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Functionality Problems of Collegial Government Institutions During the COVID-19 Pandemic and Solutions for the Future

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This article analyses the ways for ensuring continuity of operation of the state collegial decision-making authorities – the *Saeima* [the Parliament of the Republic of Latvia], the Cabinet and the local government councils during Covid-19 pandemic. The work of the parliament, the government and local government in the emergency situation is examined, mainly focusing on the initiated form of remote work. Notably, in this respect, Latvia's experience is unique since the *Saeima's* e-platform is one of the first instances in the world where the parliament fully operated in the virtual environment. The article also analyses the role of the Cabinet as the crisis management centre during the emergency situation, focusing also on accessibility and other problematic issues in the remote proceedings of the local government councils and committees. The article concludes that successful solutions were found for the parliament's work in the virtual environment within the existing legal framework. In the emergency situation, the local government councils and their structural units also had to try the forms of remote work. Additionally, the authors of the article have tried to provide assessment to determine which digital solutions employed during the pandemic should be used in post-crisis situations.

Keywords: remote decision making, crisis management, COVID-19.

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Introduction

The COVID-19 pandemic, which arrived in 2020, has brought challenges in many areas, *inter alia*, in the work of public institutions. Considerations regarding epidemiological safety have influenced the work of constitutional institutions, testing the regulation of the *Satversme* [Constitution] of the Republic of Latvia (hereafter – the *Satversme*), as well as causing obstacles to the customary functioning of public administration. The effects of the pandemic are not only obstacles and burdens but also the opportunities provided by the solutions created to overcome these obstacles and burdens. A good example is the *Saeima* sitting, held on 21 December 2020, when, for the first time in the *Saeima*'s history, a vote was held approving the Constitutional Court's Justice by ballot papers at a remote sitting by the *Saeima*. Previously, voting by ballot papers was held on site: each member of the *Saeima* received the ballot paper, filled it out and queued to place the ballot paper into the ballot box, the vote counting required several re-countings of the ballot papers and entering the information into the minutes, and each round of voting took at least 40 minutes. In contrast, each round of voting by ballot papers on 21 December 2020 required slightly more than a minute, ensuring immediate presentation of the results.¹ This *ad hoc* solution was very effective; it probably will be retained in the future because the return to the cumbersome and time-consuming voting by printed ballot papers actually is no longer desirable.

Clearly, the experience accumulated by state institutions during the pandemic should be assessed and some solutions should be retained in the post-pandemic stage. This article has been prepared within the framework of national research programme “Towards the Post-Pandemic Recovery: Economic, Political and Legal Framework for Preservation of Latvia's Growth Potential and Increasing Competitiveness (reCOVery-LV)” to analyse the experience accumulated during the emergency situation of spring 2020 in the functioning of constitutional bodies and public administration from the legal aspect and to develop recommendations for improving the legal framework established for the functioning of these institutions.

In the part of the research that is presented in this article, the use of the legal and technical solutions for ensuring continuity in the functioning of collegial decision-making authorities – the *Saeima*, the Cabinet and local government councils – and their long-term use in post-pandemic conditions is examined. The aim is to develop sustainable improvements of the constitutional legal framework for effective management of emergency situations. In reviewing the functioning of the constitutional bodies of the State of Latvia in this emergency situation, publicly

¹ See video recording of the extraordinary sitting of the *Saeima* on 21 December 2020. Available: https://cdn.tiesraides.lv/saeima.lv/20201221135701_saeima.lv.1_0_0 [last viewed 08.03.2021].

accessible information primarily has been used; however, some members of the *Saeima* also have been interviewed. In cooperation with the magazine “Dienas bizness” and the Legal Science Research Institute, a discussion of the former prime ministers on expanding the prime minister’s authority during the emergency situation was held.² The data necessary for the research on the experience and opinions of local government deputies regarding the forms of remote work were obtained through a survey of members of local government councils, conducted in cooperation with the research centre SKDS.

1. Ensuring the *Saeima*’s Decision-Making Capacity During Covid-19 Pandemic

The Latvian parliament is a collegial institution, consisting of one hundred members, who have been elected in general, equal and direct elections, and by secret ballot based on proportional representation. In fulfilling their duties of office, members of the parliament exercise their authority in the name of and for the people of Latvia. Unlike other institutions of public administration, the *Saeima*, as the central constitutional institution of the state³, enjoys great internal autonomy with respect to organisation of its work;⁴ however, it has to abide by the procedure for adopting legal norms,⁵ including values in the *Satversme* and general legal principles;⁶ it also must review the compliance of legal norms included in draft laws with legal norms of higher legal force, *inter alia*, the European Union law provisions.⁷ Moreover, the *Saeima* must comply with the Rules of Procedure of the *Saeima*⁸, which, unlike in many other countries, is not an internal parliamentary document but a law.

With the proclamation of an emergency situation in the spring of 2020, the customary rhythm of the *Saeima*’s work was suspended. In March 2020, the number of persons infected with the virus causing COVID-19 in Latvia gradually increased; the situation elsewhere in the world and in Europe already had become critical.⁹ The *Saeima* was looking desperately for a way to ensure the sittings of the legislator in the conditions of pandemic.

Looking back at the first six months of the emergency situation, the initial confusion of the *Saeima* can be observed when it did not convene the weekly Thursday sitting of the *Saeima* on 12 March 2020. Undoubtedly, this was linked to the government’s decision to proclaim an emergency situation in the state. The *Saeima* convened on Friday, 13 March, an extraordinary sitting to approve, pursuant to law, the Cabinet’s order on the emergency situation. At the same time, the *Saeima* Press Service announced that the Parliament was transiting to an

² Ekspremjeri pēc TZPI iniciatīvas rīkotajā pasākumā diskutē par premjera pilnvarām [Ex-prime ministers reflect on powers of prime minister in the event held by the TZPI]. Available: <https://tzpi.lu.lv/2020/12/23/ekspremjeri-pec-tzpi-iniciativas-rikotaja-pasakuma-diskute-par-premjera-pilnvaram/> [last viewed 08.03.2021].

³ The Constitutional Court’s Judgement of 11 December 2020 in case No. 2020-26-0106, para. 14.

⁴ Latvijas Republikas Satversmes komentāri. II nodaļa. Saeima [Commentary of the Constitution of the Republic of Latvia. Chapter II. *Saeima*]. Rīga: Latvijas Vēstnesis, 2020, pp. 59, 80, 344–429.

⁵ The Constitutional Court’s Judgement of 24 October 2019 in case No. 2018-23-03, para. 14.

⁶ The Constitutional Court’s Judgement of 23 April 2019 in case No. 2018-12-01, para. 24.1.

⁷ The Constitutional Court’s Judgement of 7 June 2019 in case No. 2018-15-01, para. 13.2.

