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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

QUESTIONNAIRE

**FOR THE VENICE COMMISSION OBSERVATORY
ON THE IMPLEMENTATION
OF DECLARATIONS OF STATE OF EMERGENCY
AND/OR OF LEGISLATION ON EMERGENCY SITUATIONS
FOLLOWING THE COVID-19 PANDEMIC
IN VENICE COMMISSION MEMBER STATES**

Against the background of the Venice Commission's Rule of Law Checklist (CDL-AD(2016)007), please provide detailed answers as well as a copy of the relevant constitutional provisions/legislation/judgments in their original language; if possible, please provide a translation into English or French (a summary for the judgments).

1. Are there specific provisions in the constitution of your country applicable to emergency situations (war and/or other public emergency threatening the life of the nation)?
2. Do organic/constitutional or ordinary laws regulating the state of emergency exist in your country?
3. Do organic or ordinary laws on health risks or other public emergency exist in your country?
4. Was a state of emergency declared in your country due to the Covid-19 pandemic? By what authority and for how long?
5. Was the declaration subject and submitted to parliamentary approval (if it was taken by the executive)?
6. Was the declaration subject and submitted to judicial review? Was it found justiciable?
7. Are derogations to human rights possible in emergency situations under national law? What are the circumstances and criteria required in order to trigger an exception? Was a derogation under Article 15 ECHR or under any other international instrument made? Does national law prohibit derogation from certain rights even in emergency situations? Is there an explicit requirement that derogations should be proportionate, that is limited to the extent strictly required by the exigencies of the situation, in duration, circumstance and scope?
8. Which human rights have been limited/derogated from in your country, in the context of the Covid-19 pandemic?
9. If a declaration of state of emergency was not made, did the Executive enjoy additional powers under the ordinary legislation on health risks or another public emergency? Did it decide to impose exceptional restrictions on human rights based on these laws?
10. Are the possibilities for the Executive to derogate from the normal division of powers in emergency circumstances limited in duration, circumstance and scope?
11. Were the sessions of parliament suspended during the Covid-19 pandemic? If so, for how long? Were specific rules on the functioning of parliament during the emergency adopted? By parliament or by the executive?
12. Were the judicial sessions of the Constitutional Court or court with equivalent jurisdiction and/or other courts be suspended during the Covid-19 pandemic? If so, for how long? Were specific rules on the functioning of these courts during the emergency adopted? By parliament or by the executive?
13. Was legislation on the state of emergency or on the emergency amended or adopted to deal with the Covid-19 pandemic?
14. Was this additional legislation subject to judicial review?

15. Was the state of emergency prolonged? For how long? Was the prolongation subject and submitted to parliamentary control? Was it subject and submitted to judicial review?
16. What are the legal remedies available against general measures and/or individual taken under the state of emergency? What are the legal remedies for measures taken in application of ordinary legislation on health crisis? Has any change to the available legal remedies been decided on account or brought about by the state of emergency? Were any emergency measures invalidated and for what reasons (competence, procedure, lack of proportionality etc.)
17. If parliamentary and/or, where applicable, presidential elections were scheduled to take place during the Covid-19 emergency: were they held? Were special arrangements made, and if so, which arrangements? Was it necessary to amend the electoral legislation? What was the turnout? How was it compared to the previous elections? If they were postponed, what was the constitutional or legal basis for doing so? Who took the decision? For how long were they postponed? Was this decision subject and submitted to parliamentary control or judicial review?
18. Same questions as under 18), mutatis mutandis, as regards local elections and referendums.