://perma.cc/Z244-947X>.

<sup>7</sup> Constitution Act, 1867, § 35.

<sup>8</sup> House of Commons Administration, *Strategic Outlook for the 40<sup>th</sup> Parliament*, Strategic Objective 2: To Enhance Ongoing Services to Members and Sustain the Institution, <https://perma.cc/X8F3-GZ3H>.

<sup>9</sup> *Id.*

<sup>10</sup> Jim Bronskill, *Parliament Suspends for Five Weeks over Covid-19 Concerns*, National Post (Mar. 13, 2020), <https://perma.cc/R5AR-HT4S>.

<sup>11</sup> Ryan Tumilty, *Parliament Returning to Vote on COVID-19 Measures, but with Only a Handful of MPs*, National Post (Mar. 18, 2020), <https://perma.cc/7726-889Z>.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

of Commons to approve a CA\$82 billion (about US\$61.5 billion) COVID-19 financial aid package, which was expected to be voted upon in both houses the next day.<sup>16</sup>

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<sup>16</sup> John Paul Tasker, *Parties Near Tentative Deal on Ottawa's \$82 Billion COVID-19 Aid Package: Sources*, CBC News (Mar. 24, 2020), <https://perma.cc/2QT4-J83T>.

# China

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## I. Functioning of the National Legislature during an Emergency

The Constitution of the People's Republic of China (PRC or China) grants legislative powers to both the National People's Congress (NPC) and its permanent body, the NPC Standing Committee.<sup>1</sup> According to the Constitution, during full sessions, the NPC has the power to amend the Constitution and enact and amend basic laws, which includes laws governing criminal offenses, civil affairs, and state organs.<sup>2</sup> The NPC Standing Committee is empowered to interpret the Constitution and other laws; enact and amend laws other than those that must be enacted by the NPC; and partially supplement and amend laws enacted by the NPC when the NPC is not in session, as long as the basic principles of these laws are not contravened.<sup>3</sup>

The NPC has nearly 3,000 deputies in total.<sup>4</sup> Pursuant to the Constitution, the NPC full session meets only once a year,<sup>5</sup> which is normally in March, for about ten days. An amendment to the Constitution must be adopted by a vote of more than two-thirds of all the NPC deputies, while any other bill requires only a majority vote to pass.<sup>6</sup>

The NPC Standing Committee has much fewer members and meets more often. In total, there were 159 members elected to the current 13<sup>th</sup> NPC Standing Committee that started in 2018.<sup>7</sup> According to the Standing Committee's Rules of Procedure, it usually convenes once every other month.<sup>8</sup> The Rules of Procedure require more than half of the members of the Committee to be present in order to hold any meetings.<sup>9</sup> A bill is passed by a majority vote in the Standing Committee.<sup>10</sup>

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<sup>1</sup> Constitution of the People's Republic of China (1982, as amended Mar. 11, 2018) arts. 62 & 67, <https://perma.cc/QF3J-FVU8> (in Chinese).

<sup>2</sup> Id. art. 62.

<sup>3</sup> Id. art. 67.

<sup>4</sup> Election Law of the National People's Congress and Local People's Congresses (promulgated by the National People's Congress (NPC) on July 1, 1979, last rev. Aug. 29, 2015) art. 15, <https://perma.cc/6ZSB-B8BX> (in Chinese).

<sup>5</sup> Constitution art. 61.

<sup>6</sup> Id. art. 64.

<sup>7</sup> *Flash News: 159 Candidates Elected Members of the 13<sup>th</sup> National People's Congress Standing Committee*, Xinhua (Mar. 18, 2018), <https://perma.cc/C6MS-AXYX> (in Chinese).

<sup>8</sup> Rules of Procedure for the Standing Committee of the National People's Congress of the People's Republic of China (NPCSC, Nov. 24, 1987, rev. Apr. 24, 2009), <https://perma.cc/92G6-SXUE>.

<sup>9</sup> Id. art. 4.

<sup>10</sup> Id. art. 32.

No provisions, however, have been located concerning the continuity of legislative activities during emergencies when members and staff are unable to travel and be present in the NPC or the Standing Committee meetings.

## II. Measures Taken during the COVID-19 Pandemic

### A. NPC Full Session Meeting Postponed

Amid the outbreak of COVID-19, on February 24, 2020, the sixteenth meeting of the 13<sup>th</sup> NPC Standing Committee announced that the third annual full session meeting of the 13<sup>th</sup> NPC, which was scheduled for March 5, 2020, was postponed and the new schedule would be decided later.<sup>11</sup>

According to the Director of the Legislative Affairs Committee of the NPC Standing Committee, many NPC delegates are local government officials, scientific and research personnel, doctors and nurses, etc., who are fighting on the front lines of the pandemic. The decision to postpone the NPC annual meeting was made in order to prioritize the lives, safety, and health of the people. It was also consistent with the relevant legal provisions on emergency measures related to restricting gatherings during a major public health crisis, said the Director.<sup>12</sup>

### B. Videoconference of the NPC Standing Committee

Although meetings of the NPC Standing Committee have always been held in person, the above-mentioned sixteenth meeting of the 13<sup>th</sup> NPC Standing Committee was held with in-person participation of members who were in Beijing and videoconference participation of members who were outside of Beijing. It was the first time in the NPC's history that a meeting was held through videoconferencing.<sup>13</sup>

In addition to making the decision to postpone the NPC full session meeting, the Standing Committee also passed a legislative decision to immediately ban the trade and consumption of all terrestrial wildlife that grow and reproduce naturally in the wild. Such activities are suspected to be linked to the outbreak of COVID-19 in China.<sup>14</sup>

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<sup>11</sup> NPC Standing Committee Decision on Postponing the Third Meeting of the 13<sup>th</sup> NPC (Feb. 24, 2020), <https://perma.cc/M2QZ-4X48> (in Chinese).

<sup>12</sup> *NPC Standing Committee Decides to Postpone the Third Meeting of the 13<sup>th</sup> NPC, Specific Schedule to Be Otherwise Decided*, Xinhua (Feb. 24, 2020), <https://perma.cc/3QNG-PEWR> (in Chinese).

<sup>13</sup> *Does the Gathering Ban During the Epidemic Affect the Exercise of Powers of the NPC Standing Committee? Tian Wei, Deputy Director of the NPC Standing Committee Constitution Office Acclaimed Innovative Approach*, NPC website (Mar. 6, 2020), <https://perma.cc/YS95-N4F3> (in Chinese).

<sup>14</sup> *Id.*; Laney Zhang, *China: Legislative Decision Passed to Punish Trade and Consumption of Wild Animals amid COVID-19 Epidemic*, Global Legal Monitor (Mar. 19, 2020), <https://perma.cc/HTZ5-6VWJ>.

# Côte d'Ivoire

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The Ivorian Constitution provides,

when the institutions of the Republic, the independence of the Nation, the integrity of its territory or the execution of its international commitments are under grave and immediate threat, and that the regular operation of the constitutional public authorities is interrupted, the President of the Republic shall take the measures required by the circumstances, after officially consulting with the Prime Minister, the Presidents of [the National Assembly and the Senate], as well as the Constitutional Council.<sup>1</sup>

The same article of the Constitution specifies that the President may not dissolve the National Assembly during such times, and that the Parliament always has the right to meet.<sup>2</sup>

There does not appear to be any formal provision in Ivorian law regarding the functioning of the national legislature under emergency measures, nor does Ivorian law appear to provide for any sort of “emergency parliament” with devolved powers from the whole parliament to address crisis situations.

The Ivorian National Assembly is subject to a quorum requirement, whereby a majority of its members need to be present for a vote to occur.<sup>3</sup> If a quorum is not present when a vote was to take place, the vote must be postponed for at least one hour.<sup>4</sup> This postponed vote will be considered valid regardless of the number of members present.<sup>5</sup> No information was found as to whether the Senate is also subject to a quorum requirement. Furthermore, no information was found on how either the National Assembly or the Senate are to operate if their members and staff are unable to travel or are under any sort of confinement.

Due to the current COVID-19 pandemic, the National Assembly has limited all meetings to a maximum of 50 participants.<sup>6</sup> Furthermore, the President of the National Assembly has requested that all members, staff, and visitors wash their hands or use the hand sanitizer available at washing stations installed at the building’s entrances and exits.<sup>7</sup> No information was found about

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<sup>1</sup> Const. art. 73, <https://perma.cc/DTG3-CH9A> (in French; translation by author).

<sup>2</sup> Id.

<sup>3</sup> Résolution No. 006 A du 1er Juin 2006 Portant Modification du Règlement de l’Assemblée Nationale de Côte d’Ivoire, art. 21, <https://perma.cc/T3Q8-9LQ7>.

<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> News Release, Assemblée Nationale, L’Assemblée nationale suspend, en son sein, toutes les réunions de plus de cinquante personnes, jusqu’à nouvel ordre (Mar. 18, 2020), <https://perma.cc/TW6V-PN9Y>.

<sup>7</sup> Id.

whether the Senate has modified its operations or adopted any special measures in the face of the current pandemic.

# Egypt

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The Chairman of Egypt's Council of Representatives has suspended sessions of parliament for two weeks starting March 10, 2020, because of the outbreak of COVID-19. Such suspension could continue if needed to protect members of parliament.<sup>1</sup>

While the Council of Representatives is suspended, the President of the Republic has the authority to issue presidential decrees that have the force of law. Those presidential decrees must then be submitted to the House of Representatives for discussion and approval when it reconvenes.<sup>2</sup>

There are no regulations governing how members of the Council are to operate their offices when they are unable to travel. After the Council has suspended its sessions, the spokesperson of the Council announced that members had to return to their home districts and would not come back to Cairo until the Council resumes its session.<sup>3</sup>

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<sup>1</sup> *The Council of Representatives Decides on an Alternative Work Schedule for Its Employees with Half Work Capacity and Leaving Work at 2 PM*, Al Youm 7 (Mar. 16, 2020) <https://perma.cc/2GCK-NFJX> (in Arabic).

<sup>2</sup> Const. of Arab Rep. of Egypt of 2014, art. 156, <https://perma.cc/65TD-DYUB> (in Arabic).

<sup>3</sup> *The Spokesperson of the Council: Corona Virus is a Real Test for the Members to be Present in Their Home Districts*, Al-Watan (Mar. 22, 2020), <https://perma.cc/3JUP-8GYJ> (in Arabic).

# Estonia

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Estonia is a parliamentary republic and its legislature consists of a unicameral parliament called the Riigikogu. The Riigikogu includes 101 members elected for four-year terms from party lists. The term for the current legislature will expire in March 2023.<sup>1</sup> No legislative or internal procedural provision has been found that would allow to delegate the powers of the Riigikogu to an ad hoc body, such as an “emergency parliament”.

After this northeast European country of 1.2 million was struck by the COVID-19 epidemic and the government declared an emergency situation to deal with the more than 350 cases of infection reported by mid-March 2020,<sup>2</sup> the Riigikogu decided to reorganize its work while remaining operational.<sup>3</sup> All changes focused mainly on switching to telework activities and limiting opportunities for direct communications among the members and staff on the legislature’s premises. On March 13, 2020, the legislative schedule was changed, restricting plenary sittings and committee meetings to one day per week respectively and declaring that through May 1 “the Riigikogu would resolve only time critical issues.”<sup>4</sup> All travel of members and staff was cancelled and members were asked not to have meetings with visitors inside the Riigikogu building.<sup>5</sup>

Later, on March 16, the Constitutional Committee of the legislature concluded that it will not be a violation of the existing rules and procedures if all parliamentary committee meetings are conducted through videoconferencing with the remote presence of the committee members.<sup>6</sup> During these meetings, all members will have an opportunity to make remarks, ask questions, and vote.<sup>7</sup> This decision has not been extended to plenary meetings of the entire Riigikogu. As the Committee Chairman stated, after parliament returns to its normal work, the telework experience will be assessed and legislation will be formally changed if necessary.<sup>8</sup>

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<sup>1</sup> *What Is Riigikogu*, Riigikogu.ee, <https://perma.cc/V6CH-UVJS>.

<sup>2</sup> *Estonian Government Declares Emergency Situation against Coronavirus*, ERR.ee (Mar. 12, 2020), <https://perma.cc/5ZEN-F3UE>.

<sup>3</sup> *Press Release, Parliament of Estonia, The Riigikogu Will Reorganise Its Work to Prevent the Spread of Coronavirus* (Mar. 13, 2020), <https://perma.cc/9YQW-D56J>.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Press Release, Parliament of Estonia, Constitutional Committee: Rules of Procedure Allow Committee Sittings in Teleworking Format* (Mar. 16, 2020), <https://perma.cc/M52T-XZD2>.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

# France

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The French Constitution provides that “when the institutions of the Republic, the independence of the Nation, the integrity of its territory or the execution of its international commitments are under grave and immediate threat, and that the regular operation of the constitutional public authorities is interrupted, the President of the Republic shall take the measures required by the circumstances, after officially consulting with the Prime Minister, the Presidents of [the National Assembly and the Senate], as well as the Constitutional Council.”<sup>1</sup> The same article of the Constitution specifies that the President may not dissolve the National Assembly during such times, and that the Parliament always has the right to meet.<sup>2</sup>

There does not appear to be any formal provision under French law for any sort of “emergency parliament” with devolved powers from the whole parliament to address crisis situations. However, both chambers of the French Parliament are able to function with only a minority of members present. The National Assembly is assumed to have a quorum: In principle, the majority of members must be present within the building for a vote to take place.<sup>3</sup> However, a vote may take place even if a quorum is not present, and it will be considered valid so long as none of the presidents of the political groups demand that the quorum be verified before the vote takes place.<sup>4</sup> Furthermore, the president of a political group may only demand verification of the quorum if a majority of his/her political group is present.<sup>5</sup> The Senate has a similar rule. A vote theoretically requires the presence within the Senate building of a majority of senators.<sup>6</sup> However, a vote is considered valid, regardless of how many senators were actually present, so long as the President of the Senate was not asked to verify the quorum prior to the vote, and he/she may only be asked to verify the quorum by a written request from thirty senators, who must be present.<sup>7</sup> It is therefore perfectly possible for the French Parliament to function with only a minority of members, so long as there are not enough objectors to require verification of the quorum.

The National Assembly has modified its operations in the current context of the COVID-19 pandemic. The Conference of Presidents (consisting of the President of the National Assembly, the vice-presidents, the presidents of the permanent commissions, and a few other prominent members of the National Assembly) has decided to reduce the National Assembly’s activity to examining and voting on urgent and indispensable texts related to the

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<sup>1</sup> Const., art. 16, <https://perma.cc/ZJG7-JCJ8>.

<sup>2</sup> Id.

<sup>3</sup> Règlement de l'Assemblée nationale, art. 61, <https://perma.cc/PP28-GQ8V>.

<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> Règlement du Sénat, art. 51, <https://perma.cc/59HA-BUZQ>.

<sup>7</sup> Id.

current crisis, and to monitoring the actions of the executive branch.<sup>8</sup> Only a limited number of members are allowed to sit in the chamber: the president of each political group (or a delegate), along with a maximum of two other members of each political group. While there have been reports that the Senate is currently operating in a “small formation,”<sup>9</sup> as of the writing of this report, it has not been possible to determine whether it has adopted any formal measures similar to those of the National Assembly. No information was found on how either chamber of the French Parliament is to operate its offices when members and staff are unable to travel or are under any sort of confinement.

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<sup>8</sup> Assemblée Nationale, *Crise du Coronavirus-COVID19 : Reprise des Travaux le 19 Mars* (Mar. 19, 2020), <https://perma.cc/7FR2-KJUL>.

<sup>9</sup> Public Sénat, *Coronavirus en France: Nouveau Conseil de Défense, le Confinement Risque de Durer* (Mar. 20, 2020), <https://perma.cc/F2WE-WSMT>.

# Germany

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## I. Overview of the Functioning of the National Legislature

The German Bundestag (parliament) generally adopts laws by majority vote.<sup>1</sup> Constitutional amendments require a two-thirds majority.<sup>2</sup> As Germany is a federation, its sixteen states (*Länder*) participate in the legislative process through another constitutional organ, the German Bundesrat.<sup>3</sup> Certain laws require the consent of the Bundesrat, which are exhaustively listed in the German Basic Law, the country's constitution.<sup>4</sup> In general these bills fall into one of three categories: (1) bills that amend the Basic Law, (2) bills that affect the finances of the states, or (3) bills that affect the organizational and administrative jurisdiction of the states.<sup>5</sup>

In general, there must be a quorum in the Bundestag to adopt a law or make any other decision. The Rules of Procedure of the German Bundestag provide that there is only a quorum when more than half of the members, meaning currently more than 355 members, are present.<sup>6</sup> However, the lack of a quorum is not a bar to legislative action as long as no member requests that the quorum be established (constructive quorum).<sup>7</sup> Voting takes place in person either by a show of hands or by getting up or remaining seated.<sup>8</sup> For final votes on laws, members must either get up or remain seated.<sup>9</sup> If a law requires secret ballot voting, the ballots are dropped in ballot boxes.<sup>10</sup>

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<sup>1</sup> Grundgesetz [GG], May 23, 1949, Bundesgesetzblatt [BGBl.] I at 1, as amended, arts. 38, 42, para. 2, <https://perma.cc/KY6N-NLE4> (original), <https://perma.cc/U8XQ-6E4X> (English translation, updated through Mar. 28, 2019).

<sup>2</sup> Id. art. 79, para. 2.

<sup>3</sup> Id. art. 50. The German Bundesrat has sixty-nine members consisting of representatives of the state governments. Its members are not directly elected. See GG, art. 51.

<sup>4</sup> Id. arts. 16a, paras. 2 & 3; 23, paras. 1 & 7; 29, para. 7; 72, para. 3; 73, para. 2; 74, para. 2; 79, para. 2; 84, paras. 1 & 5; 85, para. 1; 87, para. 3; 87b, paras. 1 & 2; 87c; 87d, para. 2; 87e, para. 5; 87f, para. 1; 91a, para. 2; 96, para. 5; 104a, paras. 4-6; 104b, para. 2; 105, para. 3; 106, paras. 3-6; 106a, sentence 2; 107, para. 1; 108, paras. 2, 4, 5; 109, paras. 3-5; 115c, paras. 1 & 3; 115k, para. 3; 115l, para. 1; 120a, para. 1; 134, para. 4; 135, para. 5; 135a; 143a, para. 1.

<sup>5</sup> *Consent and Objection Bills*, Bundesrat, <https://perma.cc/K7TM-9XWX>.

<sup>6</sup> Geschäftsordnung des Deutschen Bundestages [BTGO 1980], June 25, 1980, BGBl. I at 1237, § 45, para. 1, <https://perma.cc/U5BA-BJ44>. The number of members changes after each election, but there are at a minimum 598 members. See Bundeswahlgesetz [BWahlG], July 23, 1993, BGBl. I at 1288, 1594, as amended, §§ 1, 6, para. 5, <https://perma.cc/9AF2-4D57>.

<sup>7</sup> BTGO 1980, § 45, paras. 2-3.