⁸ Saeimas kārtības rullis [Rules of Procedure of the *Saeima*] (28.07.1994). Available: <https://likumi.lv/ta/id/57517-saeimas-kartibas-rullis> [last viewed 03.04.2021].

⁹ See The Constitutional Court’s Judgement of 19 December 2011 in case No. 2011-03-01, para. 22.2.1.

emergency regime, which would be manifested as the suspension of activities until 16 April and convening for extraordinary sittings only if necessary. The committees, as stated in the announcement, would continue working, convening for sittings to address the most pressing issues.¹⁰ The *Saeima* tried, together with lawyers and IT specialists, to find the best solution in the unusual circumstances for re-orienting to totally remote work. However, because at the end of March one member of the *Saeima* was diagnosed with COVID-19 disease,¹¹ both the government and the parliament had to self-isolate for a fortnight. The *Satversme* of Latvia does not have the tool of delegated legislation; therefore, at the end of April, the Presidium and the administration of the *Saeima* found a developer of a technological solution, who undertook to create an Internet platform for remote work that would be suitable for the legislature. The *Saeima*, continuing to abide by the rules of distancing and other epidemiological requirements, convened partially on site. Joint meetings of the *Saeima* were still held in the *Saeima's* premises, with members in separate rooms. Extraordinary sittings of the *Saeima* were held on 2, 3, 16 April as well as on 4, 7, 14, 19, 21 May; moreover, sometimes even two or three extraordinary sittings were held on the same day (for example, on 3 April, 14 May, etc.). To decrease the risk of COVID-19 spreading, visitors and mass media representatives were not given access to the *Saeima* building during the sittings and could follow the sittings only remotely.¹² Basing its decision on the request by several members of the *Saeima*, recommendations by the Centre for Disease Prevention and Control and the opinion by the *Saeima* Legal Bureau¹³, the Presidium of the *Saeima* began organising the *Saeima's* sittings remotely on *e-Saeima* platform (website <https://e.saeima.lv>). The opposition's objections and requests to continue on-site sittings were dismissed.¹⁴ Despite technical problems, *e-Saeima* platform stood the test and was constantly technologically improved, paying special attention to the functionality of

¹⁰ Saeima ārkārtējās situācijas laikā strādās ārkārtas režīmā [*Saeima* shall work in the emergency regime during the state of emergency]. Available: <https://www.saeima.lv/lv/aktualitates/saeimas-zinas/28817-saeima-arkartejas-situacijas-laika-stradas-arkartas-rezima> [last viewed 01.01.2021].

¹¹ Members and employees of the *Saeima*, who since 1 March 2020 have been in direct contact (closer than 2 metres and longer than 15 minutes) with deputy Kalniņš or have been in lasting contact in one room with deputy Kalniņš (e.g., participating in sittings), must self-isolate for 14 days (home quarantine), counting from the day of the last contact. All other persons who have lately been in contact with the patient are invited to self-isolate (see Saeimas deputātu, darbinieku un parlamenta apmeklētāju ievēribai saistībā ar parlamentā konstatēto COVID-19 saslimšanas gadījumu [Attention to the members, employees and visitors of the *Saeima* regarding the case of COVID-19 in the *Saeima*]. Available: <https://www.saeima.lv/lv/aktualitates/saeimas-zinas/28835-saeimas-deputatu-darbinieku-un-parlamenta-apekletaju-ieveribai-saistiba-ar-parlamenta-konstateto-covid-19-saslimšanas-gadijumu> [last viewed 01.01.2021]).

¹² Mediju pārstāvji Saeimas sēdei varēs sekot attālināti (tiešraidē) [Representatives of the media to observe the sitting of the *Saeima* remotely] (01.04.2020). Available: <https://www.saeima.lv/lv/aktualitates/saeimas-zinas/28846-mediju-parstavji-saeimas-sedei-vares-sekot-attalinati-tiesraide> [last viewed 01.01.2021].

¹³ Saeimas Prezidijs lēmis turpināt noturēt parlamenta sēdes platformā *e-Saeima* [The Presidium of the *Saeima* has decided to continue sittings of the *Saeima* in the platform *e-Saeima*]. Available: <https://www.saeima.lv/lv/aktualitates/saeimas-zinas/29016-saeimas-prezidijs-lemis-turpinat-noturet-parlamenta-sedes-platforma-e-saeima> [last viewed 01.01.2021].

¹⁴ Latvijas Republikas 13. Saeimas 2020. gada 26. maija ārkārtas sēdes stenogramma [Transcript of the sitting of the *Saeima* of 26 May, 2020]. Available: <https://titania.saeima.lv/LIVS13/saeimalivs13.nsf/0/62DCE23FB7ECE52C2258589003EFA15?OpenDocument> [last viewed 01.01.2021].

voting and debate management. The technological solution, using ballot papers¹⁵ to approve the Constitutional Court's Justice on 21 December 2020, can be regarded as a significant improvement to the *Saeima's* work. However, the deficiencies in the remote parliamentary sittings need to be pointed out. Despite the effective technological solution, it is rather difficult for the politicians to communicate in the remote regime, which hinders effective decision-making (for instance, the Constitutional Court's Justice was not elected) and any communication takes much more time. The same applies to the government's sittings.

The *Saeima* closed its spring session of 2020 on 19 June, although it had to convene for a couple of remote extraordinary sittings during the summer. When the autumn session was resumed, the *Saeima* returned to on-site sittings of the committees and the *Saeima* joint meetings, which were announced as emergency sittings (on 3, 10, 17 and 24 September). Journalists were allowed to be present in the *Saeima's* chamber together with the *Saeima* Members.¹⁶ However, on 1 October, "in view of the current epidemiological situation, the Presidium of the *Saeima* decided to continue reviewing the agenda of the *Saeima's* extraordinary sitting of 24 September on 1 October remotely on *e-Saeima* platform"¹⁷ (during the emergency situation, such examination of the agenda of extraordinary sittings for several days was customary), and sittings were still being held in this format at the time this article was prepared. In total, during the autumn session of 2020, Members of the *Saeima* convened for 42 extraordinary sittings¹⁸ on the remote platform *e-Saeima*, being able to review and to adopt in the final reading 16 new laws and amendments to 110 laws in total. One hundred and twenty-six draft laws were transferred to committees for examination. In working with the submitted draft laws and examining these in the second and the third reading, 2042 proposals were reviewed by the *Saeima*. Without contesting the legitimacy of the *Saeima's* decisions while working remotely, the large number of laws adopted during the emergency situation, as well as the sizeable statistics lead to reflections on the quality of the parliamentary work, because, even if the video technology works perfectly, the video conferencing regime used in the parliamentary sittings are not the same as on-site sittings, just as remote court hearings significantly hinder comprehensive examination of evidence.¹⁹ By using *e-Saeima* platform, the possibilities for the deputies to exchange opinions during a video sitting are very limited. In this respect, the remote sittings of the Latvian parliament differ from the on-site sittings. A parliamentary

¹⁵ Previously one round of voting took more than half an hour because the ballot papers had to be received, placed into the ballot box and counted, whereas with *e-Saeima* it took only a couple of minutes.

