






Governments and parliaments in a state of emergency: what can we learn from the COVID-19 pandemic?

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ABSTRACT


What happens in a state of emergency that is prolonged and unrelated to security with respect to the powers afforded to or used by the executive, checks and balances, and cooperation between the government, parliament, and sub-national authorities? This article investigates the variation in 'executive aggrandisement' (a temporary reduction in influence and oversight capacity of formal institutions vis-à-vis the executive) during the COVID-19 pandemic in six parliamentary democracies. We theorise that this variation can be in part explained based on path dependence. We explore how pre-pandemic levels of executive dominance and policy centralisation affect executive aggrandisement during the 2020–2022 emergency across our sample of countries. We show that Canada and Germany experienced little to no aggrandisement. In France, Israel, Italy, and the United Kingdom, government rule increased throughout the crisis at the expense of parliament and sub-national authorities. In line with our expectations, we find that most facets of the process of executive aggrandisement in a state of emergency can be interpreted in view of prior institutional arrangements. The outlier elements can be explained by considering circumstantial factors. Our evidence contributes to the literature on the political consequences of COVID-19 by filling some gaps regarding the roots of executive aggrandisement.


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Introduction

The COVID-19 outbreak has shaken societies across the globe and transformed many aspects of communal life. Perhaps inevitably, politics was no

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exception. We wonder what consequences the health crisis bore for the democratic process as we know it. Political scientists, jurists, and pundits have expressed concerns related to the ability of liberal democracies to endure shocks such as the 2020–2022 emergency (e.g. Goetz & Martinsen, 2021). The research highlighting formal and informal transformations that took place within the parliamentary arena during the pandemic is quite rich.

We seek to contribute to the existing literature on Covid-related processes of ‘executive aggrandisement’ (e.g. Bolleyer & Salát, 2021; Guasti, 2021). Building on Bermeo (2016), we define this process as a temporary reduction in the influence and oversight capacity of formal institutions vis-à-vis the executive. We look at the variation in executive aggrandisement vis-à-vis parliament and sub-national authorities as representative institutions that keep tabs on and negotiate with the central government (Petrov, 2020).¹ We theorise that this variation can be in part explained based on path dependence. Drawing upon the veto player framework (Tsebelis, 2002; 2009), we hypothesise that the degree of executive aggrandisement resulting from the pandemic should reflect pre-pandemic levels of executive dominance. At the same time, in countries where a large degree of policy discretion is granted to sub-national authorities, the influence of the executive could be curbed due to the presence of a higher number of viable veto players. We thus investigate how pre-existing conditions relating to these two dimensions (executive dominance and policy centralisation) affect the variation in executive aggrandisement across different countries. In addition to engaging with the literature on aggrandisement, our work adds to the wider Covid literature that similarly used path dependence to explain political outcomes linked to the pandemic (e.g. Capano et al. 2020; Guasti & Bustikova, 2022).

For our analysis, we selected a sample of six parliamentary democracies (Canada, France, Germany, Israel, Italy, and the United Kingdom). We rely on a series of indicators to measure executive aggrandisement. We observe that, in line with previous work, countries exhibit a good deal of variation with respect to executive aggrandisement during the Covid crisis. Specifically, we show that Canada and Germany experienced little to no aggrandisement. In France, Israel, Italy, and the UK, government rule increased at the expense of parliament and, in all cases other than Britain, sub-national authorities. We find that most facets of the process of executive aggrandisement in a state of emergency can be interpreted in view of prior institutional arrangements. Conversely, the outlier elements, such as the near absence of aggrandisement in Canada or the acute monopolisation of the decision-making process on the part of the central government in Italy, can be explained by considering circumstantial factors such as the majority/minority status of the incumbent administration or lack of

adequate prior legislation regulating health emergencies. Overall, this evidence fills some of the lacunae regarding the roots of executive aggrandisement.

The remainder of the article is organised as follows. We begin by discussing the notion of executive aggrandisement in relation to the state of emergency resulting from the 2020–2022 pandemic, and we introduce our path dependence hypothesis. Next, we discuss our case selection and measurement. In the following section, we present our analysis and findings. We end with some concluding remarks and suggestions for future research.

State of emergency, executive aggrandisement, and path dependence

Countries enacted different lockdown policies in the initial stages of the pandemic (2020) to prevent contagion and fatalities. These policies ranged from limiting citizens' travel freedom to imposing bans on leaving domestic premises for non-essential reasons. In many cases, executives declared a state of emergency to maximise swiftness and efficiency with respect to making legislation and issuing the ordinances necessary to secure collective order and safety. Engler et al. (2021) highlighted that reactions to the emergency were not consistent across (European) democracies. They suggest that the large degree of variation in measures implemented by national governments and centralisation of the decision-making process 'cannot be solely explained by pandemic-related factors' (p. 1077). The authors propose that Covid restrictions were influenced by pre-existing commitments to protecting democratic principles. Similarly, Cheibub et al. (2020) indicate that reluctance to encroach on fundamental liberal rights contributes to explaining this variation but 'does not suffice to elucidate the heterogeneity among democracies' (p. 19).

It is plausible that an emergency like the COVID-19 pandemic would alter the way governments and legislatures conduct business compared to non-pandemic times. There are, at a minimum, two reasons why that may be. During an emergency, legislation and ordinances addressing such an emergency usually take precedence over the pursuit of electoral agendas. On top of that, a health-related emergency like the Covid one impairs the legislative process in a very practical manner: the impossibility of assembling safely or, if anything, the complications associated with doing so is something some parliaments have struggled with, at least in the beginning of the crisis. For example, Derosier and Toulemonde (2020) colourfully referred to the French Parliament as an 'almost inanimate' parliament 'on life support' (pp. 6-7). Still, a state of emergency as long as the 2020–2022 pandemic necessitates new equilibria. While countries adjust to the 'new normal', bills must be introduced, regulations must be put in place, and public

services must be kept going. Amidst all of this, leaders might also try to keep an eye on upcoming elections in the prospect that voters will hold them accountable for their actions (Becher et al., 2023). This is evident, for instance, in French President Macron's concerns about poor performance in nationwide local elections, which prompted a cabinet reshuffle in July 2020.² Our broad question is: what happens in a state of emergency that is relatively prolonged and unrelated to security, which is the more conventional kind of emergency surveyed by academics, in terms of the powers afforded to or used by the executive, checks and balances, and cooperation between the executive, parliament, and sub-national authorities?³

