The pandemic and the law of contingency: some answers to an unfinished test

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COVID-19 pandemic and Contingency Law: some answers to an unfished proof

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COVID-19, state of exception, right of contingency

Summary

The pandemic caused by the dissemination of the coronavirus profoundly disrupted our life habits and constitutes a socio-economic challenge such as we did not know after World War II, in the last century. The Law, as a phenomenon of social regulation, was also put to the test, in its conformational and adaptive capacities. This text intends, on the one hand, to launch an overview of the responses of the Member States of the European Union to the constitutional problems posed by the need to manage the pandemic and, on the other hand, to point out aspects that should constitute lessons for the future.

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References

Anniek DE RUIJTER, Roel BEETSMA, Brian BURGOON, Francesco NICOLI, Frank VANDENBROUCKE, EU solidarity in fighting COVID-19: State of play, obstacles, citizens' attitudes, and ways forward, VoxEU, March 26, 2020 — <u>https://voxeu.org/article/eu-solidarity-fighting-covid-19</u>.

Carla AMADO GOMES, Legality in atypical times: notes on health police measures in the context of the pandemic, RMP, special issue COVID-19, June 2020, pp. 43 secs; idem, State extra-contractual civil liability and(m) state of emergency: ten brief notes, e-Pública, 2020/1, pp. 170 secs.

Carlo BLENGINO, Emergenze and diritti fondamentali, March 19, 2020 — <u>https://www.ilpost.it/carloblengino/2020/03/19/emergenze-e-diritti-fondamentali/</u>

CEDH, Ana Maria GUERRA MARTINS, The Impact of COVID 19 on Human Rights - The response of the European Convention on Human Rights, e-Public, 2020/1.

WHO Communication Risk communication and community engagement readiness and response to coronavirus disease (CVID-19) — <u>https://apps.who.int/iris/bitstream/handle/10665/331513/WHO-2019-nCoV-RCCE-2020.2- eng.pdf</u>

Decision of 15 April 2020 1BvR 2821/16 — <u>https://www.bundesverfassungsgericht.de/SharedDocs/Pressemitteilungen/DE/2020/b</u>vg20-025.html

Dulce LOPES, The role of the principle of proportionality in a scenario of Administrative Law of necessity and exception, Administrative Law of necessity and exception, coord. by Carla Amado Gomes and Ricardo Pedro, Lisbon, 2020, pp. 167 secs.

Esther PEARSON, Towards human rights-based guidelines for the response to infectious disease epidemics: righting the response, Australian Journal of Human Rights, 2018/2. <u>https://scholar.google.pt/scholar?q=Esther+PEARSON,+Towards+human+rights-based+guidelines+for+the+response+to+infectious+disease+epidemics:+righting+the+response&hl=pt-PT&as_sdt=o&as_vis=1&oi=scholart</u>

Jornal Público, 16 May 2020: <u>https://www.publico.pt/2020/05/16/sociedade/noticia/covid19-tribunal-ordena-libertacao-pessoa-quarentena-hotel-acores-1916874</u>

Gabor POLYAK, Hungary's two pandemics: COVID 19 and the attack on media freedom, July

Jorge REIS NOVAIS, Fundamental Rights and unconstitutionality in a crisis situation – regarding the COVID-19 epidemic, e-Pública, 2020/1.

José A. MELO ALEXANDRINO, Should the right to freedom of article 27 of the Constitution have been suspended?, RMP, special n^o COVID-19, June 2020.

José ESTEVE PARDO, El discocerto del Leviatán. Politics and Law before the uncertainties of Science, Madrid/Barcelona/Buenos Aires, 2009.

José TUDELA ARANDA, Parliament and the health crisis - preliminary reflections, Cuadernos Manuel Giménez Abad nº 19, 2020, pp. 6 secs, 15 — <u>https://www.fundacionmgimenezabad.es/es/democracia-constitucional-0</u>

Julina BEQIRAJ, Italy's response to Coronavirus: adjusting along the way, April 8, 2020 – <u>https://verfassungsblog.de/italys-coronavirus-legislative-response-adjusting-along-the-way/</u>

Laurie SOBEL and May Beth MUSUMECI, Litigation Challenging Mandatory Stay at Home and Other Social Distancing Measures, June 2020 — <u>https://www.kff.org/coronavirus-covid-19/issue-brief/litigation-challenging-mandatory-stay-at-home-and-other-social-distancing-measures/</u>

Luis FÁBRICA, The decrees for the declaration and execution of the state of emergency – constitutional and administrative aspects, RMP, special n^o COVID-19, June 2020.

Mário KOLLING, The German Bundestag and the German Bundesrat in COVID-19 times, Cuadernos Manuel Giménez Abad nº 19, 2020, pp.189 secs, 193 — <u>https://www.fundacionmgimenezabad.es/es/democracia-constitucional-0</u>

Miguel NOGUEIRA DE BRITO, Emergence models in Constitutional Law, e-Pública, 2020/1, pp. 6 secs, 9.

Naja BENTZEN et alli: States of emergency in response to the Corona crisis: situation in certain member States, I, II and III, available here: <u>https://www.europarl.europa.eu/thinktank/en/search.html? word=states+of+emergency</u>

Pablo GUERRERO VÁZQUEZ, The British parliamentary system before COVID-19, Cuadernos Manuel Giménez Abad nº 19, 2020, pp. 200 secs — <u>https://www.fundacionmgimenezabad.es/es/democracia-constitucional-0</u>

Pedro COSTA GONÇALVES, Parliamentary abdication in emergency and continuation of abdication in calamity, available here:

https://observatorio.almedina.net/index.php/2020/05/21/abdicacao-parlamentar-naemergencia-e-continuacao- of-abdication-in-calamity/

Pedro LOMBA, Constitution, state of emergency and Health administration: some problems, e-Pública, 2020/1.

SPADARO, COVID-19: Testing the limits of human rights, European Journal of risk regulation, 2020/2.

Sweta CHAKRABORTY, The challenge of emergence risk communication: lessons learned in trust and risk communication from the volcanic ash crisis, Governing disasters. The challenges of emergency risk regulation, ed. Alberto Alemanno, Cheltenham/Northampton, 2011.



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