

# **Impact of the COVID-19 Pandemic on the Interaction Between Government and Parliamentary Opposition in the Czech Republic**

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## **Abstract**

The COVID-19 pandemic and its effects on parliamentary activities have recently become a trending topic. The pandemic presented both challenges and opportunities for governments and parliaments. During times of crisis, government-parliament and government-opposition relations can result in contrasting expectations and outcomes with regard to democratic norms. While consensus on crisis measures between governments and opposition parties can increase public trust and legitimacy, criticism by the opposition is essential as a catalyst for fuelling public discourse. During a crisis, government-opposition relations can range from consensus-seeking to strictly adversarial.

The paper<sup>1</sup> aims to empirically analyse the impact of the COVID-19 crisis on relations between the government coalition of the Czech Republic and its polarised parliamentary opposition. Parliamentary elections coincided with the pandemic, and the minority government was replaced by a surplus majority coalition formed by the opposition parties from the previous legislature. The paper will examine whether the opposition adopted a differentiated strategy in its discussions regarding pandemic-related legislative proposals and to what extent it was able to act unanimously despite its polarization.

**Keywords:** COVID-19 pandemic, Czech Republic, government, parliamentary democracy, parliamentary opposition.

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## Introduction

### *Background Information*

The crisis caused by the COVID-19 pandemic affected all spheres of society and significantly impacted the 2017-2021 parliamentary term and part of the following term. During the crisis, governments and parliaments have adopted different measures to protect the health of the population and to counteract the socioeconomic impacts of the COVID-19 pandemic. Legislation in the Czech Republic (CR), as in other countries, was heavily oriented toward the pandemic and its context while not neglecting other political areas. The case study focuses on parliamentary activity and executive-legislative relations in the Czech Republic during the pandemic and pays special attention to the parliamentary opposition and its activities during this period. The role of the parliament and the parliamentary opposition is analysed using the example of the declaration of state of emergency and the adoption of laws in a state of legislative emergency. The study uses the term opposition for parliamentary parties that do not form the government<sup>2</sup> even if it is not an internally united group.

Czech Republic is an unitarian parliamentary democracy comprising a bicameral parliament (the Chamber of Deputies consisting of 200 members and the Senate with 81 Senators), a multiparty system, and a directly elected President. Constitutionally, the Prime Minister (PM) holds the highest political authority, and the President is a ceremonial head of state. Given the significance of the Chamber of Deputies, the paper will focus on this.

There were two cabinets in the Czech Republic in the period covered by the paper. The first, a populist centre-left cabinet (2018-2021), led by PM Babiš, was a minority government<sup>3</sup> formed by the Action of Dissatisfied Citizens (“Akce nespokojených občanů”—ANO) and the Czech Social Democratic Party (“Česká strana sociálně demokratická”—ČSSD) with support from the Communist Party of Bohemia and Moravia (“Komunistická strana Čech a Moravy”—KSČM). It was not a real coalition because the KSČM signed a government tolerance agreement only with ANO, not the entire governing coalition. However, the contract did not endure for the whole term, and consequently, the PM had to confer with the KSČM on all important decisions personally. Essentially, as a non-governmental party, the KSČM participated in governance but has not consistently voted as the government parties do. However, given the KSČM’s position during the pandemic, it can be considered

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<sup>2</sup> Philip Norton, “Making Sense of Opposition,” *The Journal of Legislative Studies* 14, no. 1-2 (2008): 236-250, and Philip Norton, ed., *Legislatures and Legislators* (Aldershot: Ashgate, 1998); Ludger Helms, “Studying Parliamentary Opposition in Old and New Democracies: Issues and Perspectives,” *The Journal of Legislative Studies* 14, no. 1-2 (2008): 6-19.

<sup>3</sup> The governing parties had only 46.5 percent of the seats in the Chamber of Deputies.

<sup>4</sup> Lukáš Hájek, “Legislative Behaviour of MPs in the Czech Republic in Times of Covid-19 Pandemic,” *Parliamentary Affairs* 76, no. 2 (2023): 401-420, <https://doi.org/10.1093/pa/gsab057> (accessed November 17, 2023).

a member of the coalition as Hájek's analysis of legislative behaviour and voting proximity demonstrates.<sup>4</sup>

In December 2021, the minority cabinet was replaced by a surplus majority coalition<sup>5</sup> led by PM Fiala, comprising five centre-right parties: the Civic Democratic Party (“Občanská demokratická strana”—ODS), Christian Democratic Union—Czechoslovak Peoples' Party (“Křesťansko demokratická unie—Československá strana lidová”—KDU—ČSL), Tradition, Responsibility, Prosperity 09 (“Tradice, Odpovědnost, Prosperita”—TOP 09), Czech Pirate Party (“Pirátská strana”—Pirates), and Mayors and Independents (“Starostové a nezávislí”—STAN). ANO, the former ruling party with the strongest parliamentary party group (PPG), and the radical right Freedom and Direct Democracy party (“Strana přímé demokracie”—SPD) found themselves in the opposition. As in previous electoral periods, the opposition was divided into parties with a reasonable chance to govern, a temporary opposition, and those in permanent opposition who would never govern.<sup>6</sup>

Before the 2021 election, the permanent opposition parties were located at the two extremes of the party spectrum—the radical SPD on the right and the KSČM on the left. KSČM tolerated the government for most of the term and sometimes behaved as a coalition party and sometimes as an opposition party. The mainstream opposition comprised ODS, TOP 09, STAN, KDU—ČSL and Pirates. After the parliamentary elections, the number of parties in the Chamber of Deputies decreased from nine to seven, with only two parties forming the opposition – the formerly ruling ANO and the SPD. Both formerly parliamentary parties, the KSČM and the initially governing ČSSD, did not exceed the required five per cent threshold. The parties that constituted the original mainstream opposition formed a governing coalition and took responsibility for addressing the final stage of the pandemic crisis, which was rapidly supplanted by an energy and economic crisis and the effects of the war in Ukraine.<sup>7</sup>

### ***Structural Summary***

In principle, the paper aims to empirically analyse the impact of the COVID-19 crisis on the parliament function and the relationship between the government and its parliamentary opposition. This paper further explores answers to the

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<sup>5</sup> The governing coalition had a total of 54 percent of seats in the Chamber of Deputies.