We consider the heterogeneity in how governments reacted to the COVID-19 crisis as a function of prior executive dominance and the strength of sub-national authorities as veto players. We start from the assumption that executives will almost inevitably play a more central role vis-à-vis other institutional bodies during a state of emergency. This happens because 'emergencies require massive delegation of power to the executive, which is the only branch of government with the information, decisiveness, and speed to respond to crises' (Ginsburg & Versteeg, 2021, p. 1499). Our goal is to gain a better understanding of the differences pertaining to the variation in levels of 'delegation' across different systems. To do so, we build on the notion of 'executive aggrandisement'. Bermeo (2016) defines this as a gradual process of voluntary democratic erosion carried out by the executive through legal means (e.g. ad hoc laws or constitutional revisions), culminating in reduced influence and oversight capacity of formal (and informal) institutions (parliament, courts, the media, etc.). Earlier studies leveraged this concept to explore the relationship between the Covid emergency and the discrepancies in the strategies and behaviour of governments in different countries. While Bermeo's canonical definition implies more long-lasting shifts, in the context of the COVID-19 pandemic, executive aggrandisement has been used to describe temporary changes involving the executive branch.⁴ These changes are mostly confined to the 2020–2022 state of emergency. In particular, political scientists investigated how the health crisis lowered 'horizontal accountability' (O'Donnell, 1994), i.e. mutual accountability between legislatures and governments.⁵ Executive aggrandisement and horizontal accountability are inversely related in that an increase in the former corresponds to a decrease in the latter and vice versa.⁶ Although we emphasise the temporary nature of these changes, we do not rule out the possibility that some changes might leave permanent marks. For example, where incumbent administrations resorted to non-codified mechanisms to impose restrictions, as in the case of the Decree of the President of the Council of Ministers (DPCM) procedure in Italy that would normally amount to secondary legislation, we cannot exclude that future Italian

officials might employ this instrument in situations not conforming to the Covid crisis.

The focus on parliaments and sub-national authorities stems from the fact that these representative institutions are responsible for performing *ex-ante* and *ex-post* scrutiny on executives, frustrating their potential to abuse or seize power (Petrov, 2020). During emergencies such as a worldwide pandemic, fear and uncertainty can lead citizens to increase their tolerance towards government policies in exchange for guarantees regarding the safeguarding of public health (Gidengil et al., 2022; Lowande & Rogowski, 2021). Hence, a pandemic might be exploited as a ‘policy window’ to curtail ‘vertical’ or ‘diagonal’ accountability mechanisms (regularity and fairness of the electoral process and freedom of the media and other public entities, respectively), given the diminished levels of control executives might submit to. Looking at the actions of rulers in the Visegrád Group, Guasti (2021) finds that the erosion of democratic norms was fostered by the inability of courts to arrest aggrandisement in Hungary (and, to a smaller extent, in Poland). Bolleyer and Salát (2021) discuss aggrandisement and accountability in examining the connection between the type of governing coalition and augmented executive centrality in the first phase of the COVID-19 emergency. They find that the formal weakening of parliaments concerning law-making was more visible in the presence of unified, single-party executives rather than diverse coalitions.

Yet, as far as we know, executive aggrandisement has not been examined with the intent of verifying if a process of this type can be explained based on path dependence in the context of the COVID-19 pandemic. In other words, we want to determine whether there is a path-dependent link between the pandemic and greater executive dominance and whether these aggrandisement dynamics are most noticeable in countries already ‘predisposed’ in terms of constitutional features and strength of the government vis-à-vis other authorities *before* the emergency. Several scholars have proposed path dependence frameworks, confirming the existence of this process for various aspects of politics during the 2020–2022 crisis. These include policy outcomes (Capano et al., 2020), the curbing of personal freedoms (Engler et al., 2021), and corruption (Guasti & Bustikova, 2022). Accordingly, we theorise that path dependence helps explain the variation in Covid-related processes of executive aggrandisement (and consequent temporary reduction in horizontal accountability). This process involves the government, parliament, and sub-national authorities (specifically, the regional governors and legislatures) as institutions with direct competencies in designing and/or enforcing health reforms.

We, like others before us (e.g. Dowding, 2013), place emphasis on two sources of variation in institutional arrangements. First, the strength of the national legislature as a veto player and supervisor of legislative outcomes.

Put differently, the ability of the government to bypass or coerce parliament into accepting proposals. In non-emergency times, executive dominance is defined by the magnitude of the agenda-setting powers enjoyed by the cabinet (Tsebelis, 2002; 2009). We, therefore, hypothesise that unless legal provisions lay out specific, more conservative arrangements to address emergencies, the degree of executive aggrandisement during the pandemic should mirror the pre-existing levels of executive dominance. At the same time, in countries where a large degree of discretion is granted to sub-national authorities (e.g. *Länder* in Germany), the influence of the executive could be limited by the presence of a higher number of viable veto players (Tsebelis, 2002). This phenomenon, known as ‘hollowing out’ (Rhodes, 1994), should moderate a potential process of aggrandisement that might take place during the state of emergency unless otherwise established by provisions such as a supremacy clause, which would allow the central government to override regional legislation. Conversely, the absence of additional veto players, i.e. centralised policy, should favour or, if anything, not impair aggrandisement. In the next section, we discuss case selection and measurement.

Case selection and measurement

Our analysis focuses on six parliamentary democracies: Canada, France⁷, Germany, Israel, Italy, and the United Kingdom. We selected this particular sample of countries for several reasons. We looked at the variation in the dimensions directly related to the expectations we are interested in testing (prior executive dominance and the relationship between central government and sub-national authorities/policy centralisation). With respect to prior executive dominance, the compound score proposed by Siaroff (2003) places Canada, France, and the United Kingdom at the top of our list. All three exhibit relatively higher pre-Covid levels of dominance. Instead, Germany, Israel, and Italy exhibit more moderate levels of prior executive dominance.⁸ For replicability, our classification is based on a census of *formal* institutions. However, we note that, in at least two cases (Israel and Italy), the literature has highlighted ongoing processes of executive expansion concerning the customs and practices of government officials.⁹ As for levels of policy centralisation and division of competencies between the executive and the lower division of authority, our sample of countries is balanced in that Canada, Germany, and Britain exhibit a low degree of centralisation linked to the federal (Canada, Germany) and devolved (Britain) systems of government. Contrarily, France and Israel exhibit high levels of centralisation. Italy is somewhere in between, presenting moderate decentralisation levels.¹⁰ In the appendix, we include a country-specific list of sources we consulted for our case selection (A1).