¹⁶ 3. septembris sasaukta Saeimas ārkārtas sēde; mediju pārstāvji tai varēs sekot līdzi klātienē [*Saeima* sitting has been convened on 3 September; representatives of the media may observe it in presence]. Available: <https://www.saeima.lv/lv/aktualitates/saeimas-zinas/29122-3-septembris-sasaukta-saeimas-arkartas-sede-mediju-parstavji-tai-vares-sekot-lidzi-klatiene> [last viewed 01.01.2021].

¹⁷ Par Saeimas sēžu norisi un mediju iespējām 1. oktobrī [On proceedings of the sittings of the *Saeima* and participation of the media in 1 October]. Available: <https://www.saeima.lv/lv/aktualitates/saeimas-zinas/29201-par-saeimas-sezu-norisi-un-mediju-iespejam-1-oktobri> [last viewed 01.01.2021].

¹⁸ Saeima rudens sesijā pieņēmusi 126 likumus [*Saeima* has adopted 126 laws during the autumn session]. Available: <https://www.saeima.lv/lv/aktualitates/saeimas-zinas/29421-saeima-rudens-sesija-pienemusi-126-likumus> [last viewed 01.01.2021].

¹⁹ *Tralmaka, I.* Attālinātās tiesas sēdes: aizstāvības tiesību pilnvērtīgai nodrošināšanai ar video vien nepietiek [Remotely held court proceedings: video is not enough for complete use of defence rights]. Available: <https://www.cilvektiesibas.info/raksti/attalinatas-tiesas-sedes-aizstavibas-tiesibu-pilnvertigai-nodrosinasanai-ar-video-vien-nepietiek> [last viewed 01.01.2021].

sitting is not only a discussion of technical matters, it is a national-level political discussion. Communication during the parliamentary sittings between the deputies (the possibility to discuss operatively issues related to legislation and politics), particularly before the sittings and during the breaks, is more complicated in virtual sittings, which does not facilitate the political process since the possibilities of confrontations – and of possible compromises – decrease. During the remote *Saeima* sittings, the possibilities of discreet consultations are limited. Thus, polarisation of opinions increases, which, in turn, decreases the political dialogue.

At the same time, it must be recognised that the remote committee sittings in the remote regime could be a good means of communication in an ordinary situation when significant discussions or differences in opinions are not expected. However, in those sittings, where the issues to be examined require serious scrutiny and intense discussions are expected, the remote regime is an additional challenge for adopting qualitative and well-considered decisions. It needs to be noted that the significant increase in the time of discussions is a side-effect of remote sittings.²⁰ a striking example is the adoption of the budget at remote *Saeima* sittings in November 2020. In 2021, the budget was adopted in 29 hours over three days, reaching a record of a kind; in 2017, in contrast, the budget was adopted in one sitting, lasting 20 hours. With differences between the sittings of the *Saeima* and its committees diminishing, the effectiveness of committees as “the work horse of the legislative assembly” decreases.

At the same time, e-platform ensures all rights of the Members of the *Saeima*, referred to in the Rules of the Procedure of the *Saeima*, as well as the legislative procedure that complies with the *Satversme* and the Rules of Procedure of the *Saeima*.²¹ The Constitutional Court, having reviewed the adoption of the law on the administrative territorial reform on the e-platform, recognised that neither the *Satversme* nor the Rules of Procedure of the *Saeima* restricted the possibilities of the *Saeima* to adopt laws remotely in emergency situations, as long as the rights guaranteed in the *Satversme* and the Rules of Procedure of the *Saeima* were safeguarded and as long as the procedural order for holding the *Saeima* sittings on the platform *e-Saeima* was defined and was known to all Members of the *Saeima*.²²

²⁰ When speaking about the remote *Saeima* sittings, of course, one should differentiate between the cases when the new *e-Saeima* system experiences technical difficulties and the situation when the chairperson of the sitting switches off the speaker from the video regime when the speaker, animated, continues talking about matters unrelated to the item for the discussion. During on-site sittings, such situations are usually resolved by convincing the speaker to keep within the framework of the issue. However, during a video conference, the chairperson of the sitting may interrupt the speaker instantly. It has to be noted that during the remote sittings the deputies are more relaxed and less nervous during the debates than during on-site sittings because, during the remote sittings they are not visually seen as it is during on-site sittings. However, there are also some side-effects, because the customary solemn mood of the *Saeima* sittings is replaced by the atmosphere of video conferences when sometimes what is said during the debates is overshadowed by background and interferences in communication, e.g., acoustic echo, changing tonality of the sound when speakers change, delayed speech or picture due to the Internet connection. Some members of the *Saeima* also point to the impossibility of interjections from the floor and other possibilities of on-site sittings. Various places where the speakers are located also distract attention, as well as ignoring dress-code due to remote communication. Sometimes deputies choose to not switch on the video regime during the committee sittings, etc.

²¹ See also *Rodiņa, A., Libiņa-Egnere, I.* The Latvian Parliament and the COVID-19 Pandemic. *E-Saeima*, one of the first parliaments in the world ready to work in fully remote mode. Available: https://www.robert-schuman.eu/en/doc/ouvrages/FRS_Parliament_Latvia.pdf [last viewed 03.04.2021].

²² The Constitutional Court's Judgement of 12 March 2021 in case No. 2020-37-0106, para. 24.2.1.

However, in order to have transparent and sustainable functioning of the e-platform on other occasions, when it is necessary to use this form, it is advisable to enshrine the basic principles of using the e-platform in the Rules of Procedure of the *Saeima*. The solution, found by the *Saeima* for using the e-platform, is to be viewed as a unique example of creating, within a short period of time and investing little resources, a technical and legal solution for ensuring full functioning of the *Saeima* in emergency conditions.

Replacing regular sittings by extraordinary sittings is a separate issue. Regular sittings have not been held in the *Saeima* since 12 March 2020, but the agenda of the sitting of 5 March 2020, which was split into parts, was not reviewed by September. The Presidium of the *Saeima* continues convening only extraordinary sittings. This procedure for holding sittings can influence the way the draft decisions or draft laws, submitted by the deputies, are examined at the *Saeima* sitting.²³ It is possible to add to the agenda of the regular sitting, by submitting amendments to the agenda, approved by the Presidium, and the *Saeima* may approve of these changes and examine the submitted draft laws or draft decisions in urgent procedure at the same sitting if the majority of the *Saeima* is not against it. The agenda of extraordinary sittings, however, cannot be amended (the fourth part of Article 38 of the Rules of Procedure of the *Saeima*). This means that, currently, urgent matters can be resolved only by the Presidium of the *Saeima* convening an extraordinary sitting of the *Saeima* either *ad hoc* or upon the request by the President, the Prime Minister or not less than one-third of Members of the *Saeima* (Article 20 of the *Satversme*). If members of the *Saeima* do not collect 34 signatures, it remains to be hoped that the submitted draft law will be operatively examined at the next sitting of the Presidium and will be included on the agenda of the extraordinary sitting.