<sup>8</sup> Id. § 48, para. 1.

<sup>9</sup> Id.

<sup>10</sup> Id. § 49.

Unlike other countries, the German Basic Law does not provide for the declaration of a “national emergency.” However, in cases of natural disasters and grave accidents and other internal and external emergencies, the Basic Law puts in place certain procedures to ensure the functioning of the constitutional order.<sup>11</sup> Internal emergencies are defined as “an imminent danger to the existence or free democratic basic order of the German Federation or of a state.”<sup>12</sup> An external emergency exists when a state of defense is declared, meaning when the German territory is under attack by armed force or imminently threatened with such an attack.<sup>13</sup>

The provisions that deal with natural disasters/grave accidents and other internal emergencies, mostly concern requesting or receiving assistance from police forces of other states, the Federal Border Police, or the Armed Forces.<sup>14</sup> However, for cases of external emergencies, meaning when a state of defense is declared, the Basic Law establishes an emergency parliament.<sup>15</sup> Furthermore, during a state of defense, the Basic Law mandates a simplified legislative procedure.<sup>16</sup> Bills that are designated as urgent by the Federal Government are debated by the Bundestag and Bundesrat in a joint session without delay.<sup>17</sup> If a bill requires the consent of the Bundesrat, a majority is required for the bill to become law.<sup>18</sup>

## II. Emergency Parliament

When a state of defense is declared, a “Joint Committee” may act instead of the Bundestag and the Bundesrat.<sup>19</sup> The declaration that a state of defense exists is made by the Bundestag with the consent of the Bundesrat, and requires a two-thirds majority of the votes cast.<sup>20</sup> The Joint Committee itself may declare a state of emergency when immediate action is needed and it is impossible for the Bundestag to convene in time or if there is no quorum in the Bundestag.<sup>21</sup>

The Joint Committee is composed of a total of 48 members, two-thirds from the Bundestag and one-third from the Bundesrat.<sup>22</sup> The Joint Committee is an independent supreme federal body

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<sup>11</sup> GG, arts. 35, arts. 91, 115a, para. 1.

<sup>12</sup> Id. art. 91, para. 2.

<sup>13</sup> Id. art. 115a, para. 1.

<sup>14</sup> Id. art. 35, arts. 91, 87a, para. 4.

<sup>15</sup> Id. art. 53a.

<sup>16</sup> Id. art. 115d.

<sup>17</sup> Id. art. 115d, para. 2, sentence 2.

<sup>18</sup> Id. art. 115d, para. 2, sentence 3.

<sup>19</sup> Id. arts. 53a, 115e, para. 1.

<sup>20</sup> Id. art. 115a, para. 1.

<sup>21</sup> Id. art. 115a, para. 2.

<sup>22</sup> Id. art. 53a, para. 1. Geschäftsordnung für den Gemeinsamen Ausschuss [GemAusGO], July 2, 1969, BGBl. I at 1102, as amended, § 1, para. 1, <https://perma.cc/4WR7-24LP>.

that exists even during times of peace.<sup>23</sup> It occupies the position of both the Bundestag and the Bundesrat and exercises their powers as a single body when it is impossible for the Bundestag to convene in time or if there is no quorum in the Bundestag.<sup>24</sup> The Joint Committee may neither amend, repeal, or suspend the Basic Law, reorganize the federal territory, nor transfer sovereign powers to the European Union or other intergovernmental institutions.<sup>25</sup> As the Joint Committee has only temporary powers, the Bundestag, with the consent of the Bundesrat, may at any time repeal laws enacted by the Joint Committee.<sup>26</sup>

### III. Measures Taken during the COVID-19 Pandemic

The President of the German Bundestag, Wolfgang Schäuble, stated on March 12, 2020, that in addition to taking measures to protect the health of everyone, it is “imperative to keep the Bundestag functioning.”<sup>27</sup> It was therefore decided that the Bundestag would convene during the week of March 23–27, unless new developments required a reassessment of the situation. The Bundestag was scheduled to go on a three-week break for Easter after that either way.

The following safety measures have been put in place:

- For votes that require ballot voting, the ballot boxes are placed further apart so that social distancing can be practiced. In addition, the time to cast a vote has been extended to two hours, so that parliamentarians do not have to crowd around the ballot boxes.
- All public events and visits have been cancelled until the end of April.
- The Bundestag dome and roof terrace are closed for visitors until further notice.
- Business trips of parliamentarians are limited to what is absolutely necessary. Travel to risk regions is prohibited.
- All parliamentarians and other employees of the Bundestag are provided with extensive information regarding COVID-19 and with recommendations on how to behave.
- The parliamentary doctor provides support to anyone who exhibits symptoms.<sup>28</sup>

Furthermore, the Bundestag has reportedly discussed various other measures to ensure the continuity of parliamentary activities. A proposal has been put forward to establish another Joint Committee for other emergencies besides a state of defense to deal with epidemics.<sup>29</sup> However, this would require an amendment of the Basic Law and a two-thirds majority of the votes cast in

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<sup>23</sup> Bundesverfassungsgericht [BVerfG], 84 Entscheidungen des Bundesverfassungsgerichts [BVerfGE] 304 (334 et seq.), para. 135, <https://perma.cc/55TS-3MAQ>.

<sup>24</sup> GG, art. 115e, para. 1.

<sup>25</sup> Id. art. 115e, para. 2.

<sup>26</sup> Id. art. 115l, para. 1.

<sup>27</sup> Schäuble zur Corona-Krise: Handlungsfähigkeit des Bundestages erhalten, Deutscher Bundestag, <https://perma.cc/9FTQ-ZHF4>.

<sup>28</sup> Id.

<sup>29</sup> Coronavirus. Bundestag erwägt Grundgesetzänderung, SPIEGEL (Mar. 16, 2020), <https://perma.cc/4C26-HW9T>.

both the Bundestag and the Bundesrat. In addition, if more parliamentarians get infected and cannot attend the sessions of parliament, “pairing” has been suggested to maintain the current majorities. Pairing is an informal arrangement where for each member that is absent, other parliamentary groups also withdraw members.<sup>30</sup>

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<sup>30</sup> Id.

# Guatemala

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## I. Functioning of the National Congress

According to the Organic Law of the Legislative Body, the President of the Guatemalan Congress is the highest-ranking official of the legislative body and is, in turn, the President of the Legislative Body, Board of Directors, Internal Regime Commission, and Permanent Commission.<sup>1</sup>

One of the functions of the President of the Congress is that in cases of urgency, he or she may designate specific commissions or entrust certain functions to one or more members of Congress (*Diputados*). The President reports these acts to the plenary sessions of the Congress within the first two subsequent sessions.<sup>2</sup> The Congress includes among its 38 Committees the Health and Social Assistance Committee and the National Security Affairs Committee, both of which handle the subject matter under their jurisdictions.<sup>3</sup>

## II. Emergency Parliament

The Organic Law of the Legislative Body does not provide any arrangements in national legislature for a designated subgroup of members to constitute a kind of “emergency parliament” with devolved powers from the entire Congress to address crisis situations. Neither does the Organic Law appear to address how the legislature is to operate its offices when its members and staff are unable to travel or be “out and about.”

The Constitution mandates that the Law of Public Order (*Ley de Orden Público*) is to establish the measures and powers to be employed in extraordinary cases, such as in a state of prevention, alarm, or public calamity, among others.<sup>4</sup> Under the Law on Public Order of 1965, immediately after the President of the Republic issues a decree establishing a state of prevention, alarm, or public calamity, the Congress must be informed and must ratify, modify, or disapprove of the decree.<sup>5</sup> The statute does not specify what procedure the legislative body must follow to ratify, modify, or disapprove of a presidential decree declaring a state of prevention, alarm, or public calamity.

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<sup>1</sup> Ley Orgánica del Organismo Legislativo, Decreto No. 63-94, art. 17 Diario de Centro América [DCA], Dec. 21, 1994, as amended at, <https://perma.cc/F6MP-8TS8>.

<sup>2</sup> Id. art. 18(l).

<sup>3</sup> Id. art. 31(26) &(38).

<sup>4</sup> Constitución Política de la República de Guatemala art. 139, DCA, June 3, 1985, <https://perma.cc/G2UM-4SCK>.

<sup>5</sup> Decreto No. 7, Dec. 9, 1965, Ley de Orden Público, art. 6, El Guatemalteco, Dec. 14, 1965, as amended by Decree 89-70 of Nov. 16, 1970, El Guatemalteco, Nov. 18, 1970, <https://perma.cc/ZTN7-ACPM>.

### III. Work During the COVID-19 Pandemic

The Constitution specifies the functions of the President of the Republic, among them the power to dictate the provisions that are necessary in cases of a serious emergency or public calamity, and provides that they should immediately be reported them to Congress.<sup>6</sup> Under the Law of Public Order, the Guatemalan President may take a variety of measures considered necessary when he or she declares a state of public calamity.<sup>7</sup>

On March 5, 2020, the President exercised the functions conferred by the Constitution and the Law on Public Order and promulgated Decree 5-2020 declaring a state of public calamity for a period of 30 days throughout the national territory as a consequence of the World Health Organization's pronouncement of the COVID-19 epidemic as a public health emergency of international importance and in response to the Plan for the Prevention, Containment and Response to Cases of Coronavirus (COVID-19) in Guatemala issued by the country's Ministry of Public Health and Social Assistance.<sup>8</sup> The President's Decree implements a series of measures, including but not limited to the following:

- limits the right to free movement of vehicles and people
- limits outdoor meetings
- prohibits public performances
- requires individuals and institutions to provide the aid and cooperation that are essential for better control of the situation in the affected area
- sets maximum or minimum prices for (and prevents hoarding of) goods, supplies, and services that have some kind of relationship to the prevention, treatment, containment, and response to COVID-19, and for related medical procedures
- orders the Ministry of Public Health and Social Assistance to carry out the medical evacuation of nationals, foreigners, residents, or persons in transit who are suspected of having, have symptoms of, or are declared to be carriers of COVID-19, and gives the Ministry the authority to isolate or quarantine patients
- orders the appropriate institutions to conduct surveillance and monitoring of border posts, ports, and airports in relation to travelers and crew members from countries with confirmed cases of COVID-19, empowering them to carry out the necessary procedures to ensure compliance with this decree<sup>9</sup>

On March 13, 2020, Guatemalan President Alejandro Giammattei announced on national television that due to the emergency caused by the expansion of COVID-19 cases, the entry of foreigners to the country from the United States and Canada is prohibited. The measure took effect at midnight on March 16. Guatemalan citizens coming from these two countries will be

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<sup>6</sup> Constitución Política de la República de Guatemala art. 183(f).

<sup>7</sup> Decreto No. 7, Dec. 9, 1965, Ley de Orden Público, art. 15.

<sup>8</sup> Decreto Gubernativo 5-2020, DCA, Mar. 6, 2020.

<sup>9</sup> Id. art. 5.

allowed to enter the territory as long as they submit to sanitary measures and immediately quarantine themselves in their homes.

The US and Canada joined several other countries whose citizens had already been banned from entry, which, as the president described in his message, include Korea, Japan, China, Italy, France, Spain, England, and Iran.<sup>10</sup>

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<sup>10</sup> William Oliva, *Coronavirus: Giammattei prohíbe el ingreso al país de extranjeros desde EE. UU. y Canadá*, Prensa Libre (Mar. 13, 2020), <https://perma.cc/NN56-RN4N>.

# India

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## I. Rules for Functioning under Emergency Measures

India's federal legislative branch consists of the President, the Rajya Sabha (Council of States) as the upper house, and the Lok Sabha (House of the People) as the lower house. The two houses constitute India's bicameral Parliament.

Lok Sabha proceedings are regulated by the Rules of Procedure and Conduct of Business in Lok Sabha.<sup>1</sup> Rajya Sabha proceedings are regulated by the Rules of Procedure and Conduct of Business in the Council of States (Rajya Sabha).<sup>2</sup> There do not appear to be any special rules for the operation of the Parliament in emergency situations.

## II. Arrangements for an "Emergency" Parliament

There does not appear to be any arrangement in Parliament for a designated subgroup of members to constitute a kind of "emergency" parliament with devolved powers from the whole Parliament to address crisis situations. Article 100 of the Constitution of India stipulates that the quorum requirement for both houses of Parliament "shall be one-tenth of the total number of members of the House."<sup>3</sup>

## III. Adjustments to Operations during the COVID-19 Pandemic

The central government adjourned the Lok Sabha on March 23, 2020, 12 days before Parliament's Budget Session was supposed to end. Before the session ended, the Lok Sabha passed the Finance Bill, which has to be cleared before March 31, 2020, to "put into effect the government's budget and tax proposals."<sup>4</sup> The Rajya Sabha quickly returned the Bill back to the Lok Sabha on the same day to be in conformity with special procedure for money bills under article 109(2) of the Indian Constitution.<sup>5</sup> The Speaker of the Lok Sabha, Om Birla, has said the "decision was

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<sup>1</sup> Rules of Procedure and Conduct of Business in Lok Sabha (15th ed., 2014), <https://perma.cc/3V8F-ASGJ>.

<sup>2</sup> Rules of Procedure and Conduct of Business in the Council of States (Rajya Sabha) (9th ed., Aug. 2016), <https://perma.cc/2EBH-2ETT>.

<sup>3</sup> Constitution of India, ch. II, art. 100, <https://perma.cc/H74L-9Y3K>.

<sup>4</sup> Moushumi Das Gupta, *Lok Sabha Session Ends 12 Days before Schedule as Coronavirus Puts India under Lockdown*, *The Print* (Mar. 23, 2020), <https://perma.cc/Q9FX-29RN>.

<sup>5</sup> Article 109(2) stipulates that "[a]fter a Money Bill has been passed by the House of the People it shall be transmitted to the Council of States for its recommendations and the Council of States shall within a period of fourteen days from the date of its receipt of the Bill return the Bill to the House of the People with its recommendations and the House of the People may thereupon either accept or reject all or any of the recommendations of the Council of States." See also Saubhadra Chatterji, *Why Govt Has to Race Against Time to Pass The Finance Bill*, *Hindustan Times* (Mar. 23, 2020), <https://perma.cc/9K4Y-NPH4>.

taken so that everybody can practice social distancing.”<sup>6</sup> This was after there was “pressure from many opposition parties and indications from the ruling side amid a rapid uptick in the number of confirmed Covid-19 cases across the country, leading to official lockdown in Delhi and other states.”<sup>7</sup>

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<sup>6</sup> Chatterji, *supra* note 5.

<sup>7</sup> *Session to be Curtailed after Finance Bill is Passed*, *The Economic Times* (Mar. 23, 2020), <https://perma.cc/4A2R-686R>.

# Israel

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## I. Introduction

Rules governing the legislative process in Israel are “almost entirely regulated by the parliament’s internal rules, rather than statutes or constitutional norms.”<sup>1</sup> The Knesset’s (Israel’s parliament’s) oversight responsibilities over government activities during a state of emergency, however, are clearly enumerated under Basic Law: The Government.<sup>2</sup>

Knesset operations during the COVID-19 crisis have been on hold because of the complex political situation in Israel. Following a general election held on March 2, 2020, the third election within 11 months, the Knesset continued serving based on the principle of continuity.<sup>3</sup> Following the swearing in of the 23rd Knesset on March 16, 2020, the majority of members requested the election of a new Knesset Speaker and the establishment of Knesset committees, actions ordered by the Supreme Court as extraordinary measures to preserve the parliamentary system of government in Israel and its democratic foundations.

This report describes the rules that govern Knesset operations during time of emergency, the requirements of Knesset oversight for the issuance of emergency regulations during such time, and the particular circumstances that led to compliance with these requirements. As developments are ongoing, the information contained in the report is updated to the morning of March 25, 2020 (US time).

## II. Rules on Knesset Operations During State of Emergency

### A. Knesset Authority to Issue, Extend or Revoke a Declaration of State of Emergency

Basic Law: The Government provides the Knesset the authority to declare, on its own initiative or under a government proposal, that a state of emergency exists.<sup>4</sup> If it is not possible to convene the Knesset, the government may declare a state of emergency without Knesset approval. While a Knesset declaration has a possible duration of one year, a declaration by the government will expire within seven days from issue, unless approved or revoked before its expiration by the Knesset or by

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<sup>1</sup> Ittai Bar-Siman-Tov, *The Law of Lawmaking*, 37 Tel Aviv U. L. Rev. 645 (2016) (in Hebrew), cited by the same author in *Parliamentary Activity and Legislative Oversight During the Coronavirus Pandemic – A Comparative Overview* 3, ResearchGate (Mar. 22, 2020), <https://perma.cc/7D8U-T6GP>.

<sup>2</sup> Basic Law: The Government, §§ 38-39, Sefer HaHukim 5761 (Book of Laws, Official Gazette) No. 1780 p. 158, available at the Knesset website, <https://perma.cc/D8LA-XWQ4>.

<sup>3</sup> Basic Law: The Knesset, § 37, Knesset Website, <https://perma.cc/M76B-4DWU>.

<sup>4</sup> Id. § 38.

a decision of a majority of its members, or if there is a renewed government declaration in the event the Knesset cannot convene.<sup>5</sup>

## **B. Knesset Oversight Regarding Issuance of Emergency Regulations**

The Basic Law provides the government far-reaching powers during a state of emergency to issue regulations that may alter or temporarily suspend any law's effect or introduce conditions for its implementation, for the stated objectives of "the defense of the State, public security and the maintenance of supplies and essential services."<sup>6</sup>

The regulations must be submitted to the Knesset's Foreign Affairs and Security Committee at the earliest possible date after their enactment. However, if the Prime Minister "deem[s] it impossible to convene the Knesset, given the existence of an immediate and critical need to make emergency regulations, he may make such regulations or empower a Minister to make them."<sup>7</sup>

Emergency regulations will remain in effect for a period of three months after their issuance but may be extended or revoked by the Knesset by a law, or in accordance with a decision of a majority of the members of the Knesset, and may remain in force no longer than 60 days after the termination of the state of emergency, unless extended by law.<sup>8</sup>

The Knesset rules lay out the roles of the Knesset Foreign Affairs and Defense Committee, and the "Joint Committee" in which it serves along with the Constitution, Law, and Justice Committee in overseeing the issuance and implementation of a declaration of a state of emergency and emergency regulations.<sup>9</sup>

## **C. Challenges to Knesset Operations During COVID-19 Pandemic**

The current 23rd Knesset was sworn in on March 16, 2020, in the shadow of the COVID-19 pandemic and under the Ministry of Health's guidelines that prohibited gatherings of more than 10 persons. The swearing in of the new Knesset's 120 members (KMs) following the March 2, 2020, election was done in 40 rounds of three members at a time.<sup>10</sup> Until a new government is sworn in, based on the principle of "continuity of government," the outgoing government headed by Prime Minister (PM) Binyamin Netanyahu continues to serve as a transitional government.<sup>11</sup>

On March 15 and 17, 2020, PM Netanyahu's transitional government approved a series of far-reaching regulations to address the spread of the coronavirus. They include emergency

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<sup>5</sup> § 38(c).

<sup>6</sup> § 39(c).