The set of countries we chose for our analysis is balanced in terms of two additional characteristics. First, considering the models of democracy proposed by Lijphart (1984), we are comparing three ‘consensual’ democracies (Germany, Israel, and Italy) to three ‘majoritarian’ democracies (Canada, France, and the United Kingdom). Second, four of our parliamentary systems are included in the evaluation of governments’ reactions to the COVID-19 pandemic presented by Altiparmakis et al. (2021), and they appear to be balanced in terms of the timing of their response to the health crisis. France and Italy are indeed classified as ‘first-movers’ because measures were taken early in their epidemic curve and in relation to other countries. Conversely, Britain and Germany are considered ‘latecomers’. Importantly, all six countries primarily implemented ‘living with COVID-19’ strategies. This makes their response more comparable as opposed to countries like Australia and New Zealand, which implemented strict ‘zero-COVID’ strategies (i.e. maximum control and suppression to stop transmission as soon as it was detected) and countries like Sweden, which altogether abstained from law-enforced virus containment measures (Simonsen, 2022). Finally, our selection was also based on the availability of sources and data. Table 1 summarises the criteria of our case selection:

To assess the path dependence hypothesis, we need to understand the degree to which each country experienced a process of executive aggrandisement during the 2020–2022 pandemic. We a priori exclude some of the traditional factors that can explain executive expansion as listed by Poguntke and Webb (2005): the internalisation of politics, the growth of the state, the changing structure of mass communication, and the erosion of traditional social cleavage politics. These causes imply underlying, gradual, long-term processes pertaining to changes in culture, values, beliefs, and social norms. That is what Roland (2004) calls ‘slow-moving’ institutions. While we concur with Poguntke and Webb that these can explain a more enduring process of aggrandisement, they outlast the duration of an emergency such as COVID-19 by far.

We rely on a series of indicators to measure executive aggrandisement levels (and thus a reduction in horizontal accountability) systematically. We start with a recent contribution by Lührmann and colleagues (2020). They characterise horizontal accountability as a function of four dimensions: (1) the executive’s compliance with existing constitutional norms or legal statutes, (2) parliament’s ability to investigate the actions of the executive (what we earlier referred to as *ex-ante* and *ex-post* scrutiny), (3) parliament’s power to question (and revise) the actions of the executive, and (4) other political actors’ ability to question the actions of the executive, in our case, the sub-national authorities (p. 814). To operationalise each horizontal accountability dimension in a way relevant to our research question, we turn to established frameworks of executive dominance and parliamentary governance

Table 2. COVID-19 executive aggrandisement indicators.

HA dimension	Indicator
GOVERNMENT	
Compliance (Legal statutes)	<ul style="list-style-type: none"> - Reliance on non-codified procedural mechanisms - Transfer of power to issue ordinances - Introduction of Covid-specific legislation - Use of existing emergency provisions
PARLIAMENT	
Investigate (Oversight functions)	<ul style="list-style-type: none"> - Regular parliamentary sessions - Regular oversight and control activities - Creation of ad hoc oversight channels (e.g. special committees)
Question (Law-making authority)	<ul style="list-style-type: none"> - Parliament approved or could revoke state of emergency - Sunset clauses for executive legislation/ordinances
SUB-NATIONAL AUTHORITIES	
Question (Law-making authority)	<ul style="list-style-type: none"> - Degree of discretion over policy - Possibility of overriding executive

(Baldwin, 2004; Dowding, 2013; Norton, 1990; Siaroff, 2003; Sieberer, 2011 – and explicitly targeting the pandemic – Bolleyer & Salát, 2021). Our indicators are detailed in Table 2. In the appendix, we describe each indicator in-depth, and we include some examples (A2).

Our analysis proceeds as follows. We use the indicators in Table 2 to determine the extent of Covid-related aggrandisement in each country. The results are summarised in Table 3. We then relate these results to our path dependence hypothesis. The text includes the most relevant sources and references we consulted for our study. The appendix contains a more thorough overview of the legal provisions regarding the management of the COVID-19 pandemic and, more generally, a state of emergency (A3). We also provide a complete list of the sources we reviewed when assessing levels of executive aggrandisement and the path dependence hypothesis (A4).

Analysis

We identify various general trends. (1) Parliamentary control over the executive was mostly *ex-post*. All countries except for Germany and Italy set up ad hoc committees of inquiry to scrutinise the actions of the government; (2) In all countries other than Canada (federal level) and Britain, the executive declared a state of emergency. France, Israel, Italy, and the United Kingdom also codified new emergency provisions to deal with the crisis; (3) In the initial phase of the pandemic, the sub-national authorities mostly cooperated with the central government. Later, coordination became less pronounced; (4) For the most part, parliaments carried out their regular activities and functions, and no legislature was suspended altogether except for the Israeli Assembly in March 2020. In the appendix,

Table 3. Executive aggrandisement (2020–2022).

	Legal sources	GOVERNMENT		PARLIAMENT		REGIONS
		Reliance on non-codified mechanisms/ Introduction of Covid-specific legislation and transfer of power to issue ordinances	Use of existing emergency provisions	Regular parliamentary sessions and oversight/control activities/ creation of ad hoc oversight channels	State of emergency and sunset clause	Policy discretion and possibility of overriding executive
CANADA	Constitution Acts; Quarantine Act, Canada Health Act; Emergencies Act	No	State of emergency declared only at the local level; Emergencies Act not invoked for pandemic*	Yes; Special parliamentary committee of inquiry	No state of emergency declared at the federal level	(Health) policy discretion retained by provinces. The federal government was only responsible for purchasing Covid vaccines
FRANCE	Constitution; <i>Code de la santé publique</i> ; <i>LOI n° 2020-290 du 23 mars 2020 d'urgence pour faire face à l'épidémie de covid-19</i>	Power to issue ordinances transferred from Health Minister to PM in a 'state of health emergency'	Power to issue ordinances based on the <i>Code de la santé publique</i>	Yes; Special parliamentary committee of inquiry	Declaration of 'state of health emergency'	Excluded from the decision-making process, regions 'executors' of central government policies
GERMANY	Constitution; <i>Infektionsschutzgesetz</i> (IfSG); <i>Corona-Krisenpaket</i> ; <i>Drittes Gesetz zum Schutz der Bevölkerung bei einer epidemischen Lage von nationaler Tragweite</i>	Amendments to IfSG to grant power to issue ordinances to Health Minister	Recourse to IfSG (with amendments); Existing pandemic plans updated	Yes; No ad hoc oversight mechanisms	State of emergency declared by federal government, with the possibility for parliament to revoke it; Sunset clause (end of state of emergency)	Central government supremacy clause with respect to lockdown policies (not used)
ISRAEL	Basic Laws; Public Health Ordinance, 1940; Mini-Corona Law; Corona Law	Power to declare an 'emergency situation because of Coronavirus' or a 'special emergency situation because of	Emergency powers in a 'general emergency situation' (art. 39 of Basic Laws/ Government)' Emergency powers	Parliamentary session suspended in March 2020; Regular oversight activities through parliamentary	State of emergency declared by government, with the possibility for parliament to revoke it. Sunset	Unitary state