In the context of remote *Saeima* sittings and related decisions by the Presidium of the *Saeima*, in the long term, the issues of the legal nature of regulatory enactments that regulate the work of the *Saeima*, particularly the legal nature of legal acts issued by the Presidium of the *Saeima*, should be analysed. The Constitutional Court has recognised that “pursuant to the *Satversme*, the Presidium may not be an institution that issues generally binding (external) regulatory enactments. [...] However, the Presidium’s acts that affect the deputies may not be considered as being internal regulatory enactments in the traditional understanding thereof.”²⁴ Examination of the regulation on the *Saeima*’s procedures leads to the conclusion that the Rules of Procedure of the *Saeima* regulate only part of the *Saeima*’s procedures and only part of the procedures (i.e., the ones defined in the

²³ One can agree with some Members of the *Saeima*, who hold that a certain risk exists that, in preparing the agenda for remote sittings, the rights of individual deputies to submit a draft law in accordance with the Rules of Procedure of the *Saeima* are impeded. If the need for an extraordinary sitting is dictated by *e-Saeima*, where it is impossible to amend the agenda, entered into the system, then, in such a case, an urgent solution should be offered that would allow all deputies to exercise their rights. Since the Presidium of the *Saeima* is able to announce operatively an extraordinary sitting, the possibility should be envisaged for submitting draft laws and draft decisions within reasonable time, so that they would be operatively reviewed on the same day, e.g., the documents submitted by 9:00 on Thursday should be examined during the second extraordinary sitting, which the Presidium would convene, by gathering during one of the breaks. This would ensure the possibility to offer urgent solutions to various problems, in particular, when the *Saeima* has to respond operatively to the Cabinet’s work during the emergency situation. It is not right that the procedure for convening sittings is determined by the lack of a technical solution since this affects the deputy’s right to legislate.

²⁴ The Constitutional Court’s Judgement of 22 February 2002 in case No. 2001-06-03, para. 1.2. of the Findings.

Rules of Procedure of the *Saeima*) are accessible to anyone following the functioning of the *Saeima*. For example, *e-Saeima* is a platform created by the emergency situation and the work with it is regulated by the decision by the Presidium of 22 May 2020 and an annex to it.²⁵ It, *inter alia*, specifies the organisation of election by ballot papers in e-system. At on-site sittings of the *Saeima*, this procedure is regulated by the procedure approved by the Presidium's decision of 15 September 2003 "On the Procedure of Organising Secret Ballot in the *Saeima* with Ballot Papers". This regulation is only partially accessible to the public.²⁶ Part of the procedure is recognised as being internal while another is seen as a regulation of a law and accessible to all; however, both parts are of equal importance in the *Saeima*'s work and the legislative process.

The other example is linked to the *Saeima*'s committees. As is well-known, each member of the *Saeima* must be involved in at least one standing committee of the *Saeima* in which members of the *Saeima* (6–14 members) work, and these committees play a significant role in the legislative procedure.²⁷ At the same time, the number of these committees in the *Saeima* and their names are defined in the Rules of Procedure of the *Saeima*²⁸; the establishment of the committees, however, is defined by the *Saeima* Regulation on Establishing Standing Committees, which have been approved by the *Saeima*'s declaration.²⁹ Currently, it is difficult to talk about consistency since the procedures and arrangements of the *Saeima* have not been established, by assessing the hierarchy of regulatory enactments but by taking into account the level of details in the required legislation, the needs of the

²⁵ Currently, the remote sittings are regulated equally by the decision of 22 May 2020 by the Presidium of the *Saeima* "On Approving the Procedure of Holding Remote Sittings of the *Saeima*", which, moreover, was amended by the decision of 26 October 2020, the annex to which specifies this procedure, and the Rules of Procedure of the *Saeima*.

²⁶ Initially, the decision of 2003, as all others, was published in the official journal (*Saeimas Prezidija* 2003. gada 15. septembra lēmums "Par kārtību, kādā Saeimā organizējama aizklātā balsošana ar vēlēšanu zīmēm") [Decision of the Presidium of the *Saeima* of 15 September, 2003 "On procedure of secret ballot" *Latvijas Vēstnesis*, No. 132(2897), 25.09.2003. Available: <https://www.vestnesis.lv/ta/id/79273> [03.04.2021] Whereas the amendments that were adopted on 28 May 2015 are not publicly accessible. Decisions by the Presidium of the *Saeima* currently are accessible only to the Members and employees of the *Saeima* because they have the status of internal regulatory enactments, which, in accordance with the order by the Director of the *Saeima*'s Chancery of 16 January 2014 No. 12/1-1-r/1-11/14 "On informing Members of the *Saeima* and employees of the *Saeima*'s Chancery and other structural units on internal regulatory enactments", they are available in the section of the Intranet "Register of Internal Documents and Forms", and access to it is only and solely to those who are linked to the *Saeima*, i.e., deputies and their assistants, as well as employees.

²⁷ The Constitutional Court has pointed to the major role of committees in the process of legislation, see The Constitutional Court's Judgement of 19 October 2011 in case No. 2010-72-0106, para. 18.4; of 3 February 2012 in case No. 2011-11-01, para. 11.2; of 6 March 2019 in case No. 2018-11-01, para. 18.1, and of 19 October 2017 in case No. 2016-14-01, para. 25.2.

²⁸ Pursuant to the first part of Article 149 of the Rules of Procedure of the *Saeima*, the following standing committees function in the *Saeima*: Foreign Affairs Committee; Budget and Finance (Taxation) Committee; Legal Affairs Committee; Human Rights and Public Affairs Committee; Education, Culture and Science Committee; Defence, Internal Affairs and Corruption Prevention Committee; Public Administration and Local Government Committee; Economic, Agricultural, Environmental and Regional Policy Committee; Social and Employment Matters Committee; Mandate, Ethics and Submissions Committee; Parliamentary Inquiry Committee; Public Expenditure and Audit Committee; National Security Committee; Citizenship, Migration and Social Cohesion Committee; European Affairs Committee; Sustainable Development Committee.

²⁹ *Saeimas pastāvīgo komisiju izveidošanas noteikumi* [Rules of establishment of the permanent commissions of the *Saeima*] (13.11.2018). Available: <https://likumi.lv/ta/id/303022-par-saeimas-pastavigo-komisiju-izveidosanas-noteikumiem> [last viewed 02.04.2021].

respective moment, the political context and traditions. To ensure the possibilities for using the e-platform, created for the conditions of pandemic, also in normal circumstances, it is advisable to enshrine the basic principles of using this platform also in the Rules of Procedure of the *Saeima*. To envisage broader possibilities for using the e-platform in normal circumstances, it is recommended the *Saeima* consider an amendment to Article 15 of the *Satversme* (see below).