<sup>7</sup> § 39(a-b).

<sup>8</sup> § 39(f-h).

<sup>9</sup> Knesset Rules, §§ 68-73, Knesset website, <https://perma.cc/J93K-A6GQ>.

<sup>10</sup> Yeki Adamker & Tal Shalev, *The 23rd Knesset Was Sworn in Facing an Empty Plenum; Rivlin: Give This People a Government* (Mar. 16, 2020), <https://perma.cc/STA9-2QFS>.

<sup>11</sup> Basic Law: The Government, § 30.

regulations that allow, among other things, the use of digital surveillance by the General Security Service (GSS Emergency Regulations),<sup>12</sup> and provide expanded search authority to the Israel Police to combat the spread of COVID-19.<sup>13</sup>

On March 18, 2020, Knesset Speaker Yuli-Yoel Edelstein extended the application of the Public Health (Novel Coronavirus) (Home Isolation and Other Provisions) (Temporary Order) 5780-2020, as amended,<sup>14</sup> to Knesset members and employees for a period of 14 days. These regulations include a prohibition on gatherings of more than 10 people in one room and requiring a distance of two meters (approximately 6.56 feet) between participants. Edelstein noted that the order affects the manner in which Knesset committees operate but not the frequency.<sup>15</sup>

That same day, against a request of the majority of KMs to elect a new Speaker and begin the process of forming committees in the newly sworn-in Knesset for purpose of exercising parliamentary oversight over implementation of measures addressing COVID-19, Edelstein halted proceedings of the plenum and adjourned Parliament until March 23, 2020.<sup>16</sup> On March 23, 2020, the Supreme Court ordered Edelstein to convene the Knesset plenum for the purpose of appointing a new Knesset Speaker for the 23rd Knesset at the earliest possible time and no later than March 25, 2020.<sup>17</sup> Edelstein resigned from his post as Speaker on March 25, 2020.<sup>18</sup> Against the advice of the Knesset legal adviser, he refused to schedule a vote for his replacement before his resignation, in violation of the Court's order.<sup>19</sup>

The absence of parliamentary oversight over the government-issued emergency regulations has been one of the arguments in a petition to the High Court of Justice against the validity of the regulations. On March 19, 2020, the Court issued a temporary injunction voiding the emergency regulations granting the GSS digital surveillance authorities starting March 24, 2020, unless

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<sup>12</sup> See Israel Security Agency, <https://perma.cc/2H4B-K2QM>.

<sup>13</sup> Ruth Levush, *Israel: Emergency Regulations Authorize Digital Surveillance of Coronavirus Patients and Persons Subjected to Home Isolation*, Global Legal Monitor (Mar. 18, 2020), <https://perma.cc/G7YP-YDA4>.

<sup>14</sup> Public Health (Novel Coronavirus) (Home Isolation and other Provisions) (Temporary Order) 5780-2020, as amended, Ministry of Health (MOH), <https://perma.cc/BUD3-J3QB>.

<sup>15</sup> Hezki Baruch, *Special Order: This Is How the Knesset Will Operate During the Corona*, Israel Nat'l News Ltd. (Mar. 18, 2020), <https://www.inn.co.il/News/News.aspx/430898>.

<sup>16</sup> Jonathan Lis, *Speaker Adjourns Parliament, Israeli President Warns Him Against 'Undermining Democracy'*, Haareetz.com (Mar. 19, 2020), <https://perma.cc/D5DR-DHMJ>; For the political background of the Speaker's decision, see Ittai Bar-Siman Tov, *Parliamentary Activity and Legislative Oversight During the Coronavirus Pandemic – A Comparative Overview*, supra note 1, at 5.

<sup>17</sup> HC 2144/20 Movement for Quality of Governance in Israel et al. v. Knesset Speaker, the Knesset, the Knesset Legal Adviser and the Likud Party, <https://perma.cc/3FKS-MZDS>; Ruth Levush, *Israel: Supreme Court Rules Coronavirus Pandemic Does Not Justify Delay in Electing a Knesset Speaker*, Global Legal Monitor, (forthcoming Mar. 2020).

<sup>18</sup> *Knesset Speaker Yuli Edelstein Resigns from His Post*, Knesset Website (March 25, 2020), <https://main.knesset.gov.il/Pages/default.aspx>.

<sup>19</sup> See Updated Information by the Knesset Legal Adviser to the Supreme Court (March 25, 2020), <https://perma.cc/NC3T-LMCU>, linked from Moran Azulai et al., *Edelstein Informed Me that He Refused to Follow the Court Decision*, YNET (Mar. 25, 2020), <https://perma.cc/FK84-RY4W>.

relevant Knesset committees are established to enable parliamentary oversight of implementation of the regulations.<sup>20</sup> The Court clarified that, in the event a decision was made to impose a general closure before March 24, 2020, it would re-examine the need for the authorities given to the GSS under the regulations and adapt the injunction to the situation.<sup>21</sup>

In compliance with the Court's order, on March 24, 2020, the Knesset plenary approved the creation of the "Arrangements Committee." The establishment of this committee is essential for continued parliamentary work as the committee is authorized to

. . . submit for the Knesset's approval a proposal relating to the makeup of the standing committees. Until the standing committees are established, the Arrangements Committee may appoint provisional committees for financial matters and for matters related to foreign affairs and defense.

Until the appointment of the House Committee, the Arrangements Committee shall hold all of the House Committee's powers relating to rules of procedure and Knesset sittings.<sup>22</sup>

Following the establishment of the Arrangement Committee and that of the Foreign Affairs and Defense Committee, the Supreme Court has reportedly approved the GSS Emergency Regulations.<sup>23</sup>

In addition to establishing the Arrangement Committee and the Foreign Affairs and Defense Committee, the Knesset approved four additional temporary Knesset committees.<sup>24</sup> These include a committee on fighting the coronavirus.<sup>25</sup> The committee's chair announced that it would concentrate on "three key areas of the crisis – health, economic, and governmental."<sup>26</sup>

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<sup>20</sup> HC 2109/20 Ben Meir v. Prime Minister, State of Israel: Judicial Authority, para. 4(a), <https://perma.cc/H6PX-2W94>.

<sup>21</sup> Id. para. 4(c).

<sup>22</sup> Arrangements Committee, Knesset Website, <https://perma.cc/3MEC-Z72Q>.

<sup>23</sup> Yael Friedson, *The High Court Allowed the Police to Use GSS Technology for Enforcement of Home Isolation*, YNET (Mar. 24, 2020), <https://perma.cc/R6XW-MNTA>.

<sup>24</sup> *The Plenary Approved Establishment of Four Special Committees*, Knesset website (Mar. 24, 2020), <https://perma.cc/2NQY-AXB7>.

<sup>25</sup> Dany Zakan, *The Knesset Plenary Approved by a Vote the Establishment of Four Temporary Committees*, Globes (Mar. 24, 2020), <https://perma.cc/7UP8-LZQE>.

<sup>26</sup> *The Corona Committee Started Its Way*, Knesset Website (Mar. 25, 2020), <https://main.knesset.gov.il/Pages/default.aspx>.

# Italy

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Italy has a bicameral parliament made up of the Chamber of Deputies and the Senate of the Republic. The Chamber of Deputies' Regulations<sup>1</sup> contemplate the possibility that the Chamber of Deputies may establish "special commissions," but these commissions do not act in lieu of the Chamber itself, not even in cases of emergency.

The presidents of the Chamber and the Senate have recently stated that the closure of Parliament is not under discussion.<sup>2</sup> However, members of both chambers are currently discussing measures to enable remote participation in debates, meetings, voting, and other parliamentary activities.<sup>3</sup> Concerns about the possible unconstitutionality of remote voting have also been raised by the highest authority of the Chamber.<sup>4</sup>

The President of the Chamber has proposed the creation of a Special Commission to manage the emergency, but the proposal has not yet been discussed.<sup>5</sup>

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<sup>1</sup> Il Regolamento della Camera dei Deputati art. 22(1), <https://perma.cc/2K4W-ZLVY>.

<sup>2</sup> Alessandro Trocino, *Coronavirus, Termoscanner alla Camera. D'Incà: "La Chiusura del Parlamento non è in Discussione"*, *Il Corriere della Sera* (Mar. 3, 2020), <https://perma.cc/6TM8-UN5L>.

<sup>3</sup> Serenella Ronda, *I Deputati Temono il Contagio. Pressing su Voto a Distanza*, AGI, Agenzia Italia (Mar. 13, 2020), <https://perma.cc/38N7-BLS8>.

<sup>4</sup> *Coronavirus, Fico: "Voto a Distanza? Serve 'Presenza'". Salvini: "Convocare Parlamento o Reazione Forte". Repliche: "Camere Aperte"*, *Il Fatto Quotidiano*, <https://perma.cc/6SBH-GV4T>.

<sup>5</sup> Id.

# Jamaica

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## I. Rules for Parliamentary Operations under a State of Emergency

The Constitution of Jamaica addresses the tenure of parliament in times of “emergency.” In accordance with section 64(3) of the Constitution, “when Jamaica is at war” the Jamaican parliament may extend beyond its five-year term, by up to 12 months at a time, to a maximum of two years.<sup>1</sup> The Constitution does not recognize an “emergency parliament” with devolved powers to address crisis situations.

Although the Constitution does not address any other form of emergency, including a pandemic, that would allow the extension of parliamentary tenure, a March 12, 2020, editorial in *The Gleaner* newspaper in Kingston regarding the probability of early elections in Jamaica has suggested that such an extension might depend on interpretation:

[U]nder section 64(4), even after its [Parliament’s] dissolution, and before an election, the old Parliament could, in an emergency, if summoned by the governor general, continue to sit and be deemed “not to have been dissolved until the date on which the polls are held in the next ensuing general election”. In the context of a national emergency, the operation of Parliament in this manner would lend bipartisan and constitutional legitimacy to actions to address the crisis.

Hopefully, these and other possible constitutional arrangements to allow for the continuity of government in a dire situation will be moot, with COVID-19 having turned out to be a mere blip on Jamaica’s radar. Yet, being prepared is always best.<sup>2</sup>

## II. Recent Arrangements to Ensure Parliamentary Work During the COVID-19 Pandemic

In a statement on the COVID-19 situation in Jamaica, Jamaica’s Prime Minister Andrew Holness assured the public that his government would provide leadership and coordination, and ensure that accurate and verified information was provided in a timely manner, on all pertinent matters relating to COVID-19. He noted that he had “established a protocol to advise the Leader of the Opposition directly of any development and will convene an ad hoc bipartisan parliamentary committee, to ensure information sharing at the political level.”<sup>3</sup>

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<sup>1</sup> Jamaica (Constitution) Order in Council 1962, <https://perma.cc/S3TP-TJPP>; see also Jamaica’s Constitution of 1962 with Amendments through 2011, <https://perma.cc/3SXG-JBLV>.

<sup>2</sup> Editorial, *COVID-19, The Constitution and Elections*, *The Gleaner* (Mar. 12, 2020), <https://perma.cc/BV52-R54L>.

<sup>3</sup> Prime Minister Holness Statement to the Nation on the Coronavirus (COVID 19) Case in Jamaica (Mar. 10, 2020), <https://perma.cc/XFR6-SG37>.

# Jordan

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As a preventive measure in response to the COVID-19 pandemic, the Chairman of Jordan's House of Representatives has decided to postpone all unnecessary parliamentary sessions.<sup>1</sup> According to article 66 (2) of the Jordanian Constitution, if the House of Representatives suspends its sessions, the Senate suspends its sessions as well.

While the House of Representatives is out of session, the Cabinet (with the approval of the King) has the authority to issue provisional laws addressing the following matters:

- General disasters
- States of war and emergency
- The need for necessary and urgent expenditures that cannot be postponed

Such provisional laws have the force of law, provided they are submitted to Parliament (House of Representatives and Senate) in a combined session to review them when it resumes its functions.<sup>2</sup>

There are no information concerning regulations or procedures pertaining to how members of parliament operate their offices when they are unable to travel due to an emergency.

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<sup>1</sup> *Postponing the Sunday Session of the House of Representatives*, The Kingdom (Mar. 14, 2020), <https://perma.cc/KUK7-KAQP> (in Arabic).

<sup>2</sup> Jordan Const. of 1952, art. 94 (amended 2016), <https://perma.cc/3HXT-2J24> (in Arabic).

# Kenya

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## I. Current Situation

Kenya has a bicameral Parliament consisting of the National Assembly and the Senate. The National Assembly comprises 290 members elected from single-member constituencies; forty-seven women representatives elected from the forty-seven counties, each constituting a single member constituency; and twelve special-interest representatives nominated by political parties in accordance with the proportion of their seats in the National Assembly.<sup>1</sup> In addition, the Speaker of the National Assembly is an *ex officio* member of the body.<sup>2</sup>

The Senate is composed of forty-seven members directly elected from each county; sixteen women nominated by the political parties in the Senate on the basis of the proportion of the seats they control; two representatives of the youth (a man and a woman); two representatives of persons with disabilities (also a man and a woman); and the Speaker of the Senate who, like his National Assembly counterpart, is also an *ex officio* member.<sup>3</sup>

On March 13, 2020, the speakers of the National Assembly and the Senate issued guidelines in a joint memo to the 416 members of the two chambers and their staff suspending all foreign travel for members of Parliament and their staff, among other things.<sup>4</sup> The guidelines, which will remain in effect for 30 days, suspended public activities, including visits by students and other groups, and recommended that members of parliament postpone all committee sittings and other activities that required them to venture out of the precincts of Parliament.<sup>5</sup> In addition, everyone who arrives in the precincts of Parliament, including members, are now required to undergo screening (body temperature checks) before they are allowed into the grounds.<sup>6</sup> Two members of the National Assembly who had reportedly just returned from a trip to London were asked to leave the floor of the Assembly and self-quarantine.<sup>7</sup>

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<sup>1</sup> Constitution of Kenya, 2010, §§ 97, <https://perma.cc/WT74-K5LC>.

<sup>2</sup> Id. §§ 97 & 106.

<sup>3</sup> Id.

<sup>4</sup> David Mwere, *Coronavirus: Temperature checks for all at Parliament*, Daily Nation (Mar. 16, 2020), <https://perma.cc/CA83-7GTH>.

<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> Noni Ireri, *MP Kicked out of Parliament over Coronavirus, Kenyans* (Mar. 17, 2020), <https://perma.cc/5US6-6HNA>; Moses Nyamori & Rawlings Otieno, *MPs Kicked out of Chambers over Virus Scare*, Standard Media (Mar. 18, 2020), <https://perma.cc/3ZC7-VMLY>.

Significantly, on March 17, 2020, the National Assembly and the Senate then suspended sittings.<sup>8</sup> No information was located relating to the issue of how members of Parliament would maintain operations if their access to the precincts of Parliament were restricted.

## II. Emergency Parliament

Although the term of each chamber in Parliament normally expires on the date of the next general election, in instances when the country is at war Parliament may, “by resolution supported in each House by at least two-thirds of all the members of the House, from time to time extend the term of Parliament by not more than six months at a time.”<sup>9</sup> The extension may only be renewed once.<sup>10</sup> Other than this form of emergency Parliament, no constitutional provision was located mandating or authorizing the creation of an emergency parliament in which legislative power is delegated to a small group of members of Parliament during disruptive emergency events.

The Constitution allows for either chamber to hold its sittings in any place within the country.<sup>11</sup> However, the presence of 50 members in the case of the National Assembly and 15 members in the case of the Senate is required to establish a quorum.<sup>12</sup> The Constitution states that, unless its provisions state otherwise, “any question proposed for decision in either House of Parliament shall be determined by a majority of the members in that House, present and voting.”<sup>13</sup>

Constitutional provisions relating to parliamentary functions are among the most difficult to amend. A constitutional provision of this kind may be amended through parliamentary or public initiative. If an amendment is a parliamentary initiative, it requires adoption in each chamber of Parliament with the support of “not less than two-thirds of all the members of that House” as the first step of the process.<sup>14</sup> A constitutional amendment could also be put in motion through a public initiative by collecting one million signatures from registered voters, which must be certified by the Independent Electoral and Boundaries Commission and then submitted to each of the 47 county assemblies for consideration within three months.<sup>15</sup> To succeed, the initiative must be approved by the majority of county assemblies and majority members of each chamber of the national Parliament<sup>16</sup> Significantly, both parliamentary and public amendment initiatives require approval through a popular referendum in which at least 20% of all registered voters in

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<sup>8</sup> Brian Oruta, *Parliament Suspends Sitting over Coronavirus*, PulseLive (Mar. 17, 2020), <https://perma.cc/8MVK-A8GN>.

<sup>9</sup> Constitution of Kenya § 102.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* § 126.

<sup>12</sup> *Id.* § 121.

<sup>13</sup> *Id.* § 122. For more information on the legislative process, see Hanibal Goitom, *National Parliaments: Kenya* (Law Library of Congress, Feb. 2017), <https://perma.cc/68QW-EWPJ>.

<sup>14</sup> Constitution of Kenya § 256.

<sup>15</sup> *Id.* § 257.

<sup>16</sup> *Id.*

each of at least half of the counties in the country vote and the amendment garners the support of a simple majority of the citizens who voted.<sup>17</sup> During the current COVID-19 pandemic organizing a popular referendum may not be practicable.

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<sup>17</sup> Id. §§ 255, 256 & 257.

# Kuwait

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In an effort to protect members of Kuwait's National Assembly from being infected with the COVID-19 virus, the Chairman of the Assembly has suspended its sessions and all activities for two weeks from March 10 through March 29, 2020. The Chairman also ordered all members to be tested for the COVID-19 infection.<sup>1</sup>

While parliament is suspended, the Amir of Kuwait has the power to issue royal decrees promulgating laws adopting certain urgent measures. When the National Assembly reconvenes it must review those laws during its first session.<sup>2</sup>

Apparently, there are no provisions or regulations in place on how members of parliament are to operate their offices when they are unable to travel due to an emergency.

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<sup>1</sup> *Due to Coronavirus, the National Assembly Is Closed*, Al Hurriyah (Mar. 18, 2020), <https://perma.cc/7Q7K-V7US> (in Arabic).

<sup>2</sup> Law 12 of 1963 on the Internal Regulation of the National Assembly, art. 111, <https://perma.cc/E5J7-NCAD> (in Arabic).