<sup>6</sup> Gabriella Ilonszki, Francesco Marangoni, and Anna M. Palau, “Can Opposition Parties Be Responsible?” *Parliamentary Affairs* 74, no. 3 (2021): 722-740; Petra Guasti and Zdenka Mansfeldova, “Czech Republic: Weak Governments and Divided Opposition in Times of Crisis,” in *Opposition Parties in European Legislatures: Conflict or Consensus?*, eds. Elisabetta De Giorgi and Gabriella Ilonszki (Milton Park, Abingdon; New York: Routledge, 2018), 133-149; Giovanni Sartori, “Opposition and Control: Problems and Prospects,” *Government and Opposition* 1, no. 2 (1966): 149-154; Robert A. Dahl, *Political Opposition in Western Democracies* (New Haven, CT and London: Yale University Press, 1966).

<sup>7</sup> Election to the Chamber of Deputies was held on October 8-9, 2021.

question of whether the parliament held its ground, fulfilled its functions and did not allow itself to be reduced to a ‘rubber-stamping institution’ in relation to the executive during this crisis, which Merkel (2020) and other political scientists, termed ‘the hour of the executive’.<sup>8</sup>

Structurally, the first part of this paper provides a brief overview of how parliament has changed in response to the COVID-19 pandemic. That is, pandemic measures restricted gatherings and made life more complicated while placing greater demands on the parliament’s legislative and oversight functions. In addition to the pandemic measures, parliamentary scrutiny became important in the time of crisis, as the executive decided to act immediately. As a result, the government took urgent action, with considerable impact to people’s lives and freedom. Bolleyer and Salát, or Guasti, suggested that, if a populist government was in power, then there may be more significant risk of parliament being weakened, whether permanently or temporarily.<sup>9</sup>

Further, the following section provides one’s analysis of the relationship between the government and parliament during a pandemic crisis—through the example of declaring a state of emergency and passing laws under fast-track procedures.

The subsequent section of the paper focuses on the relationship between the government and the opposition. In general, and particularly in times of crisis, the parliamentary opposition may adopt a cooperative or a confrontational approach, acting as either a ‘brake’ or a driver that pushes the government to take decisive action in response to problems. As Ryan and Saunders noted,<sup>10</sup> emergencies present opportunities and challenges for opposition members. In contrast, during a crisis, the governing parties appears to have the authority to expand their scope of action to fulfil their long-term obligations.<sup>11</sup>

The final section summarises and comments on the main findings.

## **Adaptation of the Czech Parliament to a Pandemic Situation**

The onset of a pandemic or other emergency situation can significantly impact the regular meetings and operations of parliament, and this potentially hinders its ability to fulfil parliamentary functions, particularly the oppositional check function. Therefore, many European parliaments modified their rules of

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<sup>8</sup> Wolfgang Merkel, “Who Governs in Deep Crisis? The Case of Germany,” *Democratic Theory* 7, no. 2 (2020): 1-11.

<sup>9</sup> Nicole Bolleyer and Orsolya Salát, “Parliaments in Times of Crisis: COVID-19, Populism and Executive Dominance,” *West European Politics* 44, no. 5-6 (2021): 1103-1128; Petra Guasti, “Populism in Power and Democracy: Democratic Decay and Resilience in the Czech Republic (2013-2020),” *Politics and Governance* 8, no. 4 (2020): 473-484.

<sup>10</sup> Fiona Ryan and Cheryl Saunders, “The Role of the Legislative Opposition in Emergencies,” *Constitutional INSIGHTS* 9 (September 2022), <https://www.idea.int/publications/catalogue/role-legislative-opposition-emergencies> (accessed November 8, 2023).

<sup>11</sup> Ilonszki, Marangoni, and Palau, “Can Opposition Parties Be Responsible?” 722-740.

procedure at the beginning of the pandemic to allow for remote participation and voting by Members of Parliament (“MPs”).<sup>12</sup> In the Czech Republic, its’ Parliament closed physical sessions in the first weeks of the pandemic. Unlike other countries, it was not necessary to alter the formal rules governing the legislature.<sup>13</sup> Parliamentary committees continued to operate smoothly without any amendments to their Rules of Procedure. Information on recommendations and measures for the public was regularly updated on the parliamentary website, and remote participation in committee meetings was allowed under Chamber of Deputies Resolution No. 1390.<sup>14</sup> Despite distancing measures and limitations on physical meetings, MPs were still able to address both urgent measures and long-term priorities. Seating arrangements were modified, and the number of attending MPs was limited based on a pairing agreement among the parties. The Chamber of Deputies required at least one-third of its members (67) to be present for ordinary resolutions to be voted on. A majority of those present were required to pass a resolution, with a few exceptions.<sup>15</sup>

To enable parliamentary committee meetings to proceed during the pandemic, most European parliaments made use of remote access as an emergency measure, with many explicitly allowing or regulating this through amendments to their rules of procedure. Only Hungary and Austria did not enable remote access.<sup>16</sup> In the Czech Parliament, parliamentary committees utilised digital proceedings and sometimes limited public access to meetings, which were later broadcast to the public via video conferencing or streaming. Some committees went fully digital. It follows, that there were no structural changes to the committees themselves, and there was no special COVID-19 committee established. Instead, the Chamber of Deputies established the

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<sup>12</sup> Jindriska Syllova, *Změny jednacích řádů parlamentů upravujíc vzdálený přístup. Srovnávací studie 12/2020* [Changes to Parliamentary Rules of Procedure Governing Remote Access. Comparative Study 12/2020], (Prague: Parliamentary Institute, 2020).