2. The Cabinet as a Crisis Management Institution

The Cabinet of the government is a collegial institution, consisting of ministers approved by the *Saeima* and is headed by the Prime Minister. The government, with the mediation of institutions of public administration subordinated to it, exercises the executive power.³⁰ The government must enjoy the *Saeima*'s trust, otherwise a new Cabinet is set up. The Cabinet exercises the executive power, which is all those actions by the State that are neither legislation nor administration of justice³¹, and the competence of this executive power may be as defined in law (delegated) or is substantially inherent in exercising the executive power.³² Basically, the government is involved in performing the State's functions within the frameworks of laws, adopted by the *Saeima*, and, if needed, using the form of subordinate legal acts – the Cabinet Regulations. The Cabinet has at its disposal the public administration, which exercises the executive power on a daily basis. The government's actions and authorisation in an emergency situation are defined in the law "On Emergency Situation and State of Exception".

The first emergency situation was declared on 12 March 2020 and it lasted until 10 June.³³ During this period, members of the government, just like the members of the parliament, had to switch to remote work since they had been in contact with an infected member of the *Saeima*. Out of the total of 89 Cabinet's sittings, held in 2020, 16 were held on site, 73 were held remotely. Forty-three of 89 Cabinet's sittings were extraordinary, and 6 were held in the procedure of a survey.

Section 23¹ of the National Security Law³⁴ provides that, during emergency situations or states of exception, the Crisis Management Council operates under the Prime Minister's leadership (hereafter – the Council),³⁵ which, in accordance with

³⁰ Ministru kabineta iekārtas likums [Cabinet Structure Law] (15.05.2008.). Available: <https://likumi.lv/ta/en/en/id/175919-cabinet-structure-law> [last viewed 01.01.2021].

³¹ See The Constitutional Court's Judgement of 16 October 2006 in case No. 2006-05-01, sub-para. 10.2.

³² *Levits, E.* Ievads Latvijas Republikas Satversmes IV nodaļas komentāriem. Latvijas Republikas Ministru kabineta funkcijas [Introduction to the Chapter IV of the Commentary of the Constitution of the Republic of Latvia. Functions of the Cabinet of Ministers]. In: Latvijas Republikas Satversmes komentāri. III nodaļa. Valsts prezidents. IV nodaļa. Ministru kabinets [Commentary of the Constitution of the Republic of Latvia. Chapter III. State President. Chapter IV. Cabinet of Ministers]. Rīga: Latvijas Vēstnesis, 2017, p. 486.

³³ Par ārkārtējās situācijas izsludināšanu: Ministru prezidenta, veselības ministres rīkojums Nr. 103 [On promulgation of the emergency situation: Decision of the Prime Minister and the Minister of Health No. 103] (12.03.2020). Available: <https://likumi.lv/ta/id/313191-par-arkartejas-situacijas-izsludinasanu> [last viewed 01.01.2021].

³⁴ Nacionālās drošības likums [National Security Law] (14.12.2000). Available: <https://likumi.lv/ta/id/14011-nacionalas-drosibas-likums> [last viewed 01.01.2021].

³⁵ *Ibid.* Section 232 (2) Members of the Crisis Management Council are: the Minister for Defence; the Minister for Foreign Affairs; the Minister for Economics; the Minister for Finance; the Minister for the Interior; the Minister for Justice; the Minister for Health; the Minister for Transport, and the Minister for Environmental Protection and Regional Development.

the by-law³⁶, coordinates civil-military cooperation. The Council is an auxiliary body, which operates alongside the government and is headed by the Prime Minister, and its main task is to ensure coordination. It was obvious during this crisis that Prime Minister Krišjānis Kariņš treated this possibility rather formally and did not use it properly. In the spring of 2020, K. Kariņš established several working groups,³⁷ and the Minister for Finance, the Minister for Economics and the Deputy Head of the State Fire and Rescue Service were appointed to head these groups. A month after the first emergency situation was revoked, on 10 July 2020, the Prime Minister established one more group – the group for Coordination of Interinstitutional Activities,³⁸ and the Director of the State Chancery was appointed its head. It can be concluded that the public administration had identified the lessons learned during the emergency situation and COVID-19 pandemic, proven by the informative material “Guidelines on organisation of work, remuneration and client service in institutions of public administration during the emergency situation”,³⁹ intended to provide explanations and recommendations regarding organisation of work, remuneration for work and organisation of client service in institutions of public administration during the emergency situation related to COVID-19 pandemic. To ensure society’s participation and provide for the needs of media, the State Chancery ensured in the remote regime the possibility to follow the open part of the Cabinet’s sittings via online streaming. Although the conditions caused by the spread of COVID-19 set in quickly and brought many challenges, the public administration operatively found solutions in order not to discontinue the provision of services to inhabitants; services would be ensured either remotely or by strictly observing the precautionary measures. It can be acknowledged that, during the emergency situation, the public administration adjusted operatively to changes. Experts, former prime ministers⁴⁰, hold that the Cabinet’s authorisation should not be expanded but the existing authorisation should be used (for example, replacing ministers, if necessary) and the comparatively poor dialogue with society should be reflected on.⁴¹ Of course, it also should be admitted that great nervousness is seen in society in connection with the restrictions, imposed by the government, and dissatisfaction is growing, because of this society’s response to any attempts at

³⁶ Krīzes vadības padomes nolikums: Ministru kabineta noteikumi Nr. 42 [Regulation of the Crisis Management Council: Regulations of the Cabinet of Ministers No. 42] (18.01.2011). Available: <https://likumi.lv/ta/id/224553-krizes-vadibas-padomes-nolikums> [last viewed 03.04.2021].

³⁷ Par starpinstitūciju darbības koordinācijas grupu: Ministru prezidenta rīkojums Nr. 2020/1.2.1.-60 [On interinstitutional operation coordination group: Decision of the Cabinet of Ministers No. 2020/1.2.1.-60] (16.03.2020). Available: <https://likumi.lv/ta/id/313245-par-starpinstituciju-darbibas-koordinacijas-grupu> [last viewed 01.01.2021].

³⁸ Par starpinstitūciju darbības koordinācijas grupu: Ministru prezidenta rīkojums Nr. 2020/1.2.1.-84 [On coordination group of interinstitutional activity: Decision of the Cabinet of Ministers No. 2020/1.2.1.-84] (10.07.2020). *Latvijas Vēstnesis*, No. 133, 14.07.2020.

³⁹ Guidelines on organisation of work, remuneration and client service in institutions of public administration during the emergency situation. Available: <https://www.mk.gov.lv/lv/aktualitates/> [last viewed 01.01.2021].