# Malta

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## I. Operation of Parliament under Emergency Measures

A period of public emergency is deemed to occur in Malta if it is engaged in any war; if the President has issued a proclamation that a state of public emergency exists; or if the House of Representatives has issued a resolution, with a two thirds majority of the House, “declaring that the democratic institutions of Malta are threatened by subversion.”<sup>1</sup> Proclamations by the House of Representatives may last for an initial period of up to 14 days, but may be renewed for a maximum period of 12 months.<sup>2</sup> There does not appear to be any legislation that indicates how a declaration of public emergency impacts the work of the House of Representatives other than that the President must summon it to meet within five days if he or she issues a proclamation of a state of public emergency and Parliament is prorogued or adjourned. Instead, the legislation appears primarily to enable action to be taken to ensure the supply of products and restrict the rights of the population.<sup>3</sup> If “great disorder” arises in the House, the Speaker has the ability to “adjourn the House without question put or suspend any sitting for a time to be named by him.”<sup>4</sup>

## II. Arrangements for an “Emergency Parliament”

There does not appear to be any legislation, orders, or publicly published information that designates a subgroup of parliamentarians to form an emergency parliament with devolved powers from the whole parliament to address crisis situations. The House of Representatives may continue to sit and vote on issues if the minimum quorum of 15 is met.<sup>5</sup>

## III. Current Arrangements for the Legislature to Work during the COVID-19 Pandemic

The Speaker of the House issued regulations on March 12, 2020, designed to contain the spread of COVID-19 within the House of Representatives. The regulations:

- restrict public access to plenary and committee sessions of the House of Representatives;
- suspend the issuance of one time passes for individuals entering the parliamentary premises, with the limited exception of members of the media and participants in the work of plenary sessions and committees;
- cancel overseas travel for official business for members of parliament and their staff;

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<sup>1</sup> Constitution of Malta, art. 47(2), <https://perma.cc/5N4U-P4BD>.

<sup>2</sup> Id. art. 47(4).

<sup>3</sup> Emergency Powers Act, cap. 178, art. 4, <https://perma.cc/7VLZ-LTCZ>.

<sup>4</sup> Standing Orders of the House of Representatives, S.L. Const. 02, Order 69, <https://perma.cc/8VMU-VWR2>.

<sup>5</sup> Constitution of Malta, art. 70(2).

- suspend scheduled events on parliamentary premises (other than parliamentary sittings); and
- implement additional cleaning across parliamentary premises, including the supply of sanitizers and the disinfection of all high contact areas, such as computer keyboards, elevator buttons and door handles, every two to three hours.<sup>6</sup>

Newspapers have reported that the government whip has stated they are “considering suspending the quorum provision of the standing orders, so that only the MPs taking part in the debate would have to be present,”<sup>7</sup> but that suspending parliamentary sittings would not be appropriate as the country is yet to be in lockdown.<sup>8</sup>

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<sup>6</sup> Press Release, Office of the Speaker, COVID 19 - Regulations Issued by the Speaker of the House of Representatives, Mar. 12, 2020, PR200463, <https://perma.cc/7CLS-745B>.

<sup>7</sup> Keith Micallef, *Parliamentary Sittings to Continue as Planned - Government*, Times of Malta (Mar. 16, 2020), <https://perma.cc/6FZP-DK2N>.

<sup>8</sup> Id.

# Mexico

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## **I. Rules for Continued Functioning of National Legislature in an Emergency**

Mexico's Senate and House of Representatives have broad powers to expedite the legislative process when it becomes necessary to address urgent and pressing matters while the Congress is in session.<sup>1</sup> Before Congress goes to recess, it appoints a group of legislators (19 representatives and 18 senators) to a committee tasked with a number of legislative duties that are to be discharged while the full Congress is not in session.<sup>2</sup> Some of these duties are of an urgent nature, such as summoning Congress to session if a pressing matter arises and administering the oath of office to Mexico's President in extraordinary circumstances.

In addition, Mexico's Constitution provides that in cases of invasion, grave disturbance to public order, or any other circumstance that puts the Mexican people in grave danger, the President may order, with approval from Congress, the restriction or suspension of certain rights of citizens that may be an obstacle to government actions needed to address the situation.<sup>3</sup> Congress has the authority to set limits for these measures and to declare an end to them.<sup>4</sup> As of March 23, 2020, measures of this nature have not been taken by the Mexican Congress.

## **II. Arrangements for a Subgroup to Perform Functions of Congress**

No information on current or potential arrangements whereby a designated subgroup of members would constitute an "emergency Congress" with devolved powers from the whole Congress was located (as of March 23, 2020).

## **III. Current Arrangements for Congress to Continue Work During the Pandemic**

On March 19, 2020, Mexico's House of Representatives announced that it had allowed its members to travel to their respective districts and continue working remotely to the extent possible, in an effort to avoid the risks of contracting COVID-19.<sup>5</sup> Thus, the House will stop

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<sup>1</sup> Reglamento para el Gobierno Interior del Congreso General de los Estados Unidos Mexicanos, Diario Oficial de la Federación (D.O.F.), Mar. 20, 1934, as amended, arts. 29, 42, 59, 60, 71, 109, 142, 159, <https://perma.cc/C49G-TWFQ>.

<sup>2</sup> Mexico Constitution, arts. 67, 69, 78, 84, 89 (XI, XVI), 102-A(V), 135, <https://perma.cc/D5YW-5G3G>.

<sup>3</sup> Id. art. 29.

<sup>4</sup> Id.

<sup>5</sup> Press Release, Cámara de Diputados, La Cámara de Diputados seguirá trabajando; lo hará de forma distinta por la contingencia del COVID-19: Laura Rojas (Mar. 19, 2020), <https://perma.cc/X3ZN-RRPS>.

holding regular sessions until further notice.<sup>6</sup> However, members will be permitted to file bills and conduct work performed in committees remotely.<sup>7</sup>

As of March 19, 2020, Mexico's Senate continued to be in session under a number of sanitary measures, including

- using face masks;
- monitoring the temperature of individuals who access the Senate building and conducting medical examinations of their physical condition if deemed necessary;
- limiting legislative activities to work in committees and measures that require intervention by the Senate in plenary session;
- cancellation of travel arrangements for Senators; and
- limiting access to the Senate floor and committee meetings to Senators only.<sup>8</sup>

Other measures include excusing the following categories of staffers from going to work to the Senate's headquarters:

- pregnant women;
- mothers with children younger than eight years of age;
- adults over 65 years of age; and
- those whose personal conditions put them at risk of contagion.<sup>9</sup>

These staffers will be asked to be reachable through electronic and digital means, in case their support is necessary.<sup>10</sup> Prior to interrupting in-house operations, the House of Representatives adopted comparable sanitary and preventative measures.<sup>11</sup>

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<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Press Release, Senado de la República, Acuerdan grupo de trabajo plural para dar seguimiento a la atención federal por COVID-19 (Mar. 19, 2020), <https://perma.cc/4KPF-E9W4>.

<sup>9</sup> Press Release, Senado de la República, Protege Senado a personal vulnerable ante Covid- 19 (Mar. 18, 2020), <https://perma.cc/N49G-49TE>.

<sup>10</sup> Id.

<sup>11</sup> Press Release, Cámara de Diputados, Aprueba Pleno medidas que adoptará la Cámara de Diputados ante el Covid-19 (Mar 18, 2020), <https://perma.cc/GR7P-VK6B>.

# New Zealand

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## I. Public Statements and Media Reports

On March 6, 2020, it was reported that the New Zealand Parliament was prepared to implement a precinct pandemic plan if necessary and that it had stocked up on face masks and hand sanitizer.<sup>1</sup> The Speaker of the House of Representatives indicated that “[p]reparations for Parliament got underway ‘early’ when concerns about the virus first hit earlier this year.”<sup>2</sup> The plan reportedly includes actions to restrict public access and assemblies and, “in the most extreme case,” the House “would sit less often, with shorter days and fewer MPs, who would be spread out around the Chamber.”<sup>3</sup>

The Speaker noted that “[y]ou can have proxy votes for up to 25 per cent of the House at any one time . . . if the meetings of parliament should be much smaller and people don’t travel as much, you could actually run the parliament, for a short term, with 10 to 12 members.”<sup>4</sup> Furthermore, he stated that, with the agreement of the Business Committee, an adjustment could be made to proxy voting arrangements. In addition, select committees could continue “because technology already allowed for them to be broadcast and video-linked for evidence and submissions,” and “[t]he rules could also be changed to allow for them to be held remotely, with MPs in different locations.”<sup>5</sup> The Speaker said that the pandemic plan and its implementation would continue to evolve in consultation with the Director-General of Health, the Leader of the House, and the shadow Leader of the House (a member of the main opposition party responsible for parliamentary business matters).

The article stated that, during the past year, the Parliamentary Service (an agency that provides administrative and support services to the Parliament) had been working on business continuity planning for security scenarios and natural disasters, and that part of that “had been identifying groups of staff who are absolutely core to the essential running of parliament and identifying those who could work remotely.”<sup>6</sup>

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<sup>1</sup> Collette Devlin, *Coronavirus: Parliament Ready to Roll Out Pandemic Plan and Face Masks*, Stuff (Mar. 6, 2020), <https://perma.cc/5K5J-2DA6>.

<sup>2</sup> Id.

<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> Id.

On March 16, 2020, public access restrictions to the Parliament buildings were announced. This included witnesses being required to give evidence to select committees by video conference or teleconference only.<sup>7</sup>

On March 15, 2020, Radio New Zealand published an article on various approaches to running the country during a pandemic.<sup>8</sup> This included discussion about how Parliament could operate, particularly with respect to approving appropriations. It notes that each party is only allowed to have 25% of their MPs absent from Parliament. Any others above this percentage cannot have their votes included in a party vote. The author stated that there are four ways around this rule:

- Parliament can change its own rules via a sessional order. A rule change could increase the number of MPs allowed to be absent and still have their votes count. Say move it to 80% and only 24 MPs would need to be present and could vote on behalf of all of their party brethren.
- Bills could pass with very few votes, (say 8 votes for and 7 votes against). This is within the rules. The House can pass laws with only two MPs in the chamber so long as they are a minister and a speaker. There's no requirement for anyone else to be there. On paper, just two MPs are capable of providing the Government with money, or passing laws or a budget.
- Declare an emergency. If a National Emergency is declared the 75% present rule is ignored. The Government running out of money would be a literal national emergency.
- Have everyone agree. Counted votes don't even have to occur if no MP disagrees with a proposal. Yes they do all agree sometimes.<sup>9</sup>

## II. Sessional Order in Response to the Current Pandemic

On March 19, 2020, all parties in Parliament supported a motion by the Leader of the House for the adoption of certain procedures "to facilitate the activities of the House and its committees during the current epidemic."<sup>10</sup> These include allowing the Business Committee to adjust or waive the limit on proxy votes that may be cast by a party during a party vote; allowing oral questions to be lodged electronically; allowing select committees, including the Business Committee, to conduct meetings and other forms of decision-making by electronic means; and giving the Assistant Speaker the power to perform all duties and exercise the authority of the Speaker during an adjournment of the House, if both the Speaker and the Deputy Speaker are absent from duty.<sup>11</sup>

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<sup>7</sup> Press Release, New Zealand Parliament, Update on Public Access to New Zealand Parliament (Mar. 16, 2020), <https://perma.cc/QY2X-FCDE>. See also Collette Devlin, *Coronavirus: Public Tours Cancelled as Parliament Implements Pandemic Plan*, Stuff (Mar. 16, 2020), <https://perma.cc/LQ68-87QF>.

<sup>8</sup> Phil Smith, *How to Run a Country in a Pandemic*, Radio New Zealand (Mar. 15, 2020), <https://perma.cc/L3RU-M73N>.

<sup>9</sup> Id.

<sup>10</sup> Parliamentary Debates (Hansard) (Draft), Mar. 19, 2020, Hon Chris Hipkins (Leader of the House), Standing Orders - Sessional (Motion), <https://perma.cc/H5KT-NETV>.

<sup>11</sup> Id.

The Leader of the House stated that the motion

proposes putting in place a sessional order that will become part of the House's rules until the next election. It's important to note that only minor administrative measures proposed come into effect immediately. The more serious measures would be triggered only if the situation developed in a way that means a significant number of MPs are unable to travel to Wellington to be physically present at Parliament.<sup>12</sup>

With respect to the ability of the Business Committee to make changes to the limit on proxy votes, the Leader of the House noted that "the Business Committee operates on near unanimity. So this is not a question of the Government or even a majority of Parliament adjusting these rules. Any adjustment would require near unanimity."<sup>13</sup> He also stated that

if numbers in the House became severely depleted for any reason, the Government would not continue with a full legislative program. The House would be left to focus upon scrutiny of the executive and passing any legislation that was necessary to deal with COVID-19 or any other urgent matter, and it's likely that sitting hours could be reduced in order to effect that. The Business Committee already has the power to adjust the sitting programme if necessary.<sup>14</sup>

In addition, it was reported that, during the recess scheduled for the following week, the Parliamentary Service and Office of the Clerk would prepare and test their systems for remote working of parliamentary support staff, with the intention to have at least 30% of the workforce working remotely at all times.<sup>15</sup>

### III. Developments Following the Motion

On March 23, 2020, the Prime Minister announced that the country would move to "Alert Level 4" on its four-level alert system established for the COVID-19 pandemic at 11:59 p.m. on Wednesday, March 25, 2020.<sup>16</sup> At this level, people are instructed to stay home and all businesses and education facilities are closed, with the exception of essential services, and domestic travel is "severely limited."<sup>17</sup> Following this announcement, the Leader of the House, Chris Hipkins, reportedly stated that

Parliament's business committee will meet tomorrow [March 24] via teleconference, with the speaker asked to recall parliament on Wednesday. Terms for that would be determined, but Hipkins did not expect MPs to travel to Wellington.

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<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> Collette Devlin, *Coronavirus: Parliament Changing Rules to Run on Skeleton Numbers if Needed*, Stuff (Mar. 19, 2020), <https://perma.cc/NMY5-ARHC>.

<sup>16</sup> Press Release, Jacinda Ardern, *New Zealand Moves to COVID-19 Alert Level 3, then Level 4 in 48 Hours* (Mar. 23, 2020), <https://perma.cc/G3BZ-6RW6>.

<sup>17</sup> *COVID-19 Alert System*, Unite Against COVID-19, New Zealand Government, <https://perma.cc/F229-BYLC>.

Parliament would need to receive the epidemic notice that the prime minister will soon issue. They will seek a supply bill to allow funding to continue to flow, and a motion to suspend parliamentary business, including everything before select committees. An “accountability mechanism” would be established so that opposition and backbench MPs can continue to critique the government.

“At this point parliament will adjourn. No fixed date for parliament to meet again will be set at this point. We will ask the speaker to recall parliament when it’s appropriate to do that.”<sup>18</sup>

On March 24, 2020, the Speaker confirmed that the Business Committee had agreed on the form of the “accountability mechanism” referred to above. A special select committee will be established that will have “unusual powers” akin to those of the Privileges Committee, which include “subpoena-like powers to summon people and receive documents.”<sup>19</sup> The 11-person committee will be chaired by the leader of the main opposition party (or his nominee) and will have a total of five members from that party (who may rotate depending on the topic of discussion) as well as one from the other opposition party – meaning that the opposition will have a majority on the committee. The Speaker said he believed the committee will meet two or three times per week, “and its work will include hearing from officials and ministers leading the government response” to the pandemic.<sup>20</sup> Meetings will be conducted remotely via videoconferencing, with the chair intending to be in a meeting room in the Parliament Buildings. However, the chair said he would encourage in-person attendance where possible.<sup>21</sup> The proceedings will be publicly broadcast via online livestream.<sup>22</sup>

The Speaker also said that the government will move to adjourn Parliament for five weeks until April 28, 2020.<sup>23</sup>

#### IV. Legislation and Parliamentary Rules

The motion of March 19, 2020, resulted in the approval of a “sessional order.” Such orders supplement or suspend the Standing Orders of the House of Representatives for the current session of Parliament.<sup>24</sup> For example, Standing Order 155 relates to the casting of a proxy vote

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<sup>18</sup> Covid-19 NZ Live Updates, March 23: New Zealand Prepares for Nationwide Shutdown, Spinoff (Mar. 23, 2020), <https://perma.cc/CJB6-RSLT>. See also Collette Devlin, *Coronavirus: Parliament to Shut Down with No Fixed Return Date*, Stuff (Mar. 23, 2020), <https://perma.cc/W87M-9R2F>.

<sup>19</sup> Sam Sachdeva, *The Committee Keeping the Government Honest*, Newsroom (Mar. 24, 2020), <https://perma.cc/7J7R-G4PL>.

<sup>20</sup> Id.

<sup>21</sup> Id.

<sup>22</sup> Henry Cooke, *Coronavirus: Parliament Will Close until Late-April, Replaced with Simon Bridges-Chaired Select Committee*, Stuff (Mar. 24, 2020), <https://perma.cc/44YJ-XTS8>.

<sup>23</sup> Id.

<sup>24</sup> *Sessional Orders*, New Zealand Parliament, <https://perma.cc/K6D4-CDPS>. See also *Parliamentary Practice in New Zealand* 16 (Mary Harris & David Wilson eds., 4th ed., 2017), <https://perma.cc/JS57-D3RW>.

and includes the 25% rule referred to above.<sup>25</sup> It will now be read alongside the rule included in the motion allowing the Business Committee to adjust or waive the limits on proxy votes. Standing Orders 37 to 40 relate to attendance and absence of members, including the ability for members to obtain permission from the Speaker to be absent from the House and the requirement for a Minister to be present during all sitting hours of the House.<sup>26</sup> Apart from these rules, and requirements in the Standing Orders for the presence of a minimum number of members for votes on certain matters, there is no explicit general quorum applicable to the House.<sup>27</sup>

*Parliamentary Practice in New Zealand* states that,

[L]ike many legislatures around the world, the House regulates its own proceedings without intervention by any other authority. The exclusive right to control its own operation is one of the House's privileges.

...

The authority for the existence of Parliament and the House of Representatives, the determination of who is to be a member of Parliament, and many other fundamental parliamentary rules are derived from statutes, principally the Constitution Act 1986 and the Electoral Act 1993. The Bill of Rights 1688 and the Parliamentary Privilege Act 2014 provide the statutory basis for the privileges enjoyed by the House.<sup>28</sup>

With respect to the Standing Orders, it notes that these "are the primary rules of the House, providing for the conduct of its proceedings and for the exercise of its powers" and are "appropriately regarded as constitutional rules."<sup>29</sup> It also explains the role of the Business Committee in the context of adjusting how the House conducts business:

The Standing Orders furnish the default settings for the usual conduct of the business of the House, but also permit members to adjust these settings by agreement. Such accommodations allow members to focus on matters of immediate political concern, while enabling the appropriate progression of legislation and the holding of the Government to account. The central hub for such negotiations is the Business Committee, which has been accorded a growing array of powers to determine arrangements for sittings and the consideration of business. The House has authorised the Business Committee to make cross-party agreements that have effect despite Standing Orders to the contrary, as long as the arrangements are not discriminatory or oppressive to minority parties. This flexibility for the House to adapt to different political circumstances and demands is not restricted to the Business Committee; there is scope in all parliamentary activities to find pragmatic solutions. The balance of interests encapsulated in the Standing Orders provides the starting point for these negotiations.<sup>30</sup>

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<sup>25</sup> Standing Orders of the House of Representatives, 2017, Standing Order 155, <https://perma.cc/4VFB-Z2SM>.

<sup>26</sup> Id. Standing Orders 38 & 40, <https://perma.cc/CH8C-9ALG>.

<sup>27</sup> *Parliamentary Practice in New Zealand*, supra note 24, at 54-55.

<sup>28</sup> Id. at 9.