<sup>13</sup> Osnat Akirav, Ken Coghill, Petra Guasti, Pauline Haupt, Werner J. Patzelt, and Sven T. Siefken, “Parliaments in the Pandemic I,” Working Papers of the Research Collaboration Organized by the Research Committee of Legislative Specialists IPSA, No. 1/2021 (April 16, 2021), <https://ipsa-rcls.org/pip/> (accessed January 5, 2023).

<sup>14</sup> The resolution is available at: Parliament of the Czech Republic, Chamber of Deputies, “Resolution No. 1390 on Setting Rules for the Conduct of Meetings of the Bodies of the Chamber of Deputies through Videoconference and at a Distance,” (December 3, 2020), <https://www.psp.cz/sqw/text/orig2.sqw?idd=158299&pdf=1> (accessed October 28, 2023).

<sup>15</sup> To override a presidential veto of a bill or a vote of no confidence in the government, a supermajority of all MPs is required, i.e. 101 votes. The support of three-fifths of MPs is required to approve constitutional laws, dissolve the Chamber of Deputies or ratify certain international treaties.

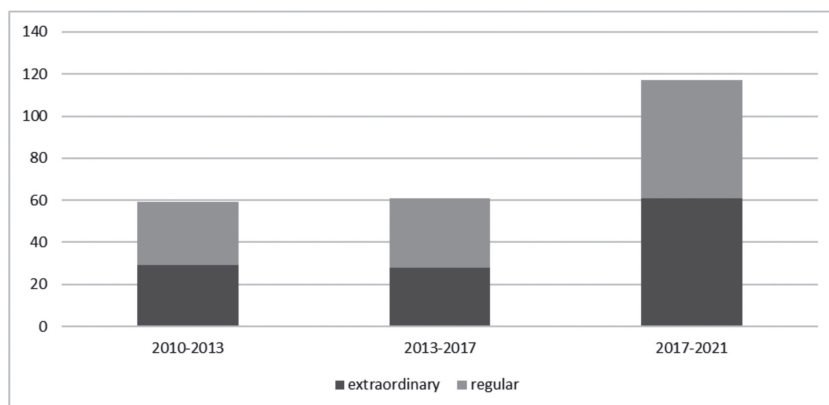
<sup>16</sup> Jindriska Syllova, *Jednání se vzdáleným přístupem ve výborech evropských parlamentů a jeho možnosti v běžném provozu. Srovnávací studie č. 1.252* [Remote Access Negotiations in the Committees in European Parliaments and Its Possibilities in Normal Operation. Comparative Study No 1.252], (Prague: Parliamentary Institute, 2022).

Temporary Commission for the Evaluation of the Effectiveness of Government Assistance under COVID-19 in July 2020, and the Commission operated until the end of the term of the Chamber of Deputies in 2021. To comply with health guidelines, parliamentary party groups (PPG) agreed to reduce the number of attending MPs by half, with those over 65 years of age attending the Chamber at a significantly lower rate due to vulnerability. The number of Chamber meetings or voting sessions held during the lockdown with only half of the MPs attending is estimated to be around 80 per cent, though no accurate records are available.

Emergencies can impact regular and productive sessions of the legislature. However, in the Czech case, the parliamentary term 2017–2021 was characterised by a high number of plenary sessions—the Chamber of Deputies convened 117 times, of which 61 were extraordinary meetings, indicating a higher number of exceptional sessions than ordinary ones (illustrated in Figure 1).

One of the reasons for this high number of sessions was the COVID-19 pandemic, as urgent bills and measures not on the original legislative agenda had to be adopted. In addition, the declaration of a state of emergency, a contentious issue, was among the government measures approved by parliament.

Figure 1. Number of meetings of the Chamber of Deputies 2010–2021



Source: Ligas and Švec.<sup>17</sup>

<sup>17</sup> Aleš Ligas and Kamil Švec, “Rekordní počet mimořádných schůzí i neprojednaných zákonů. Končící Sněmovna v číslech,” *ČT24*, (September 17, 2021), <https://ct24.ceskatelevize.cz/domaci/3370892-rekordni-pocet-mimoradnych-schuzi-i-neprojednanych-zakonu-koncici-snemovna-v-cislech> (accessed January 28, 2023).

## **The Government and the Chamber of Deputies at the Time of the Pandemic.**

The Czech Republic was poorly prepared for the outbreak of the COVID-19 pandemic, and the government's response was limited in its effectiveness. There was a massive shortage of protective equipment for healthcare professionals and the general public, and intense politicisation hindered the government's ability to formulate effective policies. The government seemed unaware of the seriousness of the health crisis and was unable or unwilling to enforce stringent measures. The reason was tension within the governing coalition and between the coalition and the supporting party (KSČM) as Prime Minister Babiš preferred public opinion to expert advice. The result was a rapid decline in trust in the government, especially during the second (autumn) wave of the pandemic. Parliament exercised its ability to control the executive by repeatedly engaging in debates on emergency measures, ensuring that the pandemic did not become an opportunity for greater concentration of personal power.