⁴⁰ Māris Gailis – performed the duties of the prime minister from 15.09.1994 to 21.12.1995; Vilis Krištopans – performed the duties of the prime minister from 26.11.1998 to 16.07.1999; Einars Repše – performed the duties of the prime minister from 07.11.2002 to 09.03.2004; Andris Bērziņš – performed the duties of the prime minister from 05.05.2000 to 07.11.2002; Indulis Emsis – performed the duties of the prime minister from 09.03.2004 to 02.12.2004, Māris Kučinskis – performed the duties of the prime minister from 11.02.2016 to 23.01.2019.

⁴¹ *Kirsons, M.* Vai Kariņa pilnvaras krīzē ir jāpalielina [Should the powers of Kariņš be expanded]? *Dienas Bizness*, 29.12.2020.

communication by the power is harsher. Not only some individuals but also serious experts are dissatisfied with the crisis management, expressing the opinion that crisis management is ineffective, chaotic and lacking a strategy.⁴²

3. The Experience of Using Remote Decision-Making Tools and Perspectives of Use in the Proceedings of the Sitings of the Local Government Councils and Committees

Due to restrictions imposed during the emergency situation, the collegial institutions – the *Saeima*, the Cabinet and the local government councils – had to adjust to the situation and consider forms of remote work. As regards local governments, the possibility to use video conference for the council and committee sittings had been envisaged in the law “On Local Governments”⁴³ already since 2015.⁴⁴ However, this possibility, set out in the law, was applicable only if a deputy or deputies could not participate on-site because of their health condition or a business trip. Moreover, the possibility to use a video conference was available only if the local government had envisaged it in its by-laws (the first and second part of Section 35 of the law “On Local Governments” in the wording prior to 2020). Thus, before the emergency situation was declared, the law provided that the council meetings were held on site but, in an exceptional case, some deputies could participate therein by not being present in the place where the council sitting was held but by using a video conference facility.

3.1. The Legal Regulation Created During the Emergency Situation on Holding Remote Sitings of Local Government Council and Committee Sitings and Assessment of the Application Thereof

To ensure the local government councils’ capacity to act during the emergency situation, the following regulation on holding remote council and committee sittings was established in Section 29 of the law “On the Operation of State Authorities During the Emergency Situation Related to the Spread of COVID-19”:

- (1) The chairperson of a local government council may determine by an order that meetings of the local government council and committees may take place remotely, conforming to the following conditions:
 - 1) video conferencing is used in the course of a council or committee meeting (a real-time image and sound transmission);
 - 2) draft decisions of the council and committees, opinions thereon, and informative materials are sent to all members of the council and committee to their electronic mail address or using other means of electronic communication not later than three working days before a regular meeting and not later than three hours before an extraordinary meeting;
 - 3) it is ensured that individual vote of each member is recorded and reflected in the minutes of a council or committee meeting.

⁴² See statements made by Jānis Sārts, Director of NATO Strategic Communications Centre of Excellence, and Jānis Endziņš, the representative of the Latvian Chamber of Commerce and Industry, at the Ombudsman’s conference “Why is it Difficult to Trust the Government’s Opinion and Decisions in a Situation of Crisis?”. Available: <https://www.youtube.com/watch?v=e578ca8l63g&t=1s> [last viewed 01.01.2021].

⁴³ Par pašvaldībām [Law on Local Municipalities] (19.05.1994). Available: <https://likumi.lv/ta/id/57255-par-pasvaldibam> [last viewed 01.01.2021].

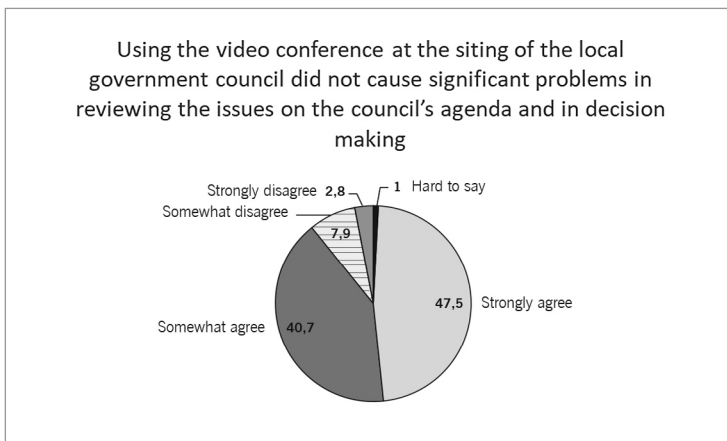
⁴⁴ Grozījumi likumā “Par pašvaldībām” [Amendments to the Law “On Local Municipalities”] (08.10.2015). Available: <https://likumi.lv/ta/id/277314-grozijumi-likuma-par-pasvaldibam> [last viewed 01.01.2021].

- (2) After taking of a decision of a local government council or committee and drawing up the minutes of the meeting in writing, they shall be sent to each member who has participated in the relevant meeting. A member shall confirm his or her vote electronically on the received document.
- (3) If the voting referred to in Section 40, paragraph 4 of the law “On Local Governments” is held at a local government council meeting, a ballot paper shall be sent electronically to each member. A member shall send the filled-in paper to the indicated electronic site for counting of the votes and notification of a decision.”

The experience of using this regulation during the emergency situation was studied by using the sociological method in cooperation with the research centre SKDS (SIA SKDS), using an online survey. The survey questionnaires were sent to 1373 local government deputies on 30 October 2020 (to all local government deputies of Latvia whose e-mail address was publicly accessible on the homepage of the local government council). The term for providing responses was 12 November 2020. Eight hundred and sixty respondents participated in the survey.

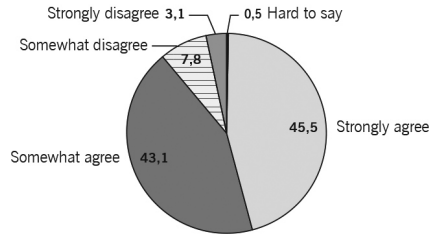
First of all, it should be underscored that the possibility, envisaged in the law, to hold remote sittings of the local government council or a committee was defined as an option and depended on the opinion of the council’s chairperson. However, more than two-thirds of the respondents (70.2%) answered that in local governments, during the emergency situation related to the spread of COVID-19 (i.e., from 12.03.2020 to 10.06.2020), video conferences were used in local government council sittings. A slightly lower number (64.2%) responded that, during the respective period, the committee sittings had been held remotely.