<sup>29</sup> Id. at 12.

<sup>30</sup> Id. at 13.

# Nicaragua

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## I. Functioning of the National Legislature

The Constitution mandates that one of the functions of the National Assembly is to approve, reject or modify an Executive Decree that declares a State of Emergency suspension of constitutional rights and guarantees, as well as its extensions.<sup>1</sup> The Organic Law of the Legislative Branch charges the Plenary of the National Assembly with the execution of this constitutional mandate.<sup>2</sup>

Once the Secretary of the National Assembly has received a State of Emergency Decree from the President of the Republic, the President of the National Assembly will immediately call a session. The National Assembly will discuss the executive decree in a single session and without passing it on to a committee.<sup>3</sup> The National Assembly may approve, reject or modify by means of a legislative decree the executive decree that declared the State of Emergency, as well as its extensions when they are submitted to it.<sup>4</sup> If a State of Emergency decree is not sent to the National Assembly within 72 hours of its declaration, it loses its validity.<sup>5</sup>

## II. Emergency Parliament

The Organic Law of the Legislative Branch does not provide any arrangements in the National Assembly for a designated subgroup of members to constitute a kind of “emergency legislature” with devolved powers from the whole legislature to address crisis situations. Neither does the Organic Law appear to address how the legislature operates its offices when its members and staff are unable to travel or movement is restricted.

## III. Work During Pandemic

The Constitution provides that the President of the Republic, in the Council of Ministers, may decree, for all or part of the national territory and for a determined and extendable time, the suspension of rights and guarantees, when demanded by national security, economic

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<sup>1</sup> Constitución Política de la República de Nicaragua, art. 138(28), originally published in La Gaceta, Diario Oficial [L.G.] (Official Gazette), on Jan. 9, 1987, published with all its amendments in L.G. Feb. 18, 2014, <https://perma.cc/65N3-ARHK>.

<sup>2</sup> Ley No. 606, art. 33(34), Ley Orgánica del Poder Legislativo, La Gaceta, Diario Oficial [L.G.], Feb. 6, 2007, as amended, L.G. Sept. 5, 2019, <https://perma.cc/2JN5-U8JV>.

<sup>3</sup> Id. art. 133.

<sup>4</sup> Id. art. 134.

<sup>5</sup> Id. art. 135.

conditions or in the event of a national catastrophe. It also provides that an Emergency Law will regulate the decree's form.<sup>6</sup>

No information has been found indicating that the government of Nicaragua has implemented preventive measures to protect its inhabitants from the imminent threat of COVID-19, such as border closures, travel restrictions or the imposition of mandatory quarantines. On the contrary, there is information indicating that the government has ignored the threat of the epidemic despite the fact that the first case of COVID-19 in the country has been registered already.<sup>7</sup>

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<sup>6</sup> Constitución Política de la República de Nicaragua art. 185.

<sup>7</sup> Jeff Ernst, *Nicaraguan Government Ignores Coronavirus and Prepares for Large Easter Celebrations, Without Church*, Univision (Mar. 22, 2020), <https://perma.cc/6SAJ-YXDP>.

# Norway

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## I. Constitutional Requirements and the Role of the Norwegian Parliament

The Norwegian Parliament (the name of which is the Storting) is the legislative body in Norway.<sup>1</sup> It is a unicameral legislature with 169 members.<sup>2</sup> The Norwegian people are represented through it.<sup>3</sup> It passes legislation that is subsequently signed by the King and enacted in his name.<sup>4</sup> In addition, the Parliament is responsible for:

- passing and revoking laws, issuing taxes, fees, duties, and other public debts for the upcoming year;
- taking out state loans;
- overseeing the Norwegian monetary system;
- granting funds that are necessary to meet the financial obligations of the state;
- determining the royal endowment;
- archiving state papers;
- announcing sanctions and treaties that the King has entered into with other states;
- calling for parliamentary hearings;
- appointing five accountants who shall review the state finances annually and announce extracts from them to be published; [and]
- choosing a person (not a member of the Norwegian Parliament) to oversee public administration.<sup>5</sup>

The Constitution provides that, during enemy fire, or because of contagious diseases, the Parliament may meet at another place than its seat (Oslo).<sup>6</sup> The Constitution includes no other special rules during times of emergency.<sup>7</sup> However, as stipulated in the Norwegian Constitution, half of the total members of parliament must always be present to vote.<sup>8</sup> Currently that means

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<sup>1</sup> § 75 Grunnloven [Norwegian Constitution] (LOV-1814-05-17), <https://perma.cc/N7N6-3N6H>.

<sup>2</sup> Id. § 57.

<sup>3</sup> Id. § 49.

<sup>4</sup> Id. §§ 77 & 81.

<sup>5</sup> Id. § 75.

<sup>6</sup> Id. § 68.

<sup>7</sup> Grunnloven.

<sup>8</sup> Id. § 73.

that, at any time, at least 85 of 169 members must be present for the Parliament to hold a vote.<sup>9</sup> For an amendment to the Constitution to pass, two-thirds of the members must be present.<sup>10</sup> Half of the members present must vote in favor for a law or measure to pass.<sup>11</sup> In addition to the rules set out in the Norwegian Constitution, the Norwegian Parliament's procedures are also governed by the Storting Rules of Procedure (Stortingets forretningsorden).<sup>12</sup> For example, Section 5 provides that any leave of absence should be presented to the Presidium (President of the Parliament),<sup>13</sup> while Section 8 provides for what happens when the President and Vice Presidents of the Parliament are absent for shorter or longer periods time.<sup>14</sup>

## II. Measures to Limit COVID-19 Spread

The Norwegian Parliament has adopted a number of measures during the month of March 2020 aimed at limiting the spread of COVID-19. For example, as of March 12, 2020, the Parliament has reduced the number of members who may be present in the Storting to vote to the 85-member minimum requirement.<sup>15</sup> The Parliament has also reduced the number of issues that it will decide by vote in the chamber during March and April 2020, limiting it to only issues that must be resolved urgently.<sup>16</sup> The President of the Storting, similar to the US Speaker of the House, will determine what issues are urgent after consulting and discussing with the party leadership.<sup>17</sup> During the week of March 16 to March 22, 2020, the Parliament met three times, on March 16th and March 19th, and in an extra Saturday session on March 21st.<sup>18</sup> During the extra session, the Parliament met to adopt the "Corona Act," an enabling act intended to give the government (cabinet) powers that are ordinarily reserved for the Parliament.<sup>19</sup> The Parliament met once during the week of March 23 to March 29, 2020, on March 24th, to adopt the Corona Act in a

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<sup>9</sup> Id. § 57.

<sup>10</sup> Id. § 73.

<sup>11</sup> Id.

<sup>12</sup> Stortingets forretningsorden (FOR-2012-06-07-518), <https://perma.cc/W5DN-CH7R>. A November 2017 English translation is available at <https://perma.cc/CSY6-HCJC>.

<sup>13</sup> Id. § 5.

<sup>14</sup> Id. § 8.

<sup>15</sup> Press Release Stortinget, *Stortinget har vedtatt særskilt komité* (Mar. 17, 2020), <https://perma.cc/GX4R-MJWV>. Press Release Stortinget, *Stortinget begrenser møtevirksomheten* (Mar. 12, 2020), <https://perma.cc/D5MK-TSEH>.

<sup>16</sup> Press Release Stortinget, *Stortinget begrenser møtevirksomheten*, supra note 15.

<sup>17</sup> Id.

<sup>18</sup> Press Release Stortinget, *Stortinget begrenser møtevirksomheten* (Mar. 12, 2020), <https://perma.cc/D5MK-TSEH>.

<sup>19</sup> Stortinget, *Midlertidig lov om forskriftshjemmel for å avhjelpe konsekvenser av utbrudd av Covid-19 mv. (koronaloven)* (undated), <https://perma.cc/97ZG-5DDG>; see also Press Release, Stortinget, *The Storting Is Considering an Enabling Act* (Mar. 20, 2020), <https://perma.cc/HEX6-YSR7>.

second reading.<sup>20</sup> The amended version of the act gives the Norwegian government emergency powers that are normally reserved for the Parliament.<sup>21</sup> The original version of the Corona Act was criticized as giving the Norwegian government more powers than it would have in a time of war.<sup>22</sup> The version that passed gives the Norwegian Government power to pass laws without the Parliament for one month, significantly shorter than the proposed six months.<sup>23</sup> Moreover, one-third of Parliament members may come together and repeal any law passed by the government under the authority of the Corona Act.<sup>24</sup>

In addition, the Norwegian Parliament has temporarily suspended the Storting Rules of Procedure on Standing Committee meetings, limited the number of standing committee meetings, encouraged digital solutions, and enabled members to attend meetings virtually rather than in person.<sup>25</sup> Committee voting and discussions can thus take place using electronic means of communication, "such as telephone or Skype," although the Parliament has not specified which digital platform it uses.<sup>26</sup> Although no law provides information with regard to the operation of individual members' offices, it seems likely that they are choosing to operate in a fashion similar to the standing committees. In a direct response to the COVID-19 outbreak, the Parliament has also created a special committee for COVID-19 issues that will meet weekly, and which includes members from all nine parliamentary parties.<sup>27</sup>

The Norwegian Parliament has also taken steps to limit visitors in its building, and canceled all public guided tours (including group and class tours) of the Parliament.<sup>28</sup> All meetings in the chamber continue to be live-streamed online on the Parliament website.<sup>29</sup>

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<sup>20</sup> *Stortingsmøter*, Stortinget, <https://perma.cc/8QKU-7KA5>; Midlertidig lov om forskriftshjemmel for å avhjelpe konsekvenser av utbrudd av Covid-19 mv. (koraloven), <https://perma.cc/WW4W-XM43>. ; Press Release Stortinget, Koronaloven (Mar. 24, 2020), <https://perma.cc/FQB2-QGZM>.

<sup>21</sup> Vurderinger og innspill til Prop. 56 L (Mar. 20, 2020), <https://perma.cc/5V56-W4CD>; see also commentary on the proposal at Adele Matheson Mestad, *Demokrati i karantene?*, *Rett24.no* (Mar. 22, 2020), <https://perma.cc/D2H6-5CJQ>.

<sup>22</sup> Bergens Tidenden (editorial desk), *Kriseloven er udemokratisk og overilt*, *Bergens Tidende* (Mar. 19, 2020), <https://perma.cc/BG5C-HZP4>; see also Sylo Taraku, *Vi må være på vakt mot både koronaviruset og koronalover*, *Aftenposten* (Mar. 21, 2020), <https://perma.cc/3Y33-ENQ5>.

<sup>23</sup> Stortinget, Midlertidig lov om forskriftshjemmel for å avhjelpe konsekvenser av utbrudd av Covid-19 mv. (koraloven), *supra* note 19.

<sup>24</sup> *Id.*

<sup>25</sup> Press Release Stortinget, Stortinget begrenser møtevirksomheten, *supra* note 18; see also Press Release Stortinget, *New Working Procedures for the Standing Committees During the COVID-19 Outbreak* (last updated Mar. 19, 2020), <https://perma.cc/YE7E-D76R>.

<sup>26</sup> Press Release Stortinget, *New Working Procedures for the Standing Committees During the COVID-19 Outbreak*, *supra* note 25.

<sup>27</sup> Press Release Stortinget, Stortinget har vedtatt særskilt komité (Mar. 17, 2020), <https://perma.cc/9MLV-H4K2>.

<sup>28</sup> Press Release Stortinget, Stortinget skjerper tiltak mot korona (Mar. 11, 2020), <https://perma.cc/5FN4-FV8L>.

<sup>29</sup> *Id.*

### III. Measures to Limit Spread of COVID-19 Among Cabinet Members

As of March 23, 2020, Prime Minister Erna Solberg had not been tested for COVID-19.<sup>30</sup> Currently, the government is meeting more often than it usually does.<sup>31</sup> Usually it meets once a week, but last week, it met on the 13th, 15th, 18th, and 20th of March.<sup>32</sup> However, reportedly, not everyone meets in person, as some members join the meetings via video link.<sup>33</sup>

As of March 23, 2020, one member of Erna Solberg's cabinet, Labor and Social Affairs Minister Torbjørn Røe Isaksen, as well as two staffers (statssekretærer), have confirmed COVID-19 infections.<sup>34</sup>

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<sup>30</sup> Jan Gunnar Furuly, Christian Sjørgjerd, and Solveig Ruud, *Både statssekretærer og en statsråd er smittet. Men statsminister Solberg har ikke testet seg*, Aftenposten (Mar. 23, 2020), <https://perma.cc/2QT4-26SL>.

<sup>31</sup> Id.

<sup>32</sup> Id.

<sup>33</sup> Id.

<sup>34</sup> Id.; Astrid Randen, *Koronasmittede Røe Isaksen: Gir beskjed til alle jeg har vært i kontakt med*, NRK (Mar. 19, 2020), <https://perma.cc/6S49-HAVC>.

# Philippines

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## **I. Rules for the Functioning of the National Legislature under Emergency Measures**

The Rules of the Philippine House of Representatives provide that the Speaker, in consultation with the Majority and Minority Leaders and their Senate counterparts, may convene the House in session at any time during a recess or between sessions in order to consider urgent legislative matters.<sup>1</sup> These rules also provide that when not in session, the House must convene within 24 hours following the proclamation of martial law, the suspension of the privilege of the writ of habeas corpus or the occurrence of a national emergency.<sup>2</sup> The House of Representatives and the Senate have the authority to expedite the legislative process when it becomes necessary to address urgent matters.<sup>3</sup>

## **II. Arrangements for an “Emergency Parliament”**

As of the time of this report, no information could be located on a current arrangement whereby a designated subgroup of members could constitute an “emergency congress” with devolved powers from the whole congress to address crisis situations, excluding the whole Congress for the duration of the crisis.

## **III. Measures Taken to Address the COVID-19 Pandemic**

On March 9, 2020, the Philippine Senate suspended regular sessions in an effort to “prevent further spread of COVID-19 by practicing social distancing as a whole institution.”<sup>4</sup> On March 11, the Philippine Senate went on recess until May 4, 2020.<sup>5</sup> Similarly, the House of Representatives ordered the suspension of regular sessions from March 23 to April 12, 2020, and instituted the following measures applicable to House operations during such period:

The Office of the Sergeant at Arms, Legislative Security Bureau, Finance Department, Engineering and Physical Facilities Department, and Information Communications Technology Service must implement a rotating skeletal workforce for the duration of the work suspension.

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<sup>1</sup> Rules of the House of Representatives § 87, <https://perma.cc/Y56V-4D2M>.

<sup>2</sup> Id. § 86.

<sup>3</sup> Id. §§ 58, 80. See also Rules of the Senate §§ 68, 71, <https://perma.cc/J776-TX8J>.

<sup>4</sup> Press Release, Senate of the Philippines, Senate Adjourns for Summer Break (Mar. 12, 2020), <https://perma.cc/KJ2M-W8W7>.

<sup>5</sup> Id.

Those not on rotating skeletal workforce must be allowed to work from home but are required to timely submit their assignments using telecommunication and online technologies.

As there is an equally urgent need to ensure continuity in the delivery of public service, all House of Representatives employees must be on-call and may be required to report to office to perform their official duties for the welfare of the public.

Committee hearings, briefings, and conferences may be conducted in the House of Representatives to help address the spread of COVID-19 and mitigate its impact. In those events, measures that would minimize risks by facilitating social distancing must be strictly implemented.<sup>6</sup>

On March 23, the House of Representatives held a special session to consider a measure declaring a national emergency and granting the Philippine president pertinent powers to address the coronavirus outbreak.<sup>7</sup> For the first time in the House's history, this session took place in a "virtual" manner in order to observe social distancing measures.<sup>8</sup> About 20 members attended personally, while 279 other members joined online by teleconference.<sup>9</sup> Votes on this measure were to be made via text messaging and other online means.<sup>10</sup> Reportedly, this measure was passed by the House the same day.<sup>11</sup> The Senate was still analyzing this measure as of March 23.<sup>12</sup>

#### **IV. Operation of Legislative Offices when Members and Staff Are Unable to Travel and Movement is Restricted**

No information was located concerning a pre-established law or regulation specifically addressing how the Philippine Congress is to operate its offices when members and staff are unable to travel or are restricted in their movement and interactions. However, the information provided in the previous section addresses ad-hoc measures taken due to the current COVID-19 situation.

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<sup>6</sup> Press Release, House of Representatives, Message of House Secretary General Atty. Jose Luis G. Montales on House of Representatives' Work Schedule (Mar. 14, 2020), <https://perma.cc/HY38-MKHH>.

<sup>7</sup> Press Release, Philippine News Agency, Congress Tackles Covid-19 Emergency Measures in Special Session (Mar. 23, 2020), <https://perma.cc/ZS6U-4EAF>.

<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Id.

<sup>11</sup> Press Release, Philippine News Agency, House Okays Special Powers for PRRD to Address Covid-19 Crisis (Mar. 24, 2020), <https://perma.cc/BT5A-U5CW>.

<sup>12</sup> Press Release, Philippine News Agency, PRRD's 'Additional Powers' to Stay within Bounds: Go (Mar. 23, 2020) <https://perma.cc/X5XC-K7FY>.

# Portugal

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## I. Functioning of the National Legislature

According to the Portuguese Constitution, sovereign bodies may not, jointly or separately, suspend the exercise of rights, freedoms, and guarantees, except in the case of a state of siege or a state of emergency, declared in the manner provided for in the Constitution.<sup>1</sup> A state of siege or state of emergency may only be declared, in all or part of the national territory, in cases of effective or imminent aggression by foreign forces, serious threat or disturbance to the democratic constitutional order, or public calamity.<sup>2</sup> A declaration of a state of siege or state of emergency gives the authorities the competence to take the necessary and appropriate measures for the prompt restoration of constitutional normality.<sup>3</sup>

It is incumbent upon the President of the Republic to declare a state of siege or state of emergency, subject to the provisions of articles 19 and 138 of the Constitution.<sup>4</sup> However, a state of siege or state of emergency requires prior consultation of the government and authorization by the Assembly of the Republic or, if the Assembly is not sitting and it is not possible to arrange for it to sit immediately, by the Assembly's Standing Committee.<sup>5</sup> A declaration of a state of siege or state of emergency authorized by the Standing Committee must be confirmed by the plenary as soon as it is possible to arrange for it to sit.<sup>6</sup>

## II. Emergency Parliament

Portuguese legislation does not provide any arrangements in the national parliament for a designated subgroup of members to constitute a kind of "emergency parliament" with devolved powers from the whole parliament to address crisis situations.

## III. Work During the COVID-19 Pandemic

On March 3, 2020, the Assembly of the Republic approved a contingency plan for the purpose of anticipating and managing the impact of the COVID-19 outbreak in Parliament with regard to

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<sup>1</sup> Constituição da República Portuguesa (VII Revisão Constitucional [2005]), art. 19(1), <https://perma.cc/7XT9-GYQJ>.

<sup>2</sup> Id. art. 19(2).

<sup>3</sup> Id. art. 19(8).

<sup>4</sup> Id. art. 134(d).