### ***Declaration of a State of Emergency***

In the Czech Republic, as in other countries, the battle against COVID-19 involved curtailing civil rights and political liberties due to exceptional measures. Given the disease's rapid spread and the healthcare system's initial inability to cope with the outbreak, the state of emergency was declared on March 12, 2020, throughout the Czech Republic. The state of emergency is declared under Constitutional Act No. 110/1998 Coll., on the Security of the Czech Republic. The Government of the Czech Republic was responsible for declaring the state of emergency through its resolution. The Government shall immediately notify the Chamber of Deputies of the state emergency declaration, which must be approved. The duration of the state of emergency shall be a maximum of thirty days. It may be extended only with the prior consent of the Chamber of Deputies. This condition, which can be classified as "ex-ante" authorisation, allows the parliament to exercise its oversight prerogative.<sup>18</sup> Consequently, the state of emergency temporarily limited fundamental human rights, particularly the freedom of movement and the free exercise of a profession. Highly restrictive measures were enforced, including school closing, a ban on public and private events and public access to sports and cultural facilities. The scope and content of the restrictions varied between the different phases of the state of emergency. During the pandemic, a state of emergency was declared five times and extended three times, as indicated in Table 1.

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<sup>18</sup> Elena Griglio, "Parliamentary Oversight under the Covid-19 Emergency: Striving against Executive Dominance," *The Theory and Practice of Legislation* 8, no. 1-2 (2020): 49-70.

Table 1. State of Emergency related to the Covid-19 pandemic

Duration	No. of extensions	Duration in days	Extention date	Percentage of MPs who approved the extension <sup>19</sup>
12.03.2020–17.05.2020	2	67	07.04.2020	89
			28.04.2020	53
05.10.2020–14.02.2021	5	133	30.10.2020	80
			20.11.2020	99
			10.12.2020	57
			23.12.2020	51
			22.01.2021	60
15.02.2021–26.02.2021	0	12	N/A	N/A
27.02.2021–11.04.2021	1	44	26.03.2021	51
26.11.2021–25.12.2021	0	30	N/A	N/A

Source: www.psp.cz.

Chamber of Deputies, both ruling and opposition parties were initially supportive of state of emergency declaration which coupled with severe austerity measures. However, the two sides were not so united and supportive when the government tried to extend it. The opposition hesitated to reauthorise the state of emergency and demanded a reduction in some emergency measures, which the opposition argued, were considered unreasonable. Parties criticised the government’s performance and were unwilling to approve each extension to 30 days.<sup>20</sup> Instead, opposition sought agreement to a shorter extension of 20 days, citing the need for more frequent scrutiny of the government’s actions. When the government asked for a second extension, it followed that the opposition was progressively less inclined to support the proposal, as Table 1 showed. The MPs criticised the government for disregarding the law, making erratic decisions, and frequently changing its position. The strongest opposition party ODS criticised the government for inadequate communication with the opposition ahead of negotiations. This situation confirmed what Rydzewska illustrates in the example of Spain during COVID-19, namely, that in the case of a minority government, ‘the government must seek approval from opposition parties and form coalitions when necessary’.<sup>21</sup> The first wave of the

<sup>19</sup> The Chamber of Deputies worked in a limited format. Support for the proposal (YES) is calculated from the number of MPs registered to vote.

<sup>20</sup> Petra Guasti, “Populism in Power and Democracy: Democratic Decay and Resilience in the Czech Republic (2013-2020),” 473-484.

<sup>21</sup> Agata Rydzewska, “Impact of the COVID-19 Pandemic on the Relations between Government and Parliamentary Opposition in Spain,” *Polish Political Science Yearbook* 50, no. 3 (2021): 1-11.



pandemic was over, but the opposition reminded the government of the need to prepare for a second wave, which was expected in the autumn. On June 4, 2020, the Chamber passed a resolution calling on the government to take action, providing twelve brief recommendations on what measures should be taken in the areas of health, education, public information, and the economy in preparation for the onset of the anticipated next wave of the pandemic.<sup>22</sup> However, the government, along with the supporting Communist Party, blocked the debate, arguing that ‘COVID is over.’ One of the paradoxes in the Czech Republic’s battle against the COVID-19 pandemic was that the opposition (except for KSČM) demanded a stronger response from the government.<sup>23</sup> The opposition, has proven to be more responsible than the government, which has been more responsive to citizens opinion.<sup>24</sup>

On September 30, 2020, the government approved the declaration of a state of emergency for the second time, which started from October 5, 2020, for 30 days. The aim was to facilitate the implementation of new measures during the autumn wave of the pandemic, and were primarily to limit mass gatherings and reduce the spread of the virus. Subsequently, with the approval of the Chamber of Deputies, the government extended the state of emergency until November 20, 2020, then for a second time until December 12, 2020, a third time until December 23, 2020, a fourth time until 22 January 22, 2021, and a fifth time until February 15, 2021.

The conflict between the government and the opposition deepened, which was evident in the vote to support the extension. The opposition criticized the government’s performance, the lack of personal discipline of some members of the executive during the lockdown, the lack of assistance to businesses, and the mismanagement of vaccinations. There were also strong objections to the prolonged closure of schools.

The KSČM refused to continue supporting the government, arguing that the government’s idea that the solution to the pandemic is to lock people up between four walls is not its vision. One of the government’s arguments in favour of the state of emergency was that it provided a legal framework that significantly simplified the government’s task when addressing urgent and serious problems. The state of emergency, for example, allowed the government to order protective equipment and undertake other activities without tenders, which was to their advantage. Despite the unfavourable pandemic situation, the Chamber of Deputies did not support a further extension of the state of emergency.

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<sup>22</sup> Poslanecká sněmovna, “Sněmovna hodnotila průběh první vlny pandemie koronaviru na území ČR a opatření k prevenci druhé vlny,” *Text schváleného usnesení* (June 4, 2020), <https://www.psp.cz/sqw/cms.sqw?z=13931> (accessed November 8, 2023).