The deputies were asked in the survey whether they agreed to the following statement: “Using the video conference at the siting of the local government council did not cause significant problems in reviewing the issues on the council’s agenda and in decision making”. Their answers are reflected in the figure:



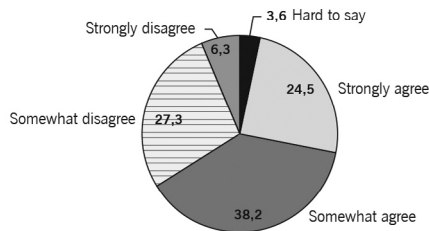
As can be seen, in total, 88.2% of the deputies are of the opinion that the use of a video conference does not cause significant problems in reviewing issues on the council’s agenda. Similar outcome was produced by responses also the statement: “Using the video conference at the siting of the local government committee did not cause significant problems in reviewing the issues on the committee’s agenda and in decision making.”

Using the video conference at the sitting of the local government committee did not cause significant problems in reviewing the issues on the committee’s agenda and in decision making



The statement that “The use a video conference at the sittings of the local government council creates possibilities for increasing productivity (saving time, paper resources, etc.)” provided the following responses:

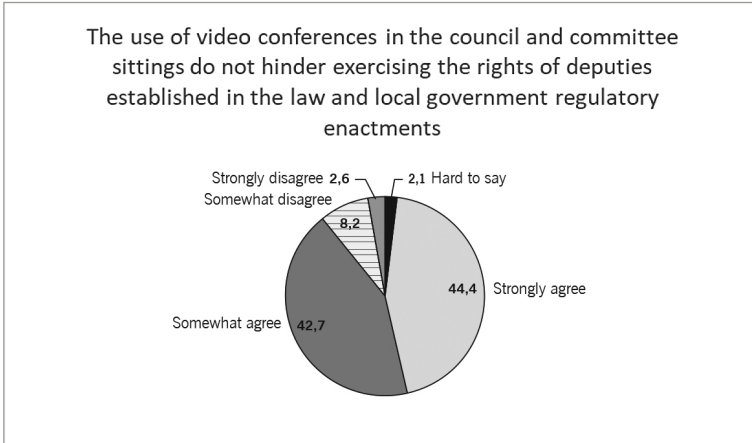
The use a video conference at the sittings of the local government council creates possibilities for increasing productivity (saving time, paper resources, etc.)



The same statement, only with respect to the committee sittings, had very similar results (strongly agree 24.3%, somewhat agree 38.2%, somewhat disagree 27.9%, strongly disagree 6.9%, hard to say 2.7%). As can be seen, in general, the majority of deputies agree that the use of video conferences provide the possibility to increase productivity; however, almost one-third of deputies do not agree with this statement. It could be explained by rather different approaches to reviewing issues on the agenda as well as technically longer proceedings of the sittings – the need to register each councillor’s vote on each item on the agenda. At the same time, these data also show that councillors do not see significant differences in the aspects of using video conferences in the sittings of the council and of committees.

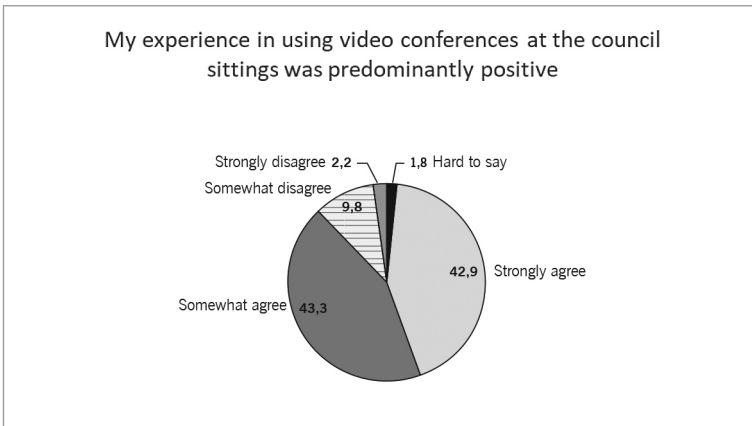
An important aspect, which could influence the scope of using video conferences, is the possibilities for exercising the councillor’s rights, established in the law “On the Status of the Deputy of the Republic City Council and Municipality

Council⁴⁵, as well as in local government by-laws. The responses to the statement that “The use of video conferences in the council and committee sittings do not hinder exercising the rights of deputies established in the law and local government regulatory enactments” were, as follows:



This outcome shows that the majority of deputies do not see significant problems in exercising their rights in the use of video conferences (for example, asking questions, expressing proposals) if the council or committee sitting was held in the video conference format.

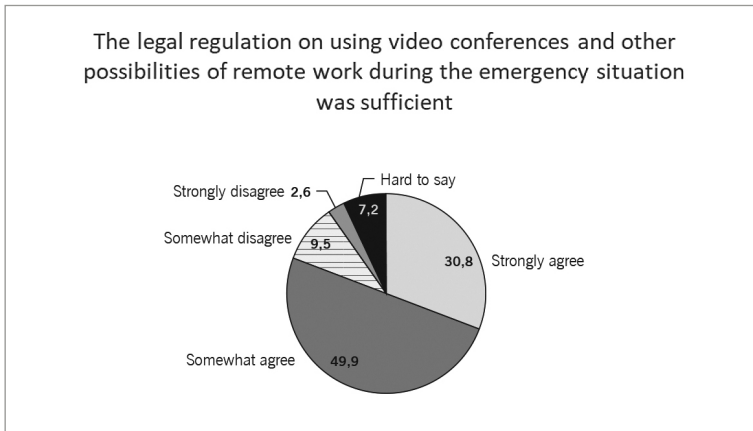
Deputies characterised their experience in using video conferences at the council sittings, predominantly, as positive:



The data are similar also regarding the use of video conferences at the committee sittings (strongly agree 42.9%, somewhat agree 43.3%, somewhat disagree 9.8%, strongly disagree 2.2%, hard to say 1.8%).

The majority of deputies are of the opinion that the legal regulation on holding video conferences had been sufficient.

⁴⁵ Republikas pilsētas domes un novada domes deputāta statusa likums [Law on the Status of the Member of the Municipality Council] (17.03.1994). Available: <https://likumi.lv/ta/id/58052-republikas-pilsetas-domes-un-novada-domes-deputata-statusa-likums> [last viewed 01.01.2021].