		the Coronavirus' granted to executive	based on Public Health Ordinance, 1940	questions; Special parliamentary committee of inquiry	clause for government emergency legislation	
ITALY	Constitution; a. <i>LEGGE 23 dicembre 1978, n. 833; Decreto Legislativo n. 1/2018; Decreto-legge n. 6/2020; Decreto-legge n. 19/2020</i>	Use of uncodified procedure ('DPCM'); Power to issue ordinances shared between Health Minister and PM	Declaration of state of national emergency based on Civil Protection Code; Health Minister ordinances based on NHS law; Use of decree-laws (art. 77 of Constitution)	Yes, No ad hoc oversight mechanisms	State of emergency declared by government, with the possibility for parliament to revoke it; 30-day sunset clause (starting from March 2020)	Regions could only introduce <i>more restrictive</i> lockdown policies, i.e. lockdown policies more restrictive than those introduced by central government; Central government could take over/act in lieu of regions
UK	Public Health Act (Northern Ireland) 1967; Public Health (Control of Disease) Act 1984; Civil Contingencies Act 2004; Public Health etc. (Scotland) Act 2008; Coronavirus Act 2020	Institution of new procedure for statutory instrument through Coronavirus Act 2020; Presence of Henry VIII clauses; New powers to introduce pandemic measures granted to Northern Ireland and Scotland	Power to issue ordinances through Public Health (Control of Disease) Act 1984	Yes; Special parliamentary committee of inquiry	The House of Commons confirmed statutory instruments every six months	(Health) policy discretion retained by individual nations. Each nation set up its own advising committee of experts.

*The Emergencies Act was invoked in February 2022 to suppress the Canada Freedom convoy protest.

we present some data about the number of plenary meetings between March 2020 and December 2022 (A5).

Canada

Executive aggrandisement

Executive aggrandisement during the COVID-19 pandemic in Canada has been very limited or absent altogether. The central government did not interfere with the provinces' handling of the crisis.¹¹ The Emergencies Act, pre-existing legislation that would have granted extraordinary powers to the executive, was not invoked to prevent contagion and fatalities.¹² For the most part, the Canadian Parliament met and carried out its oversight and control activities regularly (Flood & Thomas, 2021; Rayment & VandenBeukel, 2020; Segatto et al., 2021). On April 20, 2020, the assembly voted to set up a 'Special Committee on the Covid-19 Pandemic' to scrutinise the government's actions.¹³ No state of emergency was declared at the federal level, but it was declared at the local level. The main centralised decision taken by the cabinet led by Justin Trudeau was introducing the legal requirement to quarantine for fourteen days for international travellers entering Canada, based on the stipulations of the 2005 Quarantine Act (Schnabel & Hegele, 2021). Later in the pandemic, the federal government was responsible for purchasing the Covid vaccines. The sub-national authorities cooperated with each other and the central government to dispense medical supplies in the initial stages of the emergency. According to Paquet and Schertzer (2020), this cooperation was forced by the health crisis as a 'complex inter-governmental problem', requiring a homogenous response across the country.

Path dependence

While the country scores high in prior executive dominance levels, the national parliament and the provinces remained highly involved in the legislative process. This is, in part, the product of the fact that the use of the emergency provisions on a federal scale allowed by the Canadian legal architecture was limited. In addition, the pre-Covid conflictual relationship between the central government and the regional authorities did not persist throughout the emergency. Cooperation between the executive, parliament, and the provinces was favoured by (1) the minority status of Justin Trudeau's cabinet, (2) the consolidation of a direct relationship between the lieutenant governors and the prime minister that had already surfaced in earlier emergency situations faced by the country, and (3) the lack of strong ties between opposition parties in the national legislature and their influence at the sub-national level. Several provinces were controlled by the PM's party (Conservative Party). During the second and third waves

(Winter 2020/2021), inter-province collaboration was less pronounced (Broschek, 2022; Lecours et al., 2021). In summary, the lack of executive aggrandisement in Canada is the result of a mix of circumstantial factors and the highly decentralised nature of health policy.

France

Executive aggrandisement

We detect executive expansion in France during the Covid pandemic in different aspects of the political process. In the French case, the ‘executive’ comprises the cabinet (and the prime minister) and the elected head of state. First, the delegation of the Health Minister’s power to issue ordinances to the government, which was allowed to rule by *décrets réglementaires*. This was achieved through an amendment to the *Code de la santé publique*, which codified a new type of state of emergency – the ‘state of health emergency’ (Platon, 2020) and activated the mechanisms of article 38 of the 1958 Constitution (Council of Ministers decree power) (Chambas & Perroud, 2021). Decision-making was dominated by the Defence Council chaired by President Emmanuel Macron, rebranded by adding the epithet ‘health’ to its name (Hassenteufel, 2020).¹⁴ The Council was exploited to approve ordinances under the supervision of the head of state, bypassing most of the cabinet (Bandelow, Hassenteufel, P., & Hornung, 2021). In July 2020, Macron replaced PM Édouard Philippe with Jean Castex following his party’s poor performance in nationwide local elections (March-June 2020) (France 24, 3 July 2020). Bandelow et al. (2021) see this as a strategic move to deflect blame in a climate of increasing ‘personalisation’ of politics (see also Benamouzig, 2022). Nevertheless, the executive was constrained by two committees of inquiry set up by parliament and the Constitutional Council, which was consulted before proceeding with the state of health emergency extension. Parliament was also involved in the appointment of an advising committee of experts. The legislature primarily performed *ex-post* scrutiny but voted to validate the state of emergency declaration (with the possibility to revoke it). A three-month sunset clause was also attached to the emergency ordinances. The regional authorities were entirely excluded from the decision-making process and merely executed the orders imparted by the central government.

Path dependence

Hassenteufel (2020) argues that the French response to the Covid crisis reflects the ‘policy legacy’ of a faulty public health system. In line with the expectations linked to high prior executive dominance, we do see aggrandisement in France, particularly in the figure of the head of state and the strategic replacement of the prime minister (Bandelow et al. 2021; Benamouzig,

2022) as well as the influential role of the Defence Council. The relatively marginal role played by parliament is likewise reflective of the French institutional setting, where the legislature is normally relatively weak compared to other European democracies (Roussellier, 2018). Similarly, in line with the expectations linked to the strength of sub-national authorities as veto players, we see that the regions played a marginal role, in congruence with the unitary nature of the French state and its strongly centralised bureaucracy where local jurisdictions are mostly dependent on the national ones. It is, therefore, not surprising that the central government acted by imparting orders to the regional health agencies and prefects, ‘executors’ of executive policies (du Boys et al., 2022; Kuhlmann et al., 2021). The extremely centralised management of the pandemic turned out to be quite inefficient in preventing the spread of the Coronavirus, giving rise to a debate on the need for more devolution vis-à-vis health matters (du Boys et al., 2022).

Germany

Executive aggrandisement

Aggrandisement in Germany was minimal. The federal government modified the pre-existing *Infektionsschutzgesetz* (IfSG) with the *Corona-Krisenpaket* in March 2020 to bestow the faculty to issue ordinances and introduce national lockdown policies upon the Health Minister without prior approval of the state parliaments (*Landtage*) and the Bundesrat (Senate). Based on the German Constitution, legislation pertaining to health matters is ‘concurrent’. It involves both the executive and the states (art. 74).¹⁵ The sub-national authorities were heavily involved in the decision-making process, limiting the potential expansion of the central government (Kropp & Schnabel, 2021). Yet, Kuhlmann and Franzke (2022) consider this amendment incompatible with the constitutional framework of Germany due to the formal curbing of discretion of the *Länder* and the presence of a ‘supremacy’ clause that would have allowed the federal government to override measures introduced at the sub-national level. The Bundestag assembled and carried out its activities regularly. However, the legal quorum for plenary meetings was reduced. Furthermore, legislative proposals were scrutinised by a permanent parliamentary committee. Some were fast-tracked, as in the case of the IfSG amendments.¹⁶ The national legislature also approved (and renewed) the state of emergency, and a sunset clause went into effect in November 2020 for the ordinances introduced by the executive.

Path dependence

Albeit minimal, the process of executive expansion followed a path-dependence logic. First, the cooperative nature of the relationship between the

central government and the *Länder* ('interlocking' federalism) persisted throughout the pandemic. This cooperation was favoured both by the high degree of decentralisation that characterises the German political system but also, according to Vampa (2021), by the fact that the Christian Democrats (CDU) and the Social Democrats (SPD) controlled both the federal assembly (as a coalition) and the majority of the state assemblies (either individually or as a coalition). The supremacy clause, while present, was not invoked, as Chancellor Angela Merkel opted for a 'decentralised and coordinated approach' (Hegele & Schnabel, 2021, p. 1069). Specifically, 'to coordinate measures that the Länder implemented via their own administrative decrees, the long-standing Conference of the Premiers (*Ministerpräsidentenkonferenz*) was used to hold regular meetings with the chancellor. After these meetings, agreements were published, and press conferences were held documenting the output of the coordination process' (Schnabel & Hegele, 2021, p. 552). The implementation of lockdown measures was more homogeneous across the country in the initial phase of the pandemic (Kropp & Schnabel, 2021). As the severity of the health emergency dwindled, the regional authorities became more autonomous and divergent in managing the crisis (Kuhlmann & Franzke, 2022). In line with prior (moderate) executive dominance levels, parliament maintained strong horizontal accountability mechanisms.

Israel

Executive aggrandisement

Israel underwent a major process of executive aggrandisement, particularly in the early stages of the COVID-19 pandemic. As argued by Bar-Siman-Tov (2020), this needs to be placed in the context of an ongoing political crisis predating the 2020–2022 emergency. The government resorted to the 'general emergency situation' provisions contemplated by the Basic Laws (Government, art. 39) as opposed to the 1940 Public Health Ordinance, which would have allowed the Health Minister to adopt any necessary measure to prevent the spread of the virus ('basket' clause, art. 20).¹⁷ The introduction of ordinances based on art. 39 was questioned by the Supreme Court on the grounds that a 'general emergency' strictly pertains to national security matters as opposed to health matters. While the state of emergency was declared by the executive, the Knesset could revoke it. Parliament was inactive between March 2 and March 26 due to the government formation process underway. Bar-Siman-Tov (2020) maintains that this was favoured by PM Benjamin Netanyahu and the former speaker's intention to elude parliamentary scrutiny. Due to the intervention of the Supreme Court, the Knesset resumed its activities at the end of March. A special committee was set up, chaired by opposition members, to oversee the executive's handling of the emergency. Maor et al. (2020) contend that the state of emergency

was exploited by the prime minister to form a majority coalition and that many executive decisions ought to be seen as political strategies rather than measures aimed at preventing contagion and deaths. In the second phase of the Covid pandemic, the Corona Laws (23 July 2020) altered the course of executive expansion by ensuring firmer parliamentary oversight through committees and the introduction of sunset clauses for emergency measures and ordinances.¹⁸ At the same time, an amendment to the Corona Laws, introduced in September 2020, allowed the central government to tighten its grip on the public by banning protests, which will continue throughout 2020 in spite of the ban, particularly among the orthodox communities (Hitman & Serpa, 2021). The Corona Laws established that the executive could autonomously declare a state of emergency, but parliament could invalidate the declaration. Starting in May 2020, the majority took over the parliamentary committees performing checks on the incumbent. This move was highly criticised and led to public demonstrations against the PM (Allweil, 2022). Overall, aggrandisement in Israel was moderated by extensive use of parliamentary questions, the oversight functions of the state comptroller, and the vigilance of the Supreme Court (Bar-Siman-Tov, 2020; Bar-Siman-Tov et al., 2021).