<sup>23</sup> Petra Guasti, Zdenka Mansfeldova, Martin Myant, and Frank Bönker, *Sustainable Governance in the Context of the COVID-19 Crisis. Czech Report* (Gütersloh: Bertelsmann Stiftung Publishing House, 2021), [https://www.sgi-network.org/docs/2021/country/SGI2021\\_Czechia.pdf](https://www.sgi-network.org/docs/2021/country/SGI2021_Czechia.pdf) (accessed January 29, 2023).

<sup>24</sup> Ilonszki, Marangoni, and Palau, “Can Opposition Parties Be Responsible?” 722-740.

The discontinued support from opposition meant no pandemic measures and an immediate relaxation of all restrictions. The regional governors reacted to the dangerous situation. They came up with a proposal on how to prevent the relaxation of several measures. In the governor's view, declaring a state of emergency was crucial to managing the pandemic in the individual regions. However, the level of restrictions had to be considered. At the same time, the governors criticised the government for poor communication with the regions and for overlooking their specific needs. They demanded improvements in the situation and the setting of communication rules. Following a request by the Association of Regions of the Czech Republic, the government declared a new state of emergency on February 14, 2021, effective for only 14 days.<sup>25</sup>

Given the long duration of the pandemic and the complex negotiations to support both the declaration and extension of the state of emergency, the government introduced a bill into the Chamber of Deputies tailored to the coronavirus epidemic. The so-called Pandemic Act<sup>26</sup> was passed in February 2021 to replace the state of emergency during the COVID-19 pandemic and provide the government and the Ministry of Health with expanded powers to deal with the pandemic. The Act was to sunset after one year, on February 28, 2022. In addition to government MPs, most opposition MPs voted in favour of the Act. The clearly articulated rules allowed the government to interfere less with citizens' rights and freedoms than a state of emergency. However, the Act adopted an accelerated legislative process which had imperfections, and the government ultimately decided to address the worsening epidemiological situation by once again declaring a state of emergency. The state of emergency was declared for 30 days and then extended for an additional two weeks.

The last and fifth time a state of emergency was declared by the government in resignation<sup>27</sup> on November 25, 2021, was effective from the following day and lasting 30 days. The reason for this declaration was the deteriorating epidemiological situation, especially in the eastern part of the country. This fifth declaration was the last of the state of emergency of its kind due to the COVID-19 pandemic. If we add up all the periods, the state of emergency lasted for 286 days.

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<sup>25</sup> The Association of Regions of the Czech Republic is a grouping of individual regions of the Czech Republic whose task is to defend and promote the common interests of its members.

<sup>26</sup> Czech Republic. Act No. 94/2021 Coll., on emergency measures during the COVID-19 epidemic. Prague: Czech Republic Parliament, 2021.

<sup>27</sup> According to the Constitution of the Czech Republic, the government shall resign after the constituent session of the newly elected Chamber of Deputies resulting from the parliamentary elections. It shall continue to carry out its governmental tasks as a government in resignation until a new government is established. Elections for the Chamber of Deputies were held on October 8 and 9, 2021, and the Chamber of Deputies concluded its constituent session on November 10, 2021. The new government was appointed on December 17, 2021.

### ***Law-making Practices During the Covid-19***

The pandemic situation presented a significant challenge for the work of parliament and placed increased demands on it. It was necessary to pass several bills and amendments to laws immediately while maintaining all parliamentary functions. Parliament had to operate in an accelerated procedure and respond to governments' law-making requirements. According to the Rules of Procedure of the Chamber of Deputies, a state of legislative emergency can be declared in extraordinary circumstances, such as when there is a fundamental threat to the basic rights and freedoms of citizens, the security of the state, or significant economic damage. In these circumstances, the Speaker of the Chamber of Deputies declared the emergent status for a specific period upon the government's proposal. Additionally, the Chamber of Deputies could terminate or limit the duration of the state of legislative emergency. The Chamber of Deputies must continuously assess whether the state of legislative emergency must remain in place before addressing the agenda.

The Chamber thus retains, a balance of check, or control over whether the government is abusing the speedy legislative process to fast-track the governments' own agenda, given that the governments' power to expedite passing of law, fundamentally limits the prescribed parliamentary procedure for discussing legislative drafts, forcing laws to be adopted in both chambers of parliament within a few days of submission. A speedy legislative process may diminish the capacity of the legislature to scrutinize legislation adequately with due process and can compromise the quality of the content and limits public discussion both within and outside of parliament.<sup>28</sup>

Emergency procedures have been employed in nearly every parliamentary term except for the seventh term (2013-2017). The number of declarations of legislative emergency has varied between two and three in each term. The eighth term (2017-2021), marked by the COVID-19 pandemic, was exceptional due to the urgent need to implement several legal measures. The emergency resulted in the state of legislative emergency being declared eleven times, with several extensions beyond the original term.<sup>29</sup> The ninth term also saw a continuation of the state of legislative emergency and its extension. From the commencement of the new Chamber of Deputies in October 2021 until June 2022, when the pandemic was deemed to be under control, the state of legislative emergency was declared four times. The purpose of these declarations was to expedite legislative measures related to the pandemic and its consequences.

The decision to discuss and approve a law during a state of legislative emergency can be a contentious process, as politicians, particularly those in the opposition, attempt to prevent the politicisation and misuse of this mechanism.

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<sup>28</sup> Ryan and Sounders, "The Role of the Legislative Opposition in Emergencies."

<sup>29</sup> The Government submitted Resolution No. 254 to the President of the Chamber of Deputies on March 19, 2020, proposing a state of legislative emergency from that date until the end of the state of emergency declared by the Government.

The law making procedure under a state of emergency is the following: firstly, there is no initial reading when negotiating a bill under a state of legislative emergency. Instead, the Speaker of the Chamber will send the proposal directly to the relevant committee and establish a specific deadline by which the committee must provide a resolution with an opinion on the matter. Then, the designated committee will then state whether a comprehensive debate on the draft bill should be held and which components necessitate a detailed examination. Additionally, the committee then proposes a deadline by which the Chamber of Deputies should conclude the discussion on the draft bill. The process then proceeds to the second reading, during which a general debate is not required and the committee's resolution would be adopted. Under ordinary circumstances, a general and detailed debate would typically take place. Nevertheless, the Chamber must reach an agreement on the drafted bill. Speaking time may be reduced to five minutes, and the third reading may commence without further delay. However, in the case of a government draft bill, the Chamber constantly evaluates whether the state of legislative emergency persists and whether there are grounds for a speedy procedure. If the Chamber determines that no such grounds exist, it will not discuss the bill in the abbreviated session.

A significant proportion of bills were legislated using the speedy legislative process, see Table 2. While expedited procedures during a state of legislative emergency can increase the flexibility of the law-making system, it is essential to monitor whether the government is exploiting the convenience for its own interests, given the temporary restrictions on democratic principles. As a result, before discussing the meeting's agenda, the Chamber of Deputies will evaluate whether the state of legislative emergency persists.

The state of legislative emergency is undoubtedly a major challenge for the opposition, as it has less time to familiarise itself with the government's proposals. The state of legislative emergency means more than just shortened parliamentary procedures. It also means an increased risk of poor-quality legislation, as has happened in several cases. In some cases, the rapid pace of the legislative process has hindered the Chamber's ability to scrutinize legislation adequately, resulting in potential legal errors and subsequent lawsuits. Nevertheless, in the Czech bicameral system, the upper house of parliament—the Senate—is the safeguard and veto point. Table 2 shows that the Senate performed this function adequately during the pandemic and reduced the risk of poor-quality legislation. The role of the Constitutional Court and other courts, which have effectively counterbalanced and monitored the activities of the executive, must be considered. During the pandemic, the Constitutional Court played a highly active role in restraining executive overreach, nullifying various government measures and compelling the Government to act more consistently.<sup>30</sup>

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<sup>30</sup> Guasti, Mansfeldova, Myant, and Bönker, *Sustainable Governance in the Context of the COVID-19 Crisis. Czech Report*; Zuzana Vikarska, "Czechs and Balances—One Year Later," *VerfBlog* (March 30, 2021), <https://verfassungsblog.de/czechs-and-balances-one-year-later/> (accessed October 28, 2023).

Table 2. Adoption of Bills in the Czech Republic

Year	Total number of adopted bills by Chamber of Deputies (of which in a state of legislative emergency)	Returned by the Senate (of which bills passed in a legislative emergency)
2019	66 (20)	25 (7)
2020	114 (20)	31 (2)
2021	77 (19)	29 (5)
2022	63 (32)	3 (1)

Source: [www.psp.cz](http://www.psp.cz).

Initially, there was concern that PM Babiš’s cabinet might exploit the state of legislative emergency to introduce legal changes unrelated to the pandemic, as at the beginning of the pandemic, there was a broad consensus of concern among political parties in the Chamber. This perspective was evident, for example, when most members voted to restrict speaking time to one representative per caucus during the discussion, despite this not being a formal rule.

Regardless of who was in power, the emergency posed the risk of a certain relaxation of standard decision-making mechanisms. As the NGO State Reconstruction (which acts as a watchdog for the rule of law) mentioned, the measure can make procedures for adopting laws more flexible. However, due to the temporary restriction of democratic principles, monitoring whether the government is abusing this mechanism for its purposes is necessary. Legislative oversight also played a crucial role in uncovering the government’s mismanagement of purchasing personal protective equipment during the pandemic, with overpriced equipment purchased from companies based in tax havens rather than domestic producers.<sup>31</sup>

## Government and Opposition in a Time of Crisis

The relationship between the government and the opposition during the pandemic evolved depending on the severity of the situation. In times of crisis, government-opposition relations can result in contrasting expectations and consequences for democratic norms. While government-opposition consensus on crisis measures enhances their legitimacy in the eyes of the public, opposition criticism is essential as a catalyst for public discourse. This discourse is vital for democracy, especially when governments are inclined to seek more extraordinary powers.

The parliamentary opposition performs three interrelated functions: representation, scrutiny and oversight, and political alternative.<sup>32</sup> Although

<sup>31</sup> Guasti, Mansfeldova, Myant, and Bönker, *Sustainable Governance in the Context of the COVID-19 Crisis. Czech Report*.

<sup>32</sup> Ryan and Sounders, “The Role of the Legislative Opposition in Emergencies.”

the opposition parties primarily fulfilled the function of scrutiny and oversight during the pandemic, the representation function remained a part of their work. While consensus on crisis measures between governments and opposition parties can increase public trust and legitimacy, criticism by the opposition is essential as a catalyst for fuelling public discourse.<sup>33</sup> Opposition members represented the views and attitudes of their constituents in various ways, such as voting on bills and measures in the Chamber of Deputies and participating in public protests against some of the government's pandemic measures.

At the beginning of a pandemic, we observed cross-partisan consensus in adopting pandemic measures. However, this moment of unity was quickly replaced by the responsible behaviour of the opposition, which refused to give the government a blank cheque when the government asked for approval to extend the state of emergency. The opposition was aware that the government could become less responsive under the pressure of quick decision-making,<sup>34</sup> and the role of the opposition was to check the government and conduct a "quality check".<sup>35</sup> During a crisis, government-opposition relations can range from consensus-seeking to strictly adversarial.<sup>36</sup> This has happened in several cases, as exemplified by the declaration and approval of a state of emergency. Although the parliamentary opposition supported the first two lockdowns and approved extensions of the state of emergency several times, they vigilantly monitored the government's activities. The opposition effectively blocked several problematic government initiatives.<sup>37</sup>

The economic problems that were a direct result of the severe lockdown measures generated debates about the inappropriateness of the government measures and their impact on the economy and the population's well-being.

