European Journal of Risk Regulation (2025), **16**, 371–373
doi:10.1017/err.2025.5

CAMBRIDGE UNIVERSITY PRESS

Foreword

Zoltán Szente[1,2] and Fruzsina Gárdos-Orosz[1,3]

[1]HUN-REN Centre for Social Sciences Institute for Legal Studies, Budapest, Hungary, [2]European University Institute, Fiesole, Italy and [3]ELTE Law School, Budapest, Hungary
Corresponding author: Zoltán Szente; Email: szente.zoltan@tk.hun-ren.hu

The successive global crises of the recent two decades, such as the global economic crisis that started in 2008, the COVID-19 pandemic that broke out at the end of 2019, and the wars between Russia and Ukraine, and Israel and Hamas have focused jurisprudential attention on the emergency legal orders that legal systems prescribe to facilitate the prevention of these dangers, usually by providing special authorisation and exceptional power to the government or some temporarily created body. