



COUNTRY REPORT: ITALY

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- 1. How has parliamentary law-making practice changed during the pandemic in the state you are studying?**
 - **Briefly describe the new practices.**
 - **Evaluate these practices. In your opinion, do these practices empower, disempower or not change anything regarding parliamentary law-making powers and practice?**

During the pandemic period, there were no significant developments in Parliament's law-making practice (i.e. the approval of primary legislation). On the contrary, practices that were already in use, such as the use of decree-laws instead of ordinary laws, have been exacerbated. The instrument of the decree-law, provided for by the Italian Constitution (Art. 77), allows the government to adopt rules with the force of law that are immediately applicable in cases of necessity and urgency. The decree-law is then sent to Parliament, which can make amendments. The decree must be *converted* (approved) by Parliament within 60 days of its adoption. In principle, the subject matter of the decree should be limited to a single object or purpose.

Decrees of an unprecedented size – such as Decree-Law No. 34 of 2020 consisting of 266 articles or Decree-Law No. 18 of 2020 consisting of 127 articles – have been presented during the pandemic period. The discussion and conversion of these decrees required a great effort on the part of Parliament.

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At the same time, it is possible to observe an increase in the number of amendments tabled by parliamentarians. Since March 2020, there has been a decrease in the number of ordinary laws passed. In the first months of the pandemic, an average of three decree-laws were adopted per month while in the same period of the previous year (2019), the average was two decree-laws per month. Parliament often failed to examine all the decree-laws. Consequently, the unexamined decree-laws merged into other decree-laws. This practice weakened the legislative power of the chambers.

It is important to underline that first measures aimed at restricting citizens' freedom of movement during the pandemic were adopted through a non-legislative instrument: Prime Ministerial Decrees (DPCMs). The Parliament, in this case, did not have the opportunity to modify the Government's decisions. Since the *conversion* of Decree-Law No. 19/2020, however, the contents of the Prime Ministerial Decrees have been explained in advance to Parliament, which has therefore exercised prior control over the Government's action.

The use of Prime Ministerial Decrees can be explained by considering the procedures necessary for their adoption. In fact, while the decree-law requires the scrutiny of the President of the Republic and the Ministry of the Economy (State Accounting Department) and the approval of the Council of Ministers, the Prime Minister's Decree generally requires the consent of the President of the Council of Ministers. To make the process more democratic, Decree-Law 19/2020 provided for the involvement of other institutional actors: the Minister for Health, after consulting the Minister for the Interior, the Minister for Defence, the Minister for the Economy and the Minister for Economic Affairs, Minister for Defence, the Minister for the Economy and Finance, other ministers or the President of the Conference of the Regions and provinces.

However, the use of Prime Ministerial Decrees (DPCMs) is only allowed until the pandemic emergency has ended. The practices adopted during the pandemic period confirmed the increasing role of government in the legislative process. As highlighted above, some practices were already in place before the outbreak of the pandemic. Some of the distortions in the law-making process were also criticised by the President of the Republic, who formally invited the Government and the Presidents of the Chambers to reconsider how decree-laws were exercised.

Parliament (and parliamentarians) had to adapt to the pandemic emergency. The large number of amendments tabled led to a lengthy discussion in parliamentary committees.

In addition, since May 2020, parliament has strengthened its role as ‘controller’ of the executive by giving its opinion on the Prime Ministerial Decrees before they enter into force. In 2021 there was less use of the Prime Ministerial Decree and more use of the Decree-Law instrument.

2. Looking at formal changes and the practice of law-making in the state you are studying, has respect for the rule of law increased, decreased or not changed at all during the pandemic? Please elaborate on the question.

Respect of the rule of law did not change during the pandemic period. Although Parliament played a minor role in the legislative process, it retained its prerogatives. In January 2021, there was even a change of government. In fact, no longer enjoying a majority in Parliament, President Giuseppe Conte resigned, paving the way for the government headed by Mario Draghi.

Moreover, some formal changes, such as the decision to allow informal committees to be held remotely, has also ensured that parliamentarians are able to conduct their mandate.

The most problematic profile of pandemic management is certainly linked to the use of the Prime Ministerial Decrees (DPCM). The use of DPCM to deal with the emergency was allowed by the approval of a specific decree-law. Scholars, politicians, and citizens have pointed out that the Government was limiting individual freedom with an instrument not provided for by the Constitution. However, the Constitutional Court has recently confirmed that the use of Prime Ministerial Decrees is in line with the Constitution (sentence 198/2021).