Members of the Chamber of Deputies, especially opposition MPs, used all the possibilities of exercising its oversight prerogative.<sup>38</sup> The opposition's activity is not limited to voting (for or against) on the government's proposals. Parliamentary opposition can undertake various actions to carry out its primary functions, i.e., checking the government's conduct and presenting itself as an

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<sup>33</sup> Or Tuttnauer, Tom Louwse, Rudy B. Andeweg, and Ulrich Sieberer, "COVID-19 in Parliamentary Debates: Opposition Sentiment Started Relatively Positive toward the Government but Increasingly Became More Negative," *LSE British Politics and Policy Blogs* (January 12, 2022), <https://blogs.lse.ac.uk/politicsandpolicy/covid19-opposition-party-sentiment/> (accessed November 8, 2023).

<sup>34</sup> Klaus H. Goetz, "A Question of Time: Responsive and Responsible Democratic Politics," *West European Politics* 37, no. 2 (2014): 379-399.

<sup>35</sup> Iłonszki, Maragoni, and Palau, "Can Opposition Parties be Responsible?", 722-740.

<sup>36</sup> Tom Louwse, Ulrich Sieberer, Or Tuttnauer, and Rudy B. Andeweg, "Opposition in Times of Crisis: COVID-19 in Parliamentary Debates," *West European Politics* 44, no. 5-6 (2021): 1025-1051.

<sup>37</sup> Guasti, "Populism in Power and Democracy: Democratic Decay and Resilience in the Czech Republic (2013-2020)," 473-484.

<sup>38</sup> Griglio, "Parliamentary Oversight under the Covid-19 Emergency: Striving against Executive Dominance," 49-70.

alternative to the parties in office. The Czech opposition parties, as many of their counterparts in other European democracies, can scrutinise the government through the presentation of parliamentary questions and interpellations, can introduce motions of (no) confidence, and, of course, can present their legislative proposals or amendments.<sup>39</sup> During the time under analysis, the opposition used all possibilities. MPs provided careful monitoring through interpellations, both written and oral, in which they addressed members of the government. The number of interpellations remained consistent compared to the period before the COVID-19 pandemic. Although there are doubts in the literature about the practical importance of parliamentary questions,<sup>40</sup> interpellations provided a fascinating insight into the dynamics between the government and the opposition and the inter- and intra-party relations of the governing coalition.<sup>41</sup>

Opposition parties strongly criticised the executive's governing style and insufficient communication toward the parliament, regional governments and the public. The opposition in the Chamber of Deputies initiated the establishment of a Temporary Commission for Evaluating the Effectiveness of Government Assistance under COVID-19. The Commission had nine members representing all parliamentary parties, including one representative from each PPG. The chairman of the most numerous oppositional parliamentary party group (ODS) chaired the Commission. The Commission's objective was to initiate negotiations between government officials and the business sector to propose specific solutions and procedures to help mitigate the impact of emergency legislation and related government measures on the business sector. Additionally, the Commission aimed to engage in a dialogue with local governments to raise awareness of the potential impacts of inadequate information at the municipal level and to regularly keep the Chamber of Deputies informed of its findings and progress.

Despite problems between the government and the regional administrative structures, the response to COVID-19 in the Czech Republic has remained relatively centrally managed. Communication between different levels of government was limited and erratic. On numerous occasions, regional and local authorities were notified about new measures simultaneously as the general public. Therefore, the capacity of subnational governments to implement measures varied significantly, and the government did little to address these differences.

The government's response to the COVID-19 pandemic was limited in its effectiveness. It can be argued that PM Babiš viewed the pandemic,

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<sup>39</sup> Guasti and Mansfeldova, "Czech Republic: Weak Governments and Divided Opposition in Times of Crisis," 133-149.

<sup>40</sup> Klaus von Beyme, *Parliamentary Democracy: Democratization, Destabilization, Reconsolidation, 1789-1999* (London: Palgrave, 2000), 82.

<sup>41</sup> Guasti and Mansfeldova, "Czech Republic: Weak Governments and Divided Opposition in Times of Crisis," 141.

particularly at its outset, as the hour of the executive, presenting an opportunity to take control into his own hands.<sup>42</sup> This was demonstrated by disregarding the established institutional structures for managing emergencies and disasters and establishing new institutions under his personal leadership. The situation was further exacerbated by internal tensions between the coalition partners ANO and ČSSD, the continual need to negotiate support from KSČM, and finally, the termination of this support.

Over time, the five parties forming the mainstream opposition (who later formed the governing coalition after the 2021 elections) have increasingly coordinated their positions. An example might be the use of motions of (no) confidence. In April 2021, The Communist Party (KSČM) denounced the so-called tolerance agreement, which caused the government to lose support in the Chamber. The opposition took advantage of this, and MPs from Pirates, STAN, ODS, TOP09, and KDU-ČSL raised a motion of no-confidence in the government. The government narrowly passed the vote, as KSČM MPs left the meeting hall before the vote. It should be noted that the Czech legal system does not provide for a constructive motion of no-confidence, which significantly increases the transactional costs of triggering government failure. Hence, a no-confidence vote used as an instrument of parliamentary control and pressure can damage the government's image and increase the opposition's chances in the next election.<sup>43</sup> This was also the case where opposition parties gained more visibility and exercised symbolic power.

During the pandemic, new priorities emerged, and divisions within the government grew. The ČSSD increasingly distanced itself from its coalition partner (ANO), and some of its MPs voted more frequently with the opposition than with their party. At the same time, some opposition parties had already started to change their behaviour, considering their prospects in the upcoming parliamentary elections. The upcoming election campaign and the prospect of potential electoral gains outweighed the content of the government bill under discussion. An example is the controversial 2020 tax reform that reduced income taxes. The reform was adopted despite a lack of support in the government coalition; the junior partner ČSSD was against the abolition of the so-called super gross wage.

However, the reform was adopted due to an unlikely alliance between the ruling ANO and the strongest opposition party, ODS, for whom it had

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<sup>42</sup> Petra Guasti and Lenka Buštková, "A Marriage of Convenience: Responsive Populists and Responsible Experts," *Politics and Governance* 8, no. 4 (2020): 468-472; Petra Guasti, "Democratic Erosion and Democratic Resilience in Central Europe During COVID-19," *Mezinárodní vztahy* 56, no. 4 (2021): 91-104.

<sup>43</sup> Franz Fallend, "Demokratische Kontrolle oder Inquisition? Eine empirische Analyse der parlamentarischen Untersuchungsausschüsse des Nationalrates nach 1945," [Democratic Control or Inquisition? An Empirical Analysis of the Committees of Investigation of the Austrian Parliament After 1945], *Österreichische Zeitschrift für Politikwissenschaft* 29, no. 2 (2000): 177-200.



been a long-term policy goal. However, the reaction of the party's voter base was mixed; most ODS voters understood that rebuilding the economy after the pandemic would require significant financial resources. This example highlights how opposition behaviour can vary depending on the proximity of parliamentary elections.<sup>44</sup> Nonetheless, the tax reform, adopted in November 2020, harmed the country's economic situation in the following period.

This situation now had to be addressed by the governing coalition led by ODS, which, as an opposition party, had supported the change in the law. The analysis presented here indicates that the goals, strategies and behaviour of permanent and mainstream opposition differ. The permanent opposition maintains mostly conflictual behaviour, the mainstream/temporary opposition seeks power and thus alternates between cooperation and conflict based on political and social context.

## **Conclusion**

The COVID-19 pandemic was a test of the democratic function in the Czech Republic. It tested the government's ability to act quickly, competently, efficiently and transparently. It also tested the ability of parliament not to leave decision-making entirely to the government at the moment of greatest crisis and become a rubber-stamping institution. During the pandemic, the parliament continued functioning more or less as usual. It demonstrated the ability to adapt to changing conditions and comply with physical distancing measures. The leadership of PPGs have been empowered to select which legislators can attend the meeting concerning the discussed issue and personal capabilities.

It was initially possible to observe a certain constructive tolerance of the opposition toward the government, given the severity of the pandemic. However, it was undoubtedly essential for the opposition to continue to act as a check on the government at that time. Regardless of who is in power, the emergency invited a looser standard decision-making mechanism. Therefore, the parliamentary opposition monitored the government's actions closely. In particular, checking whether the crisis measures adopted infringe fundamental rights and freedoms are proportionate to the purpose they pursue. The extension of the state of emergency has also been carefully considered regarding the proportionality of the measures taken and the balance between health protection and the socio-economic consequences of these measures.

During the first phase of the pandemic, when several legal measures had to be taken urgently and a state of emergency was declared, parliament, including the opposition, was cooperative. Given the unknown and critical situation, the health and lives of the population were prioritised. However, the opposition did not resign from its control, and continued to check on the government,

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<sup>44</sup> Ilonszki, Maragoni, and Palau, "Can Opposition Parties be Responsible?" 722-740.

particularly regarding whether the emergency measures taken to interfere with fundamental rights and freedoms were proportionate to their purpose. This was evident in the debates surrounding implementing and extending the state of emergency.

The opposition united and set clear boundaries for the government, mainly when it acted erratically, and its actions worsened the pandemic. MPs were unwilling to provide the government with a ‘blank cheque’ and emphasised the need to protect both the health of the people and the health of the democracy. Creating the Temporary Commission for Evaluating the Effectiveness of Government Assistance under COVID-19 is a concrete example of opposition oversight activity. Although the Commission was not an official commission of inquiry and could not refer findings to law enforcement, it still partially fulfilled its function.

The Government of the Czech Republic is responsible for declaring the state of emergency by its resolution. However, it needed be immediately notified to the Chamber of Deputies, which must approve it. The extension is possible only with the prior consent of the Chamber of Deputies. This condition, which can be classified as “ex-ante” authorisation, allows the parliament to exercise its oversight prerogative. An analysis of the declaration and extension of the state of emergency has shown that parliament and especially the opposition have carefully considered the necessity of this measure.

Decisions must be made quickly in times of crisis, as must the necessary legislative measures. The state of legislative emergency undoubtedly presented a significant challenge to the parliament’s oversight function, specifically for the parliamentary opposition. Regardless of who is in power, an emergency invites a certain loosening of standard decision-making mechanisms. It is, therefore, essential to monitor whether the government is abusing the speedy legislative process to advance its interest. The existence of control mechanisms and institutions with veto power is significant, and the analysis of the legislative process in the legislative emergency mode has demonstrated this.

The COVID-19 pandemic exposed both the strengths and weaknesses of Czech democracy. Despite persistent polarisation and fragmentation, the opposition prevented the government from overstepping its authority and marginalising parliament during the crisis. In addition, the courts and civil society demonstrated their resilience in an emergency. Government-drafted legislation was closely scrutinised, and errors that could have harmed citizens were corrected. Parliamentary scrutiny and accountability become even more essential in times of crisis, as the executive was under time constraints.