Path dependence

The process of aggrandisement in Israel was path-dependent. The regions as veto players do not play a moderating role, given the unitary form of state.¹⁹ As for prior executive dominance – in line with Rahat's (2018) and Mahler's (2018) observations linked to the aggrandisement of Israeli governments in their practices (or 'unwritten' norms) in the context of an ongoing political crisis (Bar-Siman-Tov, 2020) – we detect diminished horizontal accountability in the suspension of the Knesset in March 2020 and marginalisation of the opposition. Parliament's scrutiny of the government, especially when it came to extending or revoking the state of emergency (and thus the executive's ordinance powers), is coherent with the Israeli custom of declaring 'general emergency situations' to deal with the Palestinian conflict. It is, therefore, not surprising that the incumbent resorted to this commonly employed provision as opposed to the Public Health Ordinance. Allweil (2022) nonetheless argues that the Corona Laws served as a means for the executive to bypass the legislature, one that 'appears strong on paper' but 'is relatively constrained in practice' (Albin et al., 2021).

Italy

Executive aggrandisement

Executive aggrandisement vis-à-vis parliament in Italy was gradual but certainly visible. Italy was the first European country to be severely hit by the

Covid crisis.²⁰ On 25 January 2020, the Health Minister issued an ordinance to stop arrivals from China based on the existing 1978 National Health System Law. The central government then promptly declared a 'state of national emergency' according to the provisions laid out in the 2008 Civil Protection Code. This allows the prime minister to take measures necessary to deal with emergencies. The executive thus set up an advising committee of experts and appointed an 'extraordinary commissioner' who was also granted the power to issue ordinances. The situation changed drastically on 23 February when PM Giuseppe Conte started relying on 'decrees of the President of the Council of Ministers' (DPCMs) to implement lockdown policies.²¹ These decrees were not voted on by parliament.²² The use of the DPCM procedure implied shared authority between the Health Minister (responsible for health emergencies as stipulated in the National Health System Law) and the head of government. The situation changed again at the end of March when the centrality of the executive was curbed by decree-law no. 19/2020, establishing that the advising committee of experts would have to evaluate pandemic policies before their implementation, introducing a thirty-day sunset clause for DPCMs. In ratifying the law-decree (22 May), an amendment was also presented, imposing that parliament would be allowed to pass a resolution on each DPCM before its enforcement. Finally, a parliamentary motion carried in May (no. 1-00348) urged the government to rely on the emergency procedure envisioned by the Italian Constitution, the decree-law (art. 77). As such, the assembly gained the faculty to vote on extensions of the state of emergency and the Constitutional Court could scrutinise the decrees *ex-ante*. The technocratic administration led by Mario Draghi, which took over in February 2021, primarily employed decree-laws (Bromo et al., 2023). Art. 117 of the Italian Constitution establishes that health-related legislation is 'concurrent', i.e. shared between the central government and regions. However, the constitution also allows the executive to take over the sub-national authorities (art. 120). After initial conflicts with the regions, the decree law no. 19/2020 restricted the discretion of regional institutions by imposing that these would only be able to introduce Covid measures that were equally or more restrictive than those introduced by the central government. The centralised decision-making process persisted throughout the second wave when the executive set up the 'colour system', which dictated the strictness of lockdown measures at the regional level, and throughout 2021 when the Draghi administration issued a legislative decree (no. 44) regulating school opening and closing (typically decided at the regional level). Sub-national authorities were allowed to express a non-binding opinion on DPCMs in the context of the Conference of Regions (the Italian equivalent of the German Conference of the Premiers) (Marchetti, 2021).

Path dependence

According to Rullo (2021), the COVID-19 pandemic sped up an already looming process of executive expansion. Aggrandisement is evident in the government's choice to rely on the uncodified DPCM procedure instead of the emergency procedure contemplated by the constitution, the decree-law.²³ This is likely due to the fact that the latter undergoes a process of *ex-post* scrutiny, given that the assembly must review and ratify or revoke each decree within sixty days, whereas the former can be activated with a one-off *ex-ante* delegation, which the executive had obtained with the decree-law no. 6/2020 (23 February). As for the regions, Italy adopted a model of centralisation of competencies, where, despite the moderate levels of decentralisation, the relationship between centre and periphery was quite conflictual and characterised by a 'vertical political blame game' (Kuhn & Morlino, 2022, p. 113). Hence, Italy was quite anomalous in that aggrandisement was quite pronounced despite the relatively weak institutional nature of the government and the strength of the sub-national authorities as veto players.

United Kingdom

Executive aggrandisement

A process of executive aggrandisement did take place in the UK, primarily due to the legislature's reduced scrutiny capacity. Specifically, to tackle the 2020–2022 health emergency, the Johnson cabinet resorted to statutory instruments (delegated legislation), which are secondary acts not amendable by parliament. In the 2019–2021 session, the government adopted a total of 425 Covid-related instruments. Twenty-five of these required parliamentary approval before being made, and 389 were subject to the 'made negative' or 'made affirmative' procedure.²⁴ Statutory instruments were issued by ministers under the stipulations of the 1984 Public Health (Control of Disease) Act and the 2020 Coronavirus Act. Regulations based on the latter mostly pertained to technical issues (e.g. tenancy forfeiture, local elections, etc.), while those based on the former concerned more salient policy issues such as lockdown restrictions. Measures implemented under the Public Health Act were adopted using the urgency procedure (section 45R). This means that urgent regulations would go into effect immediately without necessarily being laid before parliament. The House of Lords Select Committee on the Constitution maintained that the notion of 'urgency' is not subjective and that 'the use of the urgent procedure was not always justified' (p. 16). In addition, the Committee highlighted that the government could have relied on the 2004 Civil Contingencies Act instead, which would have allowed the executive to make secondary legislation and amend the primary legislation (Henry VIII power) without parliament's approval.

However, all regulations issued under the 2004 Act would have lapsed after seven days if not ratified by Westminster and – at any rate – re-made every 30 days. The Public Health Act-based measures were not constrained by any sunset clause.²⁵ As for the policy decentralisation dimension, devolution ensures that the regional parliaments can make their own regulations with respect to public health matters. Coordination in the management of the COVID-19 emergency was more prevalent in the initial phase of the pandemic. Between March and April 2020, the prime minister called COBRA (Civil Contingencies Committee) meetings, joined by Northern Irish, Scottish, and Welsh authorities, which allowed for the adoption of homogeneous strategies (Anderson, 2021). Conflicts between the central government and the devolved administrations began on 10 May 2020, when PM Johnson announced the unilateral decision to transition from a ‘stay at home’ model to a ‘stay alert’ one. The conflictual relationship carried over into the second Covid wave. Specifically, the Welsh and Scottish prime ministers emphasised the uncooperative behaviour of the Westminster leaders and became more autonomous in the adoption of pandemic measures (Diamond & Laffin, 2022).

Path dependence

Overall, the process of aggrandisement in the United Kingdom does follow a path dependence logic. King and Byrom (2021) maintain that the British Parliament was moderately weakened in its oversight functions. More generally, based on the various accounts of primary and secondary sources, including the House of Lords Secondary Legislation Scrutiny Committee’s reports, the Covid emergency appears to have reflected pre-existing tendencies towards increased executive dominance that were already surfacing in the aftermath of Brexit.²⁶ The ample use of delegated legislation likewise mirrors pre-existing customs, a fact referred to as ‘constitutional degradation’ by Pignataro (2022). In terms of the relationship between the central government and the regions, institutionally, we do not observe major attempts at interfering with the policy discretion granted to the individual nations, in line with the expectations that follow from the devolved form of state. Still, Horne and Torrance (2023) talk about a ‘disregard’ of the devolved legislatures by Westminster (although the Scottish Health Minister and the Northern Irish Health Department were granted new powers to introduce pandemic measures thanks to the Coronavirus Act, matching those conferred to UK and Welsh authorities by the Public Health Act 1984). Respecting how the First Ministers interacted with the UK cabinet, both Horne and Torrance and Thiers and Wehner (2023) compare the conflictual relationship during the Covid pandemic, especially in the more advanced stages of the emergency, to Brexit.

In the next section, we take stock of our evidence before moving on to some concluding remarks.

Summary of findings

Five out of the six cases we analysed in this article follow the path-dependence hypothesis with respect to the prior executive dominance dimension, i.e. executive aggrandisement during the pandemic should reflect prior levels of executive dominance. Indeed, we find that France and the United Kingdom, characterised by high executive dominance as per Siaroff (2003), as well as Israel and Italy with their ongoing processes of executive expansion, did undergo a process of aggrandisement vis-à-vis parliament throughout the state of emergency brought about by the COVID-19 pandemic. At the same time, Germany did not experience a process of executive aggrandisement throughout the 2020–2022 crisis. Contrary to the expectations, Canada, characterised by high executive dominance like all Westminster systems, does not follow the path dependence hypothesis, having experienced little to no increased government rule.

Four of the countries we analysed follow the path dependence hypothesis with respect to the centralisation dimension, i.e. processes of executive aggrandisement that might take place in a state of emergency could be moderated by the presence of states or regions as viable veto players (decentralised policy). Conversely, centralised health policy should favour or, if anything, not impair aggrandisement. In the United Kingdom, we do see an expansion in executive centrality vis-à-vis parliament, we also observe policy decentralisation dynamics in line with the devolved form of state. In France and Israel, we detect the presence of some aggrandisement, in line with our expectations concerning the unitary form of state. In Germany, the lack of reduced horizontal accountability also applies to the state authorities. Contrary to our expectations is the process of aggrandisement in Italy. In Canada and Germany, we do not detect any major processes of executive aggrandisement, but this is in spite of the fact that sub-national authorities did not exercise any veto power while being capable of doing so. In Italy, we detect possibly the highest level of executive expansion despite the moderately decentralised nature of health policy contemplated by the constitution.

All things considered, we believe four observations stand out. First, Canada as a non-complier in light of the lack of aggrandisement, given the nature of Canadian institutions. Second, the fact that Canada and Germany eluded a process of increase in executive centrality but not because of the presence of additional veto players as provinces and states, respectively, did not exercise their veto power. Third, Italy as a non-complier vis-à-vis the expectation that more decentralised health policy should moderate a process of executive aggrandisement that might take place in a state of emergency. Last, even within the compliers in the context of the path dependence hypothesis, we do observe differences in the levels of executive

expansion, such as the more extreme degree of aggrandisement we detect in Italy compared to the other countries in our sample that experienced a similar process.

We can say that circumstantial factors undoubtedly matter. In the Canadian case, the minority status of Trudeau's government might have prevented an increase in the centrality of the executive. The level of preparedness for a pandemic-like scenario also unquestionably matters. We mentioned earlier that both France and Italy were first-movers with respect to the adoption of measures to address the state of emergency. Both experienced high executive expansion, and neither had pre-existing legislation in place specifically aimed at tackling a health emergency. Conversely, the German case benefited from its already existing pandemic plans laid out in the *Infektionsschutzgesetz*. The lack of adequate emergency legislation, we suggest, might explain why a country like Italy had to resort to last-minute measures with the introduction of a new procedure and make use of the supremacy clause.

Concluding remarks

This paper discussed how the process of expansion of the executive vis-à-vis parliament and sub-national authorities during the COVID-19 emergency followed a path dependence logic. According to our theory, the variation in Covid-related executive aggrandisement and consequent temporary reduction in horizontal accountability is determined by constitutional features and the strength of the government vis-à-vis other authorities before the crisis. The past restricts feasible options in the present, so 'answers to newly emerging problems are pre-structured by existing institutional arrangements and historically ingrained patterns of problem-solving' (Kuhlmann et al., 2021, p. 558).

The changes linked to the 2020–2022 crisis we investigated largely confirmed this expectation. By demonstrating this, the article contributes to the literature on executive aggrandisement during the pandemic and the literature on path dependence in pandemic-related outcomes (e.g. Capano et al. 2021). During a health crisis like Covid, as we show, a path dependence logic is instrumental in explaining how parliaments and governments change the way they conduct business compared to non-pandemic times based on pre-existing institutional arrangements. Specifically, we have described these changes by leveraging the concept of executive aggrandisement. In the COVID-19 literature, this notion had already been employed with respect to exploring the relationship between the type of governing coalition and the weakening of legislatures (Bolleyer & Salát, 2021), or to describe the increased centrality of executives and reduced influence of the courts in the Visegrád countries (Guasti, 2021), but it had yet to be employed

to examine the connection between the variation in executive expansion during the Covid emergency and prior institutional features.

One interesting question emerges, which might constitute an avenue for future research. Our analysis focused on the increased centrality of the executive at the national/federal level. Still, scholars have highlighted tendencies towards augmented centrality at the sub-national level too. For instance, Kuhn and Morlino (2022) talk about the ‘presidentialisation’ of regional governors in Italy and *Ministerpräsident* in Germany. Future studies could build on this article to probe the magnitude and roots of potential processes of executive aggrandisement at the regional level. Additionally, the findings presented in this article may be further corroborated with more quantitative evidence, particularly with the goal of pinning down the factors that play a major role in triggering executive aggrandisement.