<sup>5</sup> Id. art. 138(1).

<sup>6</sup> Id. art. 138(2).

both members and visitors.<sup>7</sup> The main objective of the plan is to prepare the Assembly for better management of the risk of infection and to face eventual cases of illness, minimizing transmission and its impact on the activities of Parliament and the community while also ensuring the functioning of its organs and services and the full exercise of the powers of the sovereign body.<sup>8</sup>

According to the plan, the management of the eventual pandemic situation justified the creation of the COVID-19 Management Office (Gabinete de Gestão do COVID-19, GGC19) in the Assembly of the Republic, composed of the Secretary-General, a doctor from the Medical and Nursing Office of the Assembly of the Republic, the Administrative and Finance Director, and the Director of the Communications Office.<sup>9</sup> The Contingency Plan is to be activated by a determination of the Secretary-General of the Assembly of the Republic, following an opinion from GGC19, with the scope of the measures being weighed at all times against the available data.<sup>10</sup>

The Plan must be activated when a member, parliamentary employee, or employee of a parliamentary group is suspected of being infected with COVID-19. Likewise, it must be activated when the suspected infection of a worker exercising regular functions in the Assembly of the Republic is confirmed, which includes workers of external companies and entities. Finally, it must be activated if there are guidelines from the Directorate-General for Health requiring activation, regardless of confirmation of a suspected case in the Assembly.<sup>11</sup>

The mobilization of the response may include restrictions on in-person meetings that are within the scope of the Assembly's services to the essential minimum, among other measures, and remote meetings are preferred through technological means of information and communication.<sup>12</sup>

The President of the Assembly of the Republic may, on his own initiative or upon a proposal by the GGC19 and after hearing the Conference of Leaders, determine the scope of additional measures relating to the functioning of the plenary, Parliamentary Commissions, travel, official missions of Deputies, visits to the Assembly's external entities and delegations, or assistance to plenary meetings.<sup>13</sup>

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<sup>7</sup> Press Release, Assembleia da República, COVID-19 - Plano de Contingência da Assembleia da República (Mar. 3, 2020), <https://perma.cc/2AKP-5373>.

<sup>8</sup> Id.

<sup>9</sup> Plano de Contingência da Assembleia da República, Doença por COVID-19, at 3, <https://perma.cc/Q6XR-YPLM>.

<sup>10</sup> Id.

<sup>11</sup> Id. at 6.

<sup>12</sup> Id. at 7.

<sup>13</sup> Id.

# Russian Federation

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## I. Constitutional Provisions

No provision concerning the continuity of legislative activities could be found in Russian Federation law. The Russian Constitution states that both chambers of the Russian Federal Assembly (legislature) are to hold their meetings in Moscow. Regarding the adoption of laws, the Constitution states that laws are to be adopted by a simple majority of the members elected to the chamber. Federal constitutional laws, which are laws addressing major issues of the nation's constitutional system, must be passed by at least two-thirds of the elected members.<sup>1</sup> The same provision is almost verbatim repeated in the Internal Rules of the Russian State Duma.<sup>2</sup> A quorum is only required for passing laws; no requirement on the minimum number of members present is established for any other parliamentary activities.

While a simple majority vote in the upper chamber, the Federation Council, is required for giving consent to the laws adopted by the State Duma, the Constitution provides that legislation is automatically considered adopted if it is not voted on by the upper chamber within fourteen days.<sup>3</sup>

There is neither a legislative provision nor an established practice allowing the legislature to conduct its formal sessions outside of the chambers, and remote voting is not allowed. Federal legislation and the Duma's internal rules require each legislator "to vote in person."<sup>4</sup> A legislator who is absent for a qualified reason may submit a written statement expressing the legislator's opinion concerning the issue under discussion. This statement is attached to the Duma's records but cannot be counted as a vote for or against the measure.

When a nationwide emergency situation is declared by the President of Russia, the Federal Assembly must continue its work during the entire emergency period.<sup>5</sup> The President's emergency situation declaration must be approved by the Federation Council within 72 hours.

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<sup>1</sup> Constitution of the Russian Federation art. 105, <https://perma.cc/W6GR-8N5C>.

<sup>2</sup> Rules and Procedures of the State Duma of the RF Federal Assembly art. 92, <https://perma.cc/7G6J-AX72> (in Russian).

<sup>3</sup> Constitution art. 105.

<sup>4</sup> Rules and Procedures of the State Duma art. 85.

<sup>5</sup> Federal Constitutional Law on Emergency Situations of May 30, 2001, art. 8, <https://perma.cc/DSU9-KV6H> (in Russian).

Because elections cannot be conducted during an emergency situation, the power of the elected institutions whose terms of duty expired during the declared emergency are extended for the duration of the emergency.<sup>6</sup>

## II. Arrangements During COVID-19 Pandemic

Several members of the Duma were recently quarantined because of their contacts with persons who tested positive for COVID-19. On March 15, 2020, the Duma changed its schedule, shortening the time for plenary sessions. Under a normal schedule, the Duma meets for two weeks, then has one week of committee work, and the last week of the month is reserved for work in the district. Currently and through August, the Duma will meet every other week for plenary meetings, which will be followed by another week of conferences and committee hearings. Trips to districts are cancelled and meetings with voters are being conducted remotely using online communication tools.<sup>7</sup>

Since March 22, all nonessential staff of the legislature, including the staff of the party factions, have been working from home.<sup>8</sup>

The State Duma has restricted the number of visitors. All public tours and delegation visits have been stopped, and the number of accredited journalists who may attend legislative events has been reduced twice. Previously scheduled meetings with members of the Cabinet of Ministers and experts have also been cancelled. Mandatory checks of body temperature have been introduced for all persons entering the State Duma building.<sup>9</sup>

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<sup>6</sup> Id. art. 14.

<sup>7</sup> Igor Iakunin, *Don't Leave the Country without Bills: Members of the Duma Won't be Quarantined*, KP.ru (Mar. 15, 2020), <https://perma.cc/58EC-2MUZ> (in Russian).

<sup>8</sup> *Quarantined Legislators Will Keep Working Remotely but Voting*, MSKAgency.ru (Mar. 17, 2020), <https://perma.cc/2ZUX-S4AF> (in Russian).

<sup>9</sup> Irina Poluboiarinova, *Quarantine in Duma*, OTR.ru (Mar. 17, 2020), <https://perma.cc/U8G7-UPK6> (in Russian).

# South Africa

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## I. Current Situation

Following South African President Cyril Ramaphosa's declaration of a national state of disaster over COVID-19 on March 17, 2020,<sup>1</sup> the leadership in Parliament (consisting of the National Assembly and the National Council of Provinces, NCOP) held a special meeting.<sup>2</sup> At the meeting, they agreed that after the conclusion of its sitting on March 18 to consider matters "which have specific time-frames and require consideration," the National Assembly would suspend its business, including the sitting of the Assembly as well as its committee and public hearings, until further notice.<sup>3</sup> Similarly, the NCOP would do the same after its sitting on March 19.<sup>4</sup>

In addition to closing its doors to the public, Parliament is said to be making arrangements to "reduce the number of staff members in the precinct."<sup>5</sup> However, it does not appear that there is an arrangement in place to delegate the powers and functions of Parliament to a subgroup of members in emergency situations.

Parliament appears to be maintaining some functions. In a statement released on March 21, the Parliament noted that although it had scaled down its work in order to stop the spread of COVID-19, it "is busy processing legislation that will ensure universal access to health care for all."<sup>6</sup> It also appears that members of Parliament are permitted to travel to their constituencies at this point.<sup>7</sup> No information was located relating to the issue of how members of Parliament would maintain operations if, in addition to restrictions placed on their staff, their movements were restricted.

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<sup>1</sup> Wendell Roelf, *Update 1—South Africa's Ramaphosa Declares State of Disaster over COVID-19*, Reuters (Mar. 15, 2020), <https://perma.cc/GES9-4T59>.

<sup>2</sup> Press Release, Parliament of the Republic of South Africa, *Change in Parliament's Programme Due to COVID-19* (Mar. 17, 2020), <https://perma.cc/7R2T-RR5K>.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* The precinct is "the area of land and every building or part of a building under Parliament's control." Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 4 of 2004, § 2 (June 7, 2004), <https://perma.cc/BN4K-NDRR>.

<sup>6</sup> Press Release, Parliament of the Republic of South Africa, *Parliament Urges All to Respect Human Rights in the Midst of this Deadly Pandemic* (Mar. 21, 2020), <https://perma.cc/UJX8-RTD3>.

<sup>7</sup> *Id.*

## II. Emergency Parliament

It appears that an arrangement in the 400-member Assembly in which legislative authority may be delegated to a small group of its members would at least require changing the Rules of the National Assembly and the Constitution.

According to the Rules, “[t]he Assembly may proceed with its business irrespective of the number of members present, but may vote on a Bill or decide on any question only if a quorum is present.”<sup>8</sup> The quorum clause in the Rules states that,

[i]n terms of Section 53 of the Constitution, except where the Constitution provides otherwise –

- (a) a majority of the members of the National Assembly must be present before a vote may be taken on a Bill or an amendment to a Bill; and
- (b) subject to Rule 4, at least one third of the members must be present before a vote may be taken on any other question before the Assembly.<sup>9</sup>

The Constitution also imposes quorum requirements for decision making in the National Assembly, stating that

1. Except where the Constitution provides otherwise
  - a. a majority of the members of the National Assembly must be present before a vote may be taken on a Bill or an amendment to a Bill;
  - b. at least one third of the members must be present before a vote may be taken on any other question before the Assembly; and
  - c. all questions before the Assembly are decided by a majority of the votes cast.<sup>10</sup>

According to the Rules, “[m]embers may vote only from the seats allocated to them individually in the Chamber.”<sup>11</sup>

The Rules may be suspended by a resolution so long as at least one-third of the Assembly’s members are present at the time.<sup>12</sup> Amending the relevant constitutional provision would require the support of at least two-thirds of the members of the National Assembly and, if the amendment was deemed to be one potentially impacting the provinces or their institutions, a vote in the NCOP as well, where passage requires the support of at least six of the nine provinces.<sup>13</sup>

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<sup>8</sup> Rules of the National Assembly § 45 (9th ed. May 26, 2016), <https://perma.cc/BD4D-DTWT>.

<sup>9</sup> Id. § 96.

<sup>10</sup> South Afr. Const., 1996, § 53, <https://perma.cc/P5HF-6BWY>.

<sup>11</sup> Rules of the National Assembly § 103 (9th ed. May. 26, 2016), <https://perma.cc/763T-8RSQ>.

<sup>12</sup> Id. § 4.

<sup>13</sup> South Afr. Const., 1996, § 74.

The situation in the NCOP is relatively less challenging. The NCOP consists of 90 delegates, 10 from each of the country's nine provinces.<sup>14</sup> According to the Rules of the NCOP, for all decisions of the NCOP, a quorum is established with the presence of at least one-third of its members.<sup>15</sup> The suspension of rules clause of the NCOP Rules provides that the body may "by resolution dispense with or suspend a provision of [the] Rules for a specific period or purpose."<sup>16</sup> In addition, the Constitution states that all questions before the body are adopted if they receive favorable votes from five provinces.<sup>17</sup> Significantly, the Constitution states that each province is assigned one vote, "which is cast on behalf of the province by the head of the delegation."<sup>18</sup>

Thus, for the purposes of delegating the functions of the NCOP to a small group of members of the body, it appears that suspending the quorum provision in the body's Rules would potentially allow for the lowering of the number of members that must be present for the body to make a decision from 30 to nine.

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<sup>14</sup> *Composition of the NCOP*, National Council of Provinces, <https://perma.cc/CB8A-H8GY>.

<sup>15</sup> Rules of the National Council of Provinces § 61 (9th ed. Mar. 2008), <https://perma.cc/7872-65QY>.

<sup>16</sup> *Id.* § 3.

<sup>17</sup> South Afr. Const. § 65.

<sup>18</sup> *Id.*

# Spain

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## I. Functioning of National Legislature

Neither the Regulation of the Congress of Deputies (*Reglamento del Congreso de los Diputados*)<sup>1</sup> nor the Regulation of the Senate (*Reglamento del Senado*)<sup>2</sup> provide for specific measures for the functioning of the body in case of emergencies. However, the Spanish Constitution provides that in case a state of alarm is declared by the Executive, it may only last for fifteen days unless extended under the authorization of Congress.<sup>3</sup> This happened on March 14, 2020, when a State of Alarm was adopted.<sup>4</sup>

During a State of Alarm, the Government must immediately inform the Congress of Deputies about all the decrees that it issues related to this measure. In the event that the Government wishes to extend the state of alarm beyond fifteen days, it must request an authorization from Congress before the term expires.<sup>5</sup> The decision will be made in plenary session, and the parliamentary groups will be able to present proposals on the scope and current conditions.<sup>6</sup>

## II. Emergency Parliament

No provisions for a prearranged subgroup or an emergency Parliament have been identified.

## III. Working During COVID-19 Pandemic

Parliamentary activity has been postponed for two weeks starting on March 12, 2020, in accordance with an agreement by the *Junta de Portavoces del Congreso de los Diputados* (representatives of the main political parties in Parliament), on the proposal of the Presidency, and in agreement with the health authorities.<sup>7</sup>

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<sup>1</sup> Reglamento del Congreso de los Diputados, Boletín Oficial de las Cortes Generales [B.O.C.G.] Feb. 10, 1982, <https://perma.cc/GP2A-RFQA>.

<sup>2</sup> Reglamento del Senado, B.O.C.G, May 9, 1994, <https://perma.cc/YPZ2-VZVL>.

<sup>3</sup> Constitución Española [CE] art. 116.2, <https://perma.cc/5RWJ-LMAN>.

<sup>4</sup> Real Decreto Mar. 14, 2020, Real Decreto 463/2020, de 14 de Marzo, por el que Se Declara el Estado de Alarma para la Gestión de la Situación de Crisis Sanitaria Ocasionada por el COVID-19, <https://perma.cc/4WL5-NK2T>.

<sup>5</sup> CE art. 116.

<sup>6</sup> Id.

<sup>7</sup> Press Release, Congreso de los Diputados, El Congreso Aplaza su Actividad Durante las Próximas dos Semanas (Mar. 12, 2020), <https://perma.cc/RL79-KVX9>.

The *Junta de Portavoces del Congreso de los Diputados* agreed on a number of measures such as the suspension of tours of the building and extra-parliamentary actions. It further clarified that Congress is not closed and will continue to operate for any urgent matter.<sup>8</sup>

In general, all legislative work as well as technical and political management of the Congress of Deputies will be carried out electronically as much as possible. The electronic vote registry will remain open for all purposes, and formulas will be evaluated that can improve the capacity of the Congress of Deputies to act in current and future circumstances, such as videoconference meetings or electronic voting, among others.<sup>9</sup> The procedure for electronic voting in the Congress of Deputies has been regulated by a resolution issued by the leadership of May 21, 2012.<sup>10</sup> Similar measures apply in the Senate.<sup>11</sup>

Both the Congress of Deputies and the Senate have adopted action plans against the epidemiological situation caused by the spread of COVID-19, in order to reduce the risk of contagion in the workplace.<sup>12</sup> The measures include notices with information and hydroalcoholic gel dispensers placed at building entrances, elevators, cafes, and restaurants.<sup>13</sup> The cleaning of common use areas, such as doorknobs and elevator buttons, has been enhanced.<sup>14</sup>

Additionally, plastic badges have been replaced by disposable adhesive labels. People who access the Parliament's buildings will have to show their ID, to avoid physical contact with the building's security guards.<sup>15</sup> Among the strategic measures for the organization of work, all visits to the Parliament and all extra-parliamentary acts have been suspended, and it is recommended that people at risk stay at home.<sup>16</sup> Minimum services will be established to guarantee essential functions.<sup>17</sup> To put these measures into practice, teleworking is facilitated when necessary and requested by the corresponding Directorate.<sup>18</sup>

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<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Resolución de la Mesa del Congreso de los Diputados, de 21 de mayo de 2012, para el Desarrollo del Procedimiento de Votación Telemática (May 21, 2012), <https://perma.cc/WEJ3-XA2D>.

<sup>11</sup> Javier Casqueiro et al., *El Congreso y el Senado Suspenden Casi Toda su Actividad Durante los Próximos 15 Días*, El País (Mar. 12, 2020), <https://perma.cc/476V-EBCZ>.

<sup>12</sup> Congreso de los Diputados, Plan de Acción del Congreso de los Diputados en Relación a la Situación Epidemiológica Producida por la Extensión del Coronavirus (Mar. 6, 2020), <https://perma.cc/Z6S2-8QWR>, and Senado, Plan de Actuación del Senado Frente a Casos de Infección por Coronavirus (SARS-CoV-2) (Mar. 11, 2020), <https://perma.cc/H426-7J34>.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> Id.

<sup>16</sup> Id.

<sup>17</sup> Id.

<sup>18</sup> Id.

#### **IV. Operation of Legislative Offices When Members and Staff Are Unable to Travel**

No information has been located about a pre-established law or regulation specifically addressing the operations of Parliament's offices when members and staff are unable to travel and movement is restricted. However, please see the information provided in Section III addressing specific measures adopted under the COVID-19 situation.

# Sweden

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## I. Constitutional Requirements and Role of the Parliament

The Swedish Parliament (Riksdag) is the legislative body of Sweden representing the Swedish people, and its procedures are governed by the Constitution as well as the Riksdagsordning (Parliamentary Rules of Order).<sup>1</sup> Currently, the unicameral legislature is made up of 349 members, each from one of eight political parties.<sup>2</sup>

The Constitution has special rules for the Parliament, as does the Riksdag Act,<sup>3</sup> in times of war or threat of war, when the Parliament meets with a delegation of fifty members.<sup>4</sup> However it has no specific rules for parliamentary procedure at other times of crisis. Neither the Constitution nor the Riksdag Act provides a requirement for the minimum number of representatives who must be present for the Parliament to have a quorum for voting. Ordinarily, a vote in favor by a simple majority of half of the members present is sufficient for a bill to pass.<sup>5</sup> Special rules apply if the vote is on amending the Constitution.<sup>6</sup>

## II. Measures Adopted as a Response to the COVID-19 Outbreak

On March 16, 2020, the parties of the Swedish Parliament adopted measures as a response to Covid-19,<sup>7</sup> including reducing the number of members of Parliament present in the Riksdag at the same time.<sup>8</sup> For example, instead of having the full 349 members vote, only 55 members will vote, and the number of votes represented by each party reflects the size of the party.<sup>9</sup> The new rules apply from March 16, 2020, to March 30, 2020.<sup>10</sup> The agreement comes following a deal

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<sup>1</sup> 1 kap. 4 § Regeringsformen [RF](Grundlag [Swedish Constitution](SFS 1974:152)), <https://perma.cc/C5YZ-ESZ5>; Riksdagsordningen [Riksdag Act] (SFS 2014:801), <https://perma.cc/D5MM-AKYH>.

<sup>2</sup> *Ledamöter & Partier*, Sveriges Riksdag, <https://perma.cc/WX6N-HJ8S>.