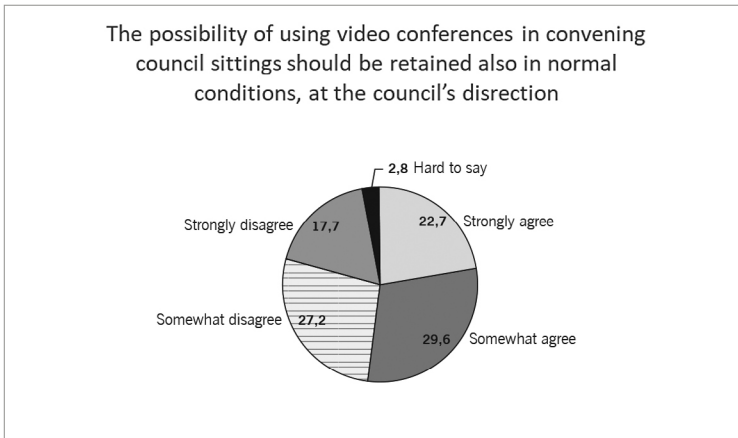


Assessing the survey data in general, the use of video conferences for convening remote council and committee sittings has not caused significant problems either in decision making or in exercising the deputy's rights, and more than 80% describe their experience in using video conferences as positive. No principal problems are found from the legal perspective in using this solution. From the legal point of view, it is important to verify, whether the council (committee) sitting is valid, i.e., to verify, whether the required number of deputies participate in the sitting. The identity of deputies, predominantly, may be checked only visually (similarly to on-site council sittings), if an application with the options of electronic identification is used. The possibility that during a sitting a deputy would try to impersonate someone else is unlikely. Likewise, with respect to voting, it is important to establish only whether and how a deputy votes on the respective draft decision. Technically, the vote can be recorded both orally or by raising hand at a video conference, or by using special applications for voting, etc. Voting by ballot papers on persons is technically more complex, however, the solution for such instances was set out in Section 29 (3) of the law "On the Operation of State Authorities During the Emergency Situation Related to the Spread of COVID-19".

3.2. The Regulation on Holding Council and Committee Sittings as Video Conferences, Introduced After the Emergency Situation, and the Possibilities to Improve It

When the emergency situation ended on 10 June 2020, the regulation on the possibility to hold local government council and committee sittings by using a video conference, established in the law "On the Operation of State Authorities During the Emergency Situation Related to the Spread of COVID-19" became void. Thus, local governments lost the legal possibility of holding sittings in the form of a video conference. However, to ensure the possibility to use a video conference in the future, on 8 October 2020, the *Saeima* introduced amendments to the law "On Local Governments", envisaging the possibility to use video conferences at the sittings of both councils and committees where "an emergency situation has been declared in the respective territory or the State has imposed restrictions on gatherings." Thus, the possibility to hold remote council and committee sittings could be used also after the emergency situation had ended, linking this possibility to the restrictions on gathering imposed by the State. The comparatively successful use of video

conferences during the emergency situation requires considering the possibility of using video conferences also in normal conditions. As the deputy's survey shows, the assessment of this possibility is not clear-cut.



The majority of deputies (52.3%) are of the opinion that the possibility of using a video conference in convening council sittings should be retained also in normal circumstances, at the council's discretion; however, 44.9% somewhat disagree or strongly disagree with it. A similar outcome was obtained with respect to the statement regarding convening committee sittings in the form of a video conference (50.9% somewhat or strongly agree, but 45.8% somewhat disagree or strongly disagree). Deputies' arguments have not been clarified in greater detail in the study. From the practical point of view, the advantage of using video conferences could be possibly decreasing the paper flow (unless electronic document flow has not been already introduced in the local government), as well as saving the deputies' time resources (no need to travel to the site where the sitting is held if the deputy's place of residence or work is not in the populated area where the council sittings are held). This circumstance could become important after 1 July 2021, when the councils elected in the newly established regions will begin their work. Because the majority of regions are larger than before, the distance from a deputy's place of residence or work could be comparatively long, many deputies might find this possibility important. Legally, there are no obstacles to using the same opportunities that are used during on-site sittings during the sittings held via video conferences. The *Saeima's* experience in convening remote sittings of the *Saeima* and its committees also proves that the course of these sittings is functionally equal to the sittings held on site. It should be underscored that holding the council sittings as video conferences does not impact the transparency in the council's work because the council sittings can be streamed online and, likewise, the obligation, established in Section 37 (1) of the law "On Local Governments", to publish the audio recording on local government's homepage remains in force.

The possible considerations for not promoting the use of video conferences in normal conditions, in turn, could be obstacles of technical nature (for example, accessibility of the Internet or technical equipment) and the coordination needed in making decisions in the work of the council as a political collegial institution (for example, the need to align opinions operatively), which could be difficult in the case of a remote sitting. Likewise, in remote council and committee sittings the summoned persons have to adapt to this format but it can be cumbersome.

Since the prevalence of technologies and smart devices most probably will increase in the future, the use of video conferences to save resources could be practiced not only in connection with restrictions on gathering, imposed by the State, but also in other instances, when it is envisaged by the council. For example, when the issues to be examined by the council or the committee do not require extensive debates (e.g., issuing of an administrative act or other decisions of formal nature) or when there are few items on the agenda, holding a remote sitting in the form of a video conference might seem to be more rational, particularly because the deputies of a regional council reside and work in different parts of the region. Therefore, taking into account the experience accumulated during the pandemic, para. 3 could be added to Section 34 (1) of the law “On Local Governments”, worded as follows: “3) it is not expedient to convene an on-site sitting due to the number or nature of the issues to be examined at the council’s sitting”. A similar rule should be envisaged for committees. This provision would allow the council to decide on whether the convening of remote sittings should be envisaged in by-laws at all and would also give the right to the chairperson of the council and the committee to decide on case-by-case basis on the most appropriate form for the council or the committee sitting.

Summary

1. Within the framework of the existing legal regulation, the bodies of state power, by implementing effective coordination, have ensured continuity in the performance of State’s functions and legally adequate crisis management during the COVID-19 pandemic.
2. Pursuant to Section 23³ of the National Security Law, the Crisis Management Council should coordinate the operational management for overcoming the threat to the state and the drafting of plans of the public administration institutions for overcoming the threat; however, during the emergency situation, the government managed without the Council’s assistance, reverting to the traditional communication: the prime minister – the State Chancery – ministries and institutions.
3. The e-platform, developed by the *Saeima*, needs to be highlighted in the comparative context, it ensured the continuity of the *Saeima*’s work and the possibility to exercise constantly the parliamentary control over the Cabinet’s activities. The use of this platform could be admissible as an exceptional solution also in normal conditions when convening the *Saeima*’s sitting on site would not be expedient. It would be expedient to enshrine the basic principles of using the e-platform in the Rules of Procedure of the *Saeima*.
4. The holding of remote council and committee sittings, by using the video conference, during the emergency situation has not created substantial problems either in the decision-making process or in exercising the deputy’s rights. However, the use of this technology can be improved to speed up the decision-making process.
5. No significant differences are observed in the deputies’ attitudes towards using the video conference at the council and the committee meeting.
6. When holding remote council sittings in the video conference regime, it is important to ascertain that the sitting is valid, *inter alia*, by checking the identities of each deputy present, and recording the deputy’s will when voting. No significant problems have been identified during the emergency

situation in establishing these legally important circumstances, although the experiences of local governments differ.

7. There are no legal nor practical obstacles to convening, in some cases, remote council and committee sittings in the video conference regime also in normal circumstances. This possibility should be an exception in those instances when it is not expedient to convene an on-site sitting.

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