Notes

1. We refer to the division of authorities immediately below the national ones as “sub-national authorities.” This can be, for instance, the provinces and their lieutenant governor in Canada, the *Länder* (states) and their *Ministerpräsident* in Germany, or the countries of Northern Ireland, Scotland, and Wales and their First Minister in the United Kingdom.
2. “French PM Édouard Philippe and his government resign as Macron prepares cabinet reshuffle,” *France 24*, 3 July 2020. Last accessed: 21 November 2023.
3. See Ginsburg and Versteeg (2021) for a discussion of academic insights on security-related emergencies; Bar-Siman-Tov et al. (2021) explore a similar question in relation to judicial review in Israel.
4. In the last decade, the literature has scrutinised long-lasting shifts in cases like India and Turkey (see Khaitan, 2019; 2020).
5. Among these, Bolleyer and Salát (2021) define executive aggrandisement in the context of the Covid emergency as ‘a (temporary or permanent) weakening of fundamental institutional checking mechanisms in place to assure executive accountability within democracies through means of legislation and legislative reform’ (p. 1104).
6. Cox and Weingast (2018) observe that ‘horizontal accountability should reduce policy and crony uncertainty by limiting the chief executive’s scope for unilateral action’ and that ‘unconstrained rulers have enormous structural advantages [...] and can corrupt the process, should they wish’ (p. 284).
7. We cons France as a parliamentary system, given the confidence-based relationship between the cabinet and the National Assembly.
8. The score covers several facets of executive power in parliamentary systems, including the degree of government control of the plenary agenda, the presence of restrictions on the introduction of private members’ bills, the ability of the government to truncate the parliamentary debate, the prerogatives of the prime minister, etc. We detect a consistent pattern using another executive dominance score presented by Tsebelis (2009).
9. For example, Lupo (2019) points out that Italian governments have amplified their influence on the law-making process by relying on increasingly longer

and more complex decree-laws and delegation laws that allow the cabinet to rule by legislative decree. See also Lupo and Piccirilli (2021). For Israel, Rahat (2018) states that ‘Israel has experienced both failed and successful attempts to reform its democratic institutions in the seventy years since its founding’ and that ‘these reforms injected doses of majoritarianism and personalism into the system’ (p. 382). Relatedly, Mahler (2018) stresses the growth of “unwritten” constitutional norms and their impact on day-to-day Israeli politics.

10. In Italy, some policy discretion is granted to the individual regions. However, public policy matters are still highly influenced by the central government that handles the allocation of funds to local authorities. Additionally, the executive retains a constitutional prerogative to take over the sub-national jurisdictions.
11. According to art. 92 of the Constitution Act, 1867 (exclusive powers of the provincial legislatures), the regional authorities retain discretion over public health matters.
12. This document was the successor of the War Measures Act, which first appeared at the start of WWI. The invocation of such an act would have allowed the executive to issue ordinances for the preservation of public order. While these would have gone into effect immediately for a period of thirty days, the legislature would have been involved in at least two ways: by endorsing or revoking the state of emergency and by voting on the ordinances issued by the government.
13. In March 2020, parliament adjourned after expediting legislation authorising the executive to spend without prior parliamentary approval for three and a half months. In August, PM Trudeau prorogued parliament ‘to allow the government to adjust its strategy to account for the Covid-19 pandemic,’ a move criticised by the opposition (Flood & Thomas, 2021); Canadian House of Commons Debate 20 April 2020 (Last accessed: 21 November 2023); Had the Emergencies Act been employed in the early stages of the pandemic, a joint parliamentary committee would have been established automatically by virtue of invoking the act.
14. *LOI n° 2020-290 du 23 mars 2020 d’urgence pour faire face à l’épidémie de covid-19*. Before 23 March 2020, the emergency was addressed with ordinances issued by the Health Minister. On 16 March 2020, the government issued a decree imposing a national lockdown, citing the doctrine of “*circonstances exceptionnelles*” (Decree n. 2020-260); The existence of the Defence Council, which first appeared in 1906, is enshrined in article 15 of the French Constitution. After the outbreak of the Covid pandemic, the “Public Health Defence Council” was created to handle the health crisis. The committee includes the head of state, the prime minister, and five ministers (Health; Armed Forces; Interior; Economy; Labour) (French Presidency, last accessed: 21 November 2023).
15. Article 74 normally grants the power to issue ordinances to the state authorities but not to the federal Health Minister.
16. Amended twice, the first time in March 2020 and the second time in November 2020 (*Drittes Gesetz zum Schutz der Bevölkerung bei einer epidemischen Lage von nationaler Tragweite*). See Kaiser and Hensel (2021).
17. Also known as the “necessary and proper” clause.
18. These replaced the so-called “mini” Corona Laws, adopted in June 2020.
19. The local governments provide health services, however, local authorities function through by-laws approved by the Interior Ministry.

20. Bull (2021) described the pandemic as ‘the greatest challenge of any peacetime Italian prime minister’ (p. 149).
21. Civitarese Matteucci et al. (2021) also refer to this procedure as a “PM Decree;” The DPCM is a type of ministerial decree that would normally amount to secondary legislation. Before the pandemic, this instrument was used for intracabinet regulations.
22. The unrestrained delegation to the executive is similar to the basket clause in Israel; A DPCM issued on 22 March 2020 established the first national lockdown outside of China.
23. Although originally envisioned as an emergency procedure, decree-laws have progressively become an ordinary procedure for the making of primary legislation (see Vedaschi, 2022).
24. “COVID-19 and the use and scrutiny of emergency powers,” House of Lords Select Committee on the Constitution. See also the Hansard Society’s Coronavirus Statutory Instruments Dashboard for a full list of Covid-related SIs introduced between 2020 and 2022. Last accessed: 21 November 2023.
25. Cormacain (2020) also argues that confining the Covid-related emergency measures to one legal text (Coronavirus Act) would have facilitated abrogation at the end of the crisis. It is also important to note that secondary legislation is nonetheless subject to judicial scrutiny, and it can be invalidated by the courts.
26. The Secondary Legislation Scrutiny Committee’s reports are available here. Last accessed: 21 November 2023.

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