<sup>3</sup> The Riksdag Act “has a unique status in between constitutional and ordinary law.” *The Constitution*, Sveriges Riksdag, <https://perma.cc/EV26-RMV6>.

<sup>4</sup> 15 kap. 2 § RF; 13 kap. 11 § Riksdagsordningen. Members are chosen at the start of each four-year parliamentary term. See *Riksdagen, Alla Ledamöter, Krigsdelegationen*, Sveriges Riksdag, <https://perma.cc/LPN5-AAVV>.

<sup>5</sup> 4 kap. 7 § RF.

<sup>6</sup> 8 kap. 14 § RF.

<sup>7</sup> *Talmannen berättar om riksdagens arbete med anledning av coronaviruset*, Sveriges Riksdag (Mar. 18, 2020), <https://perma.cc/64QF-3BLS>.

<sup>8</sup> Press Release, Sveriges Riksdag, *Gruppledarna ändrar arbetssättet i kammaren med anledning av corona* (Mar. 16, 2020), <https://perma.cc/9Q37-SLCY>.

<sup>9</sup> Id.

<sup>10</sup> Id.

between all the group leaders and is not otherwise prescribed in law.<sup>11</sup> Swedish members of Parliament typically follow the party line very closely.<sup>12</sup> Thus, reducing the number of members per party that votes is not anticipated to alter the final outcome of a vote. Although the Swedish Parliament can convene outside of Stockholm in times of war, the Constitution and the Riksdag Act do not provide for remote voting.<sup>13</sup> Under the current situation, the Parliament operates under a reduced number of members present, requiring at least 28 votes in favor for a measure to pass.<sup>14</sup> Members who are not part of the group of 55 that are voting in the chamber are still full-time members of the Parliament and are presumed to be carrying out their duties of representing their constituencies when away from Parliament.<sup>15</sup> Neither the Constitution nor the Riksdag Act regulate how the members and staff conduct their work (for example, telework) when they are not present in the chamber to vote. As of March 24, 2020, no member of the Swedish Parliament has been reported infected with COVID-19.

The Swedish Parliament, unlike, for example, the Norwegian Parliament,<sup>16</sup> has not officially limited the types of issues it will hear or vote on during the COVID-19 outbreak. Instead, the Speaker has announced that the Parliament will continue to operate and pass legislation that is not urgent or directly linked to COVID-19 measures.<sup>17</sup> The schedule for the week of March 23 to March 29, 2020, has not been significantly reduced, and includes several committee meetings per day and a few meetings in the chamber.<sup>18</sup> As of March 24, 2020, no emergency powers of the government have been invoked.

In accordance with the Constitution, meetings in the chamber are open to the public.<sup>19</sup> However, as March 16, 2020, all guided visits to the Parliament are canceled, and the Parliament instead encourages the public to view a guided tour online.<sup>20</sup>

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<sup>11</sup> Id.; see also Sveriges Riksdag, *Överenskommelse om kammarrens och utskottens arbete med anledning av COVID-19*, <https://perma.cc/R8KX-8X4H>.

<sup>12</sup> *Så arbetar partierna*, Sveriges Riksdag, <https://perma.cc/VJ56-6YD9>.

<sup>13</sup> RF and Regeringsformen.

<sup>14</sup> 4 kap. 7 § RF.

<sup>15</sup> Sveriges Riksdag, *supra* note 8, and Sveriges Riksdag, *Överenskommelse om kammarrens och utskottens arbete med anledning av COVID-19*, *supra* note 11.

<sup>16</sup> See Norwegian survey of this report.

<sup>17</sup> Sveriges Riksdag, *supra* note 7.

<sup>18</sup> *Kalender*, Sveriges Riksdag, <https://perma.cc/PF64-7ZLN>.

<sup>19</sup> 4 kap. 9 § RF.

<sup>20</sup> Sveriges Riksdag Twitter Account (Mar. 13, 2020), <https://perma.cc/XJ6G-Y2YX>; *Upplev Riksdagen!*, Sveriges Riksdag, <https://perma.cc/JB4W-ZTVT>.

The Parliament has also closed the Swedish Parliamentary Library from March 18, 2020, until further notice.<sup>21</sup> Books cannot be returned, charged, or renewed during that time. Instead, the library has automatically extended all books currently charged until May 4, 2020.<sup>22</sup>

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<sup>21</sup> Sveriges Riksdag, Press Release, Riksdagsbiblioteket är stängt tills vidare (Mar. 18, 2020), <https://perma.cc/S3EV-9Z54>.

<sup>22</sup> Id.

# Switzerland

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## I. Overview of the Functioning of the National Legislature

The Swiss Federal Assembly (parliament) is made up of two bodies with equal powers, the National Council, which represents the people, and the Council of States, which represents the individual cantons (states).<sup>1</sup> They conduct their proceedings separately, but both chambers must agree to adopt a decision.<sup>2</sup> Decisions are generally taken by majority vote.<sup>3</sup> A quorum, meaning a majority of the members, must be present for a vote to be valid.<sup>4</sup> Before a vote is taken, the president of the respective Council establishes whether there is a quorum.<sup>5</sup> Members must appear in person for the sessions.<sup>6</sup> Voting takes place through an electronic voting system.<sup>7</sup>

In cases of emergencies, the parliament may declare a federal act “urgent” by an absolute majority of the members of each of the two Councils and bring the law immediately into force.<sup>8</sup> These emergency federal acts must be limited in duration.<sup>9</sup> Emergency federal acts that are not based on a provision of the Constitution and whose term of validity exceeds one year are subject to a referendum.<sup>10</sup>

Furthermore, the Constitution authorizes the Swiss parliament and the Swiss Federal Council, the Swiss government, to take measures to ensure the internal and external security of Switzerland. In “extraordinary circumstances,” they may issue ordinances, decrees, or rulings in order to fulfill these duties.<sup>11</sup> These legislative acts are not subject to a mandatory or facultative

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<sup>1</sup> Bundesverfassung der Schweizerischen Eidgenossenschaft [BV], Apr. 18, 1999, Systematische Rechtssammlung [SR] 101, art. 148, para. 2, <https://perma.cc/23AV-PP8H> (original), <https://perma.cc/7RYW-MXU4> (English translation).

<sup>2</sup> Id. art. 156, paras. 1, 2.

<sup>3</sup> Id. art. 159, para. 2.

<sup>4</sup> Id. art. 159, para. 1.

<sup>5</sup> Geschäftsreglement des Nationalrates [GRN], Oct. 3, 2003, SR 171.13, art. 38, <https://perma.cc/FC5U-9G8M>; Geschäftsreglement des Ständerates [GRS], June 20, 2003, SR 171.14, art. 31, <https://perma.cc/L5LD-CV3N>.

<sup>6</sup> GRN, art. 40; GRS, art. 32.

<sup>7</sup> GRN, art. 56; GRS, art. 44.

<sup>8</sup> BV, art. 165.

<sup>9</sup> Id.

<sup>10</sup> Id. art. 165, para. 3, art. 140, para. 1, letter c.

<sup>11</sup> Id. art. 173, para. 1; art. 185.

referendum as other legislative acts are.<sup>12</sup> If the Federal Council adopts measures to deal with extraordinary circumstances, it must submit the ordinances to parliament within six months.<sup>13</sup>

## II. Emergency Parliament

No provision could be identified in the Swiss Constitution that establishes an emergency parliament to act during times of crises.

## III. Measures Taken During the COVID-19 Pandemic

On March 15, 2020, the Swiss parliament decided not to convene for the third week of its spring session.<sup>14</sup> In general, it regularly convenes four times a year for three weeks each.<sup>15</sup> The special sessions in May and June will take place, but only urgent business will be debated.<sup>16</sup>

The following safety measures and procedural adjustments have been put in place:

- The parliamentary services are searching for an alternative location in Bern for parliament to convene so that safe distances between members can be observed.
- Voting by a show of hands will be permitted if parliament convenes in a different location, but it will not be recorded which member voted in favor or against a measure.
- Certain deadlines for legislative actions are suspended.
- Social distancing must be observed during all in-person committee and delegation meetings.
- If necessary, committee and delegation meetings pertaining to urgent matters may be conducted via phone or video conferencing.<sup>17</sup>

Furthermore, the federal referendums scheduled for May 17, 2020, have been canceled.<sup>18</sup>

The Swiss Federal Council has declared the existence of “extraordinary circumstances” and adopted several ordinances to combat the spread of COVID-19, among them travel restrictions,

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<sup>12</sup> Id. arts. 140, 141.

<sup>13</sup> Regierungs- und Verwaltungsorganisationsgesetz [RVOG], Mar. 21, 1997, SR 172.010, art. 7d, <https://perma.cc/TFS8-CL9E> (original), <https://perma.cc/GHN9-AJCT> (English translation).

<sup>14</sup> Press Release, Die Bundesversammlung – Das Schweizer Parlament, Keine dritte Sitzungswoche der Frühlingssession der Bundesversammlung (Mar. 15, 2020), <https://perma.cc/CQT5-HSTZ>.

<sup>15</sup> *Sessionen*, Die Bundesversammlung – Das Schweizer Parlament, <https://perma.cc/5W5J-Y8EP>.

<sup>16</sup> Press Release, Die Bundesversammlung – Das Schweizer Parlament, Schweizer Parlament bleibt in der Krise handlungsfähig (Mar. 19, 2020), <https://perma.cc/8BHS-K3HP>.

<sup>17</sup> Id.

<sup>18</sup> Press Release, Bundesrat, Coronavirus: die eidgenössische Volksabstimmung vom 17. Mai 2020 wird nicht durchgeführt (Mar. 18, 2020), <https://perma.cc/NPR2-X7W7>.

prohibitions of gatherings of people, prohibitions of private and public events, prohibitions of in-person classes, and reporting requirements.<sup>19</sup>

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<sup>19</sup> Jenny Gesley, *Switzerland: Government Adopts More Stringent Measures to Contain Spread of Coronavirus*, Global Legal Monitor (Mar. 16, 2020), <https://perma.cc/9GAY-QNDL>; New Coronavirus: Federal Government Measures, Federal Office of Public Health [FOPH], <https://perma.cc/U8U7-WHRW>.

# Taiwan

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## I. Functioning of the National Legislature

Under the Additional Articles of the Constitution of the Republic of China (Taiwan), in order to avert imminent danger affecting the security of the state or of the people, or to cope with any serious financial or economic crises, the President may, by resolution of the Executive Yuan Council, issue emergency orders. Such emergency orders must be presented to the top legislature, the Legislative Yuan, for ratification within 10 days of issuance. Should the Legislative Yuan disagree, the emergency orders will cease to be valid immediately.<sup>1</sup>

The President has not issued an emergency order for the current COVID-19 situation, saying that Taiwan's "legal and policy tools are sufficient." The Legislative Yuan has quickly enacted a special law in response to the current pandemic. "If future changes in conditions have a greater impact on the economy and society, we will take further action as necessary, and make decisions about carrying out swift legal amendments or issuing emergency orders based on actual needs," the President said on March 19, 2020.<sup>2</sup>

According to the Law Governing the Legislative Yuan's Power, in order to hold a meeting, one-third of the total members who have registered for the current Legislative Yuan session must be present.<sup>3</sup>

## II. Measures Taken During the COVID-19 Pandemic

Although the Legislative Yuan is still operating, it has reportedly decided that if there are two or more members confirmed to have COVID-19 infections, the meeting rooms will cease operations and the Legislative Yuan sessions will be conducted by video conference.<sup>4</sup> The members will be asked to attend meetings using laptops that have been distributed to them. However, the validity of video voting is still to be determined by bipartisan discussions, according to the news report. The Legislative Yuan is also implementing measures to limit journalists' access to the legislative building.<sup>5</sup>

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<sup>1</sup> Additional Articles of the Constitution of the Republic of China (adopted Apr. 22, 1991, last rev. June 7, 2005, promulgated June 10, 2005) art. 2(3), <https://perma.cc/WJ5B-F7TB> (in Chinese), English translation available at <https://perma.cc/5BPD-S3SH>.

<sup>2</sup> *President Tsai Issues Remarks Regarding Government Response to COVID-19 Pandemic*, Office of the President, Republic of China (Taiwan) (Mar. 19, 2020), <https://perma.cc/TS5Q-QAS5>.

<sup>3</sup> Law Governing the Legislative Yuan's Power (promulgated Jan. 25, 1999, last rev. Nov. 21, 2018) art. 4, <https://perma.cc/4C65-82HA> (in Chinese).

<sup>4</sup> Huang Tzu-ti, *Taiwan Legislature to Adopt Video Conferencing If Two Members Have Coronavirus*, Taiwan News (Mar. 9, 2020), <https://perma.cc/T2PC-FG25>.

<sup>5</sup> *Id.*

In the past several days, the Legislative Yuan has tested its videoconferencing system. It has also restricted the numbers of attendees in the meeting rooms, which may not exceed 50 for regular committees and 80 for large committees. Heads of ministries are allowed to bring only one aide when attending meetings in the Legislative Yuan.<sup>6</sup>

In addition, the Legislative Yuan has been closed to visitors from the public since March 9, 2020. Members and staff are prohibited from traveling abroad during the COVID-19 epidemic.<sup>7</sup>

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<sup>6</sup> Qiu Caiwei & Liu Wanlin, *Fewer Members in Meetings; President of Legislative Yuan: Heads of Ministries May Bring Only One Aide*, United Evening News (Mar. 23, 2020), <https://perma.cc/JN4K-VZV8> (in Chinese).

<sup>7</sup> *Epidemic Control Q&A*, Legislative Yuan, <https://perma.cc/B4SS-7XU3> (in Chinese).

# Turkey

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## I. Formal Rules Regarding the Procedures of the Grand National Assembly

### A. Background

The legislative organ of Turkey is the Grand National Assembly of Turkey (GNA). The GNA has a unicameral structure; laws and parliamentary decisions are passed by the GNA in plenary session.<sup>1</sup> The GNA is composed of 600 Members of Parliament (MPs).<sup>2</sup> According to article 95 of the Constitution, the GNA determines its own rules of procedures with a Bylaw that it adopts.<sup>3</sup>

The GNA elects a President of the Assembly (PA) twice every legislative term (the first PA is elected for two years, and the second for the remaining three years).<sup>4</sup> The PA is responsible for representing the GNA outside of the Parliament, ensuring the Bylaw of the GNA and the parliamentary procedures therein are respected by the MPs, and overseeing the operations of the administrative staff of the GNA.<sup>5</sup>

The minimum quorum for any meeting must be one-third of the total number of MPs unless a special quorum is required by the Constitution; in any case, no decision may be adopted with less than one-fourth of the total number of MPs.<sup>6</sup> A quorum for parliamentary commissions is one-third of all commission members.<sup>7</sup> If the PA is in doubt that a plenary meeting has a quorum, he or she may *ex officio* request a headcount before opening the meeting; a count may also be requested during a final vote on a decision or legislation by a motion made by at least twenty MPs.<sup>8</sup> In practice, the PA or the PA's deputy determines the existence of a quorum at the beginning of all meetings, which is reflected in the minutes.

The Constitutional Court, which has the authority to review and nullify legislation for nonconformity with the voting rules of the Bylaw of the GNA upon request of the President of

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<sup>1</sup> Bylaw of the Grand National Assembly of Turkey (Decision No. 584, published in Official Gazette No. 14506, Mar. 5, 1973, as amended), art. 81, <https://perma.cc/N3MS-ZNDD>.

<sup>2</sup> Constitution of Turkey (Law No. 2709, adopted Nov. 7, 1982, as amended), art. 75, <https://perma.cc/W8FR-F4PT> (official English translation).

<sup>3</sup> Id. arts. 88(2), 95.

<sup>4</sup> Bylaw of the GNA art. 10.

<sup>5</sup> Id. art. 14.

<sup>6</sup> Constitution of Turkey art. 96.

<sup>7</sup> Bylaw of the GNA art. 27(2).

<sup>8</sup> Id. arts. 57(1)-(2).

the Republic or one-fifth of the total number of MPs, generally presumes the quorum finding of the PA to be correct if no objections were made during the meeting.<sup>9</sup>

## **B. No Extraordinary Provisions for Continuity of Activities**

There are no provisions in the Constitution or the Bylaw that foresee a situation in which an elected GNA cannot physically convene due to compelling reasons. In particular, there is no procedure for the delegation of the authority of parliamentary commissions or the plenary to an ad hoc body, such as an “emergency parliament” with devolved powers. Article 7 of the Constitution states that “[l]egislative power is vested in the Grand National Assembly of Turkey on behalf of [the] Turkish Nation. This power shall not be delegated.”<sup>10</sup>

Furthermore, there is no provision that allows MPs to participate or vote remotely in parliamentary meetings. The Bylaw does not allow MPs to delegate their votes to their fellow MPs in the plenary, and MPs are, as a general rule, required to attend parliamentary meetings in person. MPs who miss five meetings in a month without permission from the PA or without a valid excuse may have their membership rescinded by the plenary with a majority of the total number of MPs.<sup>11</sup> MPs who miss more than 45 days of attendance in a legislative year without permission or excuse forfeit three months of expense pay.<sup>12</sup>

The Bylaw allows the GNA to take a recess for a maximum of three months within a legislative year. As a general rule, the recess starts on July 1; however, the plenary may decide to take a recess at a different date upon the proposal of the Advisory Committee.<sup>13</sup> The Bylaw also allows the plenary to suspend meetings for a maximum period of 15 days upon the proposal of the Advisory Committee. The Bylaw does not provide a limit or condition for the plenary’s use of these authorities. The PA or the President of the Republic may call the GNA to reconvene during a recess or suspension.<sup>14</sup>

## **II. Measures Taken during the COVID-19 Pandemic**

The plenary’s authority to suspend meetings notwithstanding, the uninterrupted meeting of the GNA during the COVID-19 emergency appears to be appreciated by at least some MPs. For instance, minutes of the March 18 and 19, 2020, plenary meetings reflect multiple references by MPs commending the fact that the GNA is meeting and working during the emergency.<sup>15</sup>

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<sup>9</sup> E.g., Constitutional Court of Turkey, Judgment in Case No. 2018/53 E., 2018/72 K., May 31, 2018 (published June 30, 2018), para. 17, <https://perma.cc/26SJ-JRM4>.

<sup>10</sup> Constitution of Turkey art. 7.

<sup>11</sup> Id. art. 84(4); Bylaw of the GNA art. 151.

<sup>12</sup> Bylaw of the GNA art. 153.

<sup>13</sup> Id. arts. 5, 6. The Advisory Committee of the GNA is constituted of the PA and the group leaders of the political parties that are represented in the GNA, or their deputies. Id. art. 19.

<sup>14</sup> Id. art. 7.

<sup>15</sup> See minutes of the GNA Plenary Sessions of March 18-19, 2020 (unedited transcripts), available at <https://perma.cc/2X3T-FCFL> and <https://perma.cc/MS2A-MUP5>, respectively.