A further measure that was strongly criticised was the extension of the ‘state of emergency’ until 31 March 2022. Provisions of the state of emergency allow certain restrictions on personal freedoms to be imposed without using legislative instruments (as highlighted in the previous paragraph, the DPCM was used). At the same time, the

structures of the Commissioner General (in charge of managing the vaccination campaign) and the Scientific Technical Committee retain their powers. Anyway, as highlighted by the Constitutional Court, the DPCMs implemented the DL 19/2020 and not the provisions contained in the Civil Protection Code (which provides for the State of Emergency).

A greater involvement of Parliament in the legislative process would be desirable regardless of the pandemic that inevitably ended up by centralising decision-making power in the hands of the executive.

Annex 1: Formal changes

Country	Legal act changing formal rules of law-making (in original language)	Chamber concerned (in original language)	Short description of the content of the reform (in English)	Which year? 2019, 2020 or 2021
Italy	Decisione collegio Questori (7 marzo 2020)	Camera dei Deputati	The College of Quaestors established measures to sanitise the Chamber, suspending access to the Chamber by outsiders	2020
Italy	Resoconto della Giunta per il Regolamento (n° 342, Martedì 31 marzo 2020)	Camera dei Deputati	At the meeting of 31 March 2020, it was decided that informal meetings of the committees (i.e. hearings) could also be held electronically.	2020
Italy	Resoconto della Giunta per il Regolamento (n° 362, Giovedì 7 maggio 2020)	Camera dei Deputati	At the meeting of 7 May, the number of seats in the Chamber and adjoining areas was increased in order to ensure greater participation of Members	2020
Italy	Resoconto della Giunta per il Regolamento (n° 447, Martedì 6 ottobre 2020)	Camera dei Deputati	At the meeting on 6 October, it was decided to extend the rules on Members' missions (justifying their absence from the Chamber) to include Members with covid, in quarantine or in mandatory self-quarantine	2020
Italy	Resoconto della Giunta per il Regolamento (6° seduta, Martedì 9 giugno 2020)	Senato della Repubblica	Provisionally, in consideration of the epidemiological emergency situation in progress, until 31 August 2020 for the activity of the Presidency Offices of the permanent Commissions on an informal basis - without prejudice to the presence of at least the President or the Vice President of the Commission and the Head of the Secretariat Office - participation with videoconference connection in the work of the Presidency Offices is also allowed to the members of the Commission, limited to the carrying out of hearings.	2020
Italy	Resoconto della Giunta per il Regolamento (8° seduta, Martedì 10 novembre 2020)	Senato della Repubblica	At the meeting, it was decided to extend the measures on video conferencing until the pandemic continues.	2020

Annex 2: Law-making practice

Country	Chamber concerned (in original language)	Year	Number of ALL legislative bills	Number of resolutions/decisions/statements (various non-legislative measures)	Number of fast-tracked legislation (debate limited and/or shortened legislative process, including omnibus laws)	Most common forms of fast-track measures	Number of gov decisions (no parliamentary consent)	Number of working days (parliament)	Number of oral questions to the government	Number of written questions
Italy	Camera dei Deputati	2019	792 (99 approved)	202 motions (139 concluded); 53 ris (53 concluded)	19	Decreto-legge (decree-law)	Decree of the President of the Council (DPCM) 19	176	503 (133 answered) + 277 urgent oral questions	2385 (392 answered)
		2020	483 (67 approved)	105 motions (55 concluded); 68 ris (68 concluded)	24	Decreto-legge (decree-law)	Decree of the President of the Council (DPCM) 36 (21 covid; 15 no-covid)	164	431 (66 answered) + 295 urgent oral questions	3387 (641 answered)
		2021	542 (90 approved)	159 motions (101 concluded); 41 ris concluded	32	Decreto-legge (decree-law)	Decree of the President of the Council (DPCM) 18 (7 covid; 12 no-covid)	177	265 (39 answered)	2116 (393 answered)
Italy	Senato	2019	606 (97 approved)	143 (motions) 24 (ris)	19	Decreto-legge (decree-law)	Decree of the President of the Council (DPCM) 19	101	808	1615
		2020	362 (75 approved)	120 (motions) 70 (ris)	24	Decreto-legge (decree-law)	Decree of the President of the Council (DPCM) 36 (21 covid; 15 no-covid)	111	913	2045
		2021	389 (102 approved)	125 (motions) 34 (ris)	32	Decreto-legge (decree-law)	Decree of the President of the Council (DPCM) 18 (7 covid; 12 no covid)	102	795	1691