There appear to be social distancing measures in place during the plenary sessions whereby MPs try to spread out as much as possible in their sitting arrangements.<sup>16</sup> The premises of the GNA appears to be regularly disinfected.<sup>17</sup> Some have called for establishing regular COVID-19 testing for MPs, but it appears that no such measure has yet been adopted.<sup>18</sup>

On March 23, the PA's Office issued a circular ordering the administrative units of the GNA to reduce the number of staff that must be physically present on the premises of the GNA to the minimum required for the continuation of necessary and urgent tasks, using telework or staff rotation methods.<sup>19</sup> Staff and managers out of rotation are to be granted administrative leave, while being available for immediate recall.<sup>20</sup>

Previously on March 13, the PA had ordered the suspension of public admittance to the GNA premises until March 31.<sup>21</sup> The PA had also urged MPs to postpone their meetings with guests and asked MPs who had been abroad recently not to come to parliamentary meetings for 14 days.<sup>22</sup>

Political parties have cancelled their parliamentary group meetings, which are traditionally held on Tuesdays.<sup>23</sup> Regular meetings of the plenary session on Tuesday, Wednesday, and Thursday are apparently continuing in accordance with the Bylaw of the GNA, with the latest (at the time of writing) plenary session having taken place on Thursday, March 24.<sup>24</sup>

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<sup>16</sup> *TBMM'de iki hafta OHAL uygulaması*, Milliyet (Mar. 14, 2020), <https://perma.cc/7UVE-GFES>.

<sup>17</sup> *Id.*

<sup>18</sup> See Minutes of GNA Plenary Session of March 18, 2020, *supra* note 15.

<sup>19</sup> Presidency of the Assembly, Circular Letter 2020/4 (Mar. 23, 2020), <https://perma.cc/YQL3-LQQM>.

<sup>20</sup> *Id.*

<sup>21</sup> *TBMM'ye ziyaretçi girişine ilişkin açıklama*, MeclisHaber (Mar. 13, 2020), <https://perma.cc/A7AA-RWAD>.

<sup>22</sup> *Id.*

<sup>23</sup> *TBMM'deki grup toplantılarına koronavirüs iptali*, Birgün (Mar. 15, 2020), <https://perma.cc/CXD7-4ESM>.

<sup>24</sup> Bylaw of the GNA art. 54; *TBMM Genel Kurulu Toplandı*, MeclisHaber (Mar. 24, 2020), <https://perma.cc/HU3K-L8AB>.

# United Kingdom

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## I. Overview on Operation of Parliament under Emergency Measures

There do not appear to be any specific laws that provide or deny Parliament the authority to continue its responsibilities if it cannot meet due to an event or emergency situation, although votes may be taken only with a quorum of 40 members of Parliament (MPs).<sup>1</sup> Despite this restriction, the number of MPs present cannot formally be counted;<sup>2</sup> however, there are a number of ways a quorum can be ascertained, notably through a division, when the votes of all members present are registered.<sup>3</sup> If a quorum is not met, the business before the House stands over to another sitting, and the House proceeds to the next item of business.<sup>4</sup>

The main focus of parliamentary planning for emergency situations is ensuring that it has a place to meet.

## II. Arrangements for an “Emergency Parliament”

There does not appear to be any legislation, orders, or publicly published information that designates a subgroup of MPs to form an emergency parliament with devolved powers from the whole parliament to address crisis situations. Provided that Parliament has not been prorogued, suspended, or adjourned, it may continue to sit and vote on issues if the minimum quorum of 40 is met. This was seen during World War II, when Parliament continued to sit, despite many seats being left vacant due to the involvement of MPs in government services or as active members of the armed forces.<sup>5</sup>

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<sup>1</sup> House of Commons, Standing Orders (2019-20) HC 314, No. 41, <https://perma.cc/DGY6-YHKR>. This Standing Order states as follows:

41.-(1) If it should appear that fewer than forty Members (including the occupant of the chair and the tellers) have taken part in a division, the business under consideration shall stand over until the next sitting of the House and the next business shall be taken.

(2) The House shall not be counted at any time.

<sup>2</sup> *Id.* Standing Order No. 41(2).

<sup>3</sup> A division is the way the House “ascertains the number of Members for and against a proposition when the Chair’s opinion as to which side is in the majority on a Question is challenged.” Paul Evans, *Handbook of House of Commons Procedure* 196 (1st ed., 1997).

<sup>4</sup> House of Commons Standing Order No. 41(1).

<sup>5</sup> Jennifer Tanfield, *In Parliament 1939–50: The Effect of the War on the Palace of Westminster* 9 (House of Commons Library Document No. 20, 1991).

### III. Current Arrangements for the Legislature to Work during the COVID-19 Pandemic

Parliament is continuing to operate during the COVID-19 pandemic, with the oldest member of the House of Commons stating: “If the House of Commons were empty people would say, ‘Why aren’t we there?’ We should be reducing contact by degree but we shouldn’t panic and disappear.”<sup>6</sup>

While parliamentary business continues, it is not business as usual. Travel for parliamentary reasons to other countries has been strongly discouraged by the Clerk of the House.<sup>7</sup> All Westminster Hall debates,<sup>8</sup> which occur on general debate motions, have been suspended after March 19, 2020.<sup>9</sup> Only front bench MPs and those listed on the order paper for each day may enter into the Commons and they are required to follow social distancing requirements and stay two meters apart (approximately 6.5 feet).<sup>10</sup> The procedure for divisions (votes) has been varied to stagger the entry of MPs into the lobbies, where they were forced by the design of the area to stand in close proximity to one another. The new procedure enables MPs to maintain an appropriate social distance.<sup>11</sup> The speaker has also requested MPs to consider carefully before submitting written questions, noting that it is taking time away from civil servants that they could use to work on the response to COVID-19.<sup>12</sup>

A Parliamentary Notice, issued on March 23, 2020, stated that “[m]any Members are now working away from the Estate.”<sup>13</sup> While this may be possible for some work of MPs, Parliament is not currently set up for most of its work to occur remotely. The majority of business requires MPs to be physically present in Westminster as absentee or electronic voting is not currently permitted. A spokesperson from the House of Commons has been reported as stating: “The Government could propose procedural changes to allow other ways of working but the House would have to approve them. There is no standard procedure for running Parliament remotely and MPs cannot currently vote on motions electronically.”<sup>14</sup>

The Clerk of the House of Commons is working with the House Procedure Committee to consider temporary changes to the practices of the House of Commons committees to make sure they can

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<sup>6</sup> Tom Peck, *Coronavirus Should Have Forced Parliament to Shut Down a Week Ago - MPs Have to Lead by Example*, Independent (Mar. 19, 2020), <https://perma.cc/K2S7-YPJ3>.

<sup>7</sup> Letter from the Speaker of the House of Commons and the Lord Speaker, Mar. 13, 2020, <https://perma.cc/P2E4-992S>.

<sup>8</sup> *Westminster Hall Debates*, UK Parliament, <https://perma.cc/CBT6-FQWY>.

<sup>9</sup> *Update from UK Parliament on Coronavirus*, UK Parliament (Mar. 16, 2020), <https://perma.cc/3G6Y-6ZHM>.

<sup>10</sup> Peck, *supra* note 6.

<sup>11</sup> Andrew Woodcock, *Coronavirus: Commons Voting Procedures Changed to Prevent Spread of Virus*, Independent (Mar. 23, 2020), <https://perma.cc/79HH-QJH2>.

<sup>12</sup> *Id.*

<sup>13</sup> Parliamentary Notice, *Coronavirus Update: Services and Facilities* (Mar. 23, 2020) (copy on file with author).

<sup>14</sup> Chris Stokel-Walker, *What Happens If Coronavirus Forces Us to Close Parliament?* Wired (Mar. 12, 2020), <https://perma.cc/4293-TQSH>.

continue to operate if remote meetings would be required.<sup>15</sup> On March 16, 2020, the Clerk of the House of Commons sent a memorandum on possible changes to House operating procedures during the pandemic. While proposing several measures, the Clerk noted that

there are many adjustments that could be made to the way Members work which could be achieved through political agreement (and in some circumstances the discretion of the Speaker and Deputy Speakers) rather than by motions on the floor of the House.<sup>16</sup>

Such political agreement could extend to an informal way that many MPs have used to ensure their votes were not lost during any absence through a system known as “pairing.” This system involves an MP forming an agreement with an MP of an opposing party to be absent at the same time and,

[b]y this mutual agreement, a vote is neutralized on each side of a question, and the actual size of the majority is not affected. The practice of pairing is not official recognized in the procedures of the House; it is therefore conducted privately by individual Members, or arranged by the Whips of the respective parties. The Speaker has ruled that agreements to pair are private arrangements between Members and in no sense matters in which either the Chair or the House can intervene.<sup>17</sup>

In a recent letter, the Speaker stated that he was assured the House authorities could publish lists of paired Members, if the parties could come to a procedural agreement.<sup>18</sup>

On March 18, 2020, the chair of the Procedure Committee submitted a draft motion in a letter that, if acted upon, would enable all committee work to be done remotely via methods approved by the Speaker of the House.<sup>19</sup> The extension of proxy voting is also being considered.<sup>20</sup> All proposals are designed to “keep Parliament running during this difficult time as it responds to the Coronavirus pandemic, whilst mitigating the risk of Covid-19 being spread among those on the Parliamentary Estate.”<sup>21</sup>

In the House of Lords, whose peers have an average age higher than members of the House of Commons, the Lord Speaker stated: “I would like to emphasize one point: no-one should consider it is their duty to be here in these circumstances. As Parliamentarians we also have a duty to show

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<sup>15</sup> *Procedure Committee Outlines Proposals to Keep Commons Committees Running Remotely*, UK Parliament (Mar. 23, 2020), <https://perma.cc/66F9-QLPF>.

<sup>16</sup> Memorandum to Procedure Committee from the Clerk of the House ¶ 4, Mar. 16, 2020, <https://perma.cc/6627-MEL6>.

<sup>17</sup> *Erskine May Parliamentary Practice* ¶ 20.87 (David Natzler et al. eds., 25th ed. 2019) <https://perma.cc/CD83-3XBT>.

<sup>18</sup> Letter from the Speaker of the House to the Rt. Hon. Karen Bradley MP, Chair of Procedure Committee, Mar. 2020, <https://perma.cc/E4TX-XUW3>.

<sup>19</sup> Letter from the Rt. Hon. Karen Bradley MP, Chair of Procedure Committee, to the Parliamentary Secretary to the Treasury and Government Chief Whip, Mar. 18, 2020, <https://perma.cc/9CWA-Q6UP>.

<sup>20</sup> Letter from the Speaker of the House, *supra* note 18.

<sup>21</sup> *Procedure Committee Outlines Proposals to Keep Commons Committees Running Remotely*, *supra* note 15.

leadership and heed the advice of the public health experts.”<sup>22</sup> Due to the recommendations from Public Health England, the Lord Speaker withdrew from the House, continuing the work he is able to do from home, and increased the number of deputies who may carry out his duties that require an in person appearance in the House of Lords.<sup>23</sup>

The government has taken other measures to help ensure that the coronavirus does not spread through Parliament. Visitor access to the Parliamentary Estate was restricted on March 17, 2020, including to the public gallery, tours of the House, and committee meetings. Only individuals with a parliamentary pass and others on essential business may access the Parliamentary Estate.<sup>24</sup> The government is encouraging these individuals, which include MPs, peers, and parliamentary staff, to work from home where possible and has closed on-site staff service from both parliamentary libraries and moved to taking questions via the telephone or email. Catering facilities no longer accept cash, the use of personal cups and mugs is prohibited, and the fee for disposable cups is being waived. The Westminster gym has been closed, and certain on-site restaurants have been closed.<sup>25</sup>

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<sup>22</sup> Letter to Peers from the Lord Speaker, Mar. 17, 2020, <https://perma.cc/Z57C-TAZ4>.

<sup>23</sup> *Lord Speaker's Statement on UK Parliament's Response to the Spread of COVID-19*, UK Parliament (Mar. 19, 2020), <https://perma.cc/U8HR-DPYJ>.

<sup>24</sup> *Id.*

<sup>25</sup> Parliamentary Notice, *supra* note 13.

# United States

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The United States Constitution requires that in order for either chamber to conduct business, a quorum of voting members must be present.<sup>1</sup> Currently, there are 435 voting members in the House of Representatives and 218 members must be present in order to constitute a quorum for business. The Senate has 100 members and 51 senators must be present to constitute a quorum.

The same section of the US Constitution also gives both chambers the absolute power to determine the rules of their proceedings.<sup>2</sup> The rules in each chamber govern all aspects of Congressional business within that chamber and there are no joint rules covering procedure in both chambers.

Since the 108th Congress (2003–2004) the Rules of the House of Representatives<sup>3</sup> have included provisions for convening a subset of the members to act in the case of a terrorist attack. Rule XX, clause 5(c)(1) states in part as follows:

If the House should be without a quorum due to catastrophic circumstances -- (A) until there appear in the House a sufficient number of Representatives to constitute a quorum among the whole number of the House, a quorum in the House shall be determined based upon the provisional number of the House[.]

This rule requires that a number of actions be taken before a provisional quorum can be established. These include a 72-hour-call for a quorum, a report to the Speaker of the House and Majority and Minority leaders from the sergeant-at-arms of a “catastrophic quorum failure,” the Speaker’s announcement of the report to the House, and a further call of the House for at least 24 hours to establish a quorum. Once these conditions are met then a provisional quorum would be established based on the number of members who responded to the second call of the House.

The constitutionality of this rule revision was raised at the time as to whether it violated the quorum provision that a majority of each chamber needed to be present to conduct business. The question was put to the House, which voted in favor of this rule.<sup>4</sup>

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<sup>1</sup> U.S. Const. art. I, § 5, <https://www.govinfo.gov/content/pkg/GPO-CONAN-2017/pdf/GPO-CONAN-2017-6.pdf>.

<sup>2</sup> *Id.*

<sup>3</sup> Rules of the House of Representatives, <https://www.govinfo.gov/content/pkg/HMAN-116/pdf/HMAN-116-houserules.pdf>.

<sup>4</sup> Cong. Research Serv., RL 33610, A Retrospective of House Rules Changes Since the 104th Congress through the 109th Congress 41 (updated Mar. 8, 2012), <https://crsreports.congress.gov/product/pdf/RL/RL33610>.

The Standing Rules of the Senate<sup>5</sup> have no equivalent provision. Senators Durbin and Portman have recently introduced S.Res.548<sup>6</sup> to allow members to vote remotely rather than coming to the Senate chamber to cast their vote and Senate practice does not require the presence of a quorum in the chamber while conducting daily business.<sup>7</sup>

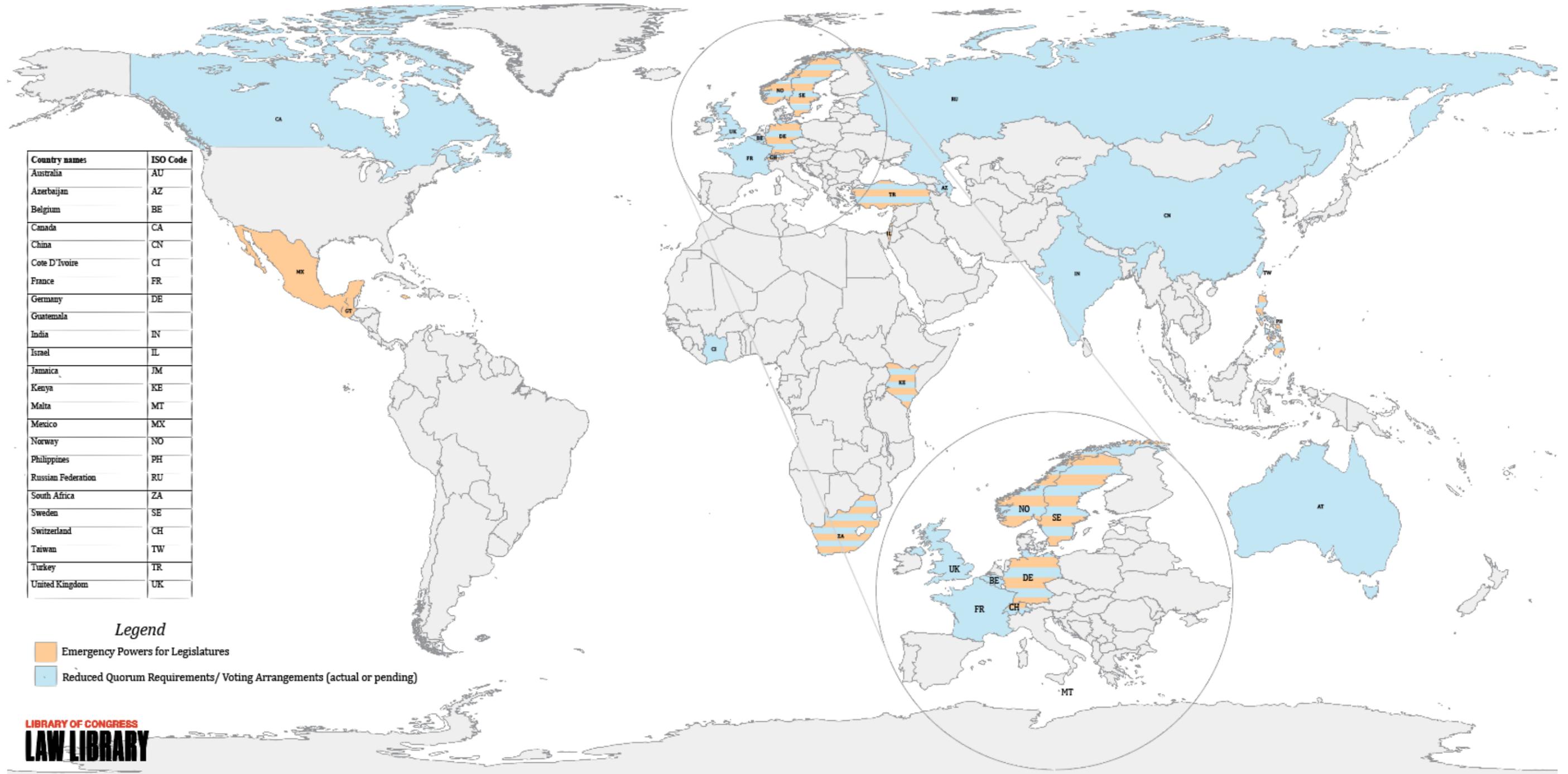
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<sup>5</sup> Standing Rules of the Senate, <https://www.govinfo.gov/content/pkg/CDOC-113sdoc18/pdf/CDOC-113sdoc18.pdf>.

<sup>6</sup> Senate Resolution 548, <https://www.congress.gov/bill/116th-congress/senate-resolution/548>

<sup>7</sup> *Riddick's Senate Procedure: Precedents and Practices* 1041-42, <https://www.govinfo.gov/content/pkg/GPO-RIDDICK-1992/pdf/GPO-RIDDICK-1992-111.pdf>.

# Highlights of Legislative Continuity Efforts During COVID-19



Source & Note: Map reflects results of 36-country survey in *Continuity of Legislative Activities during Emergency Situations in Selected Countries* (Law Library of Congress, Mar. 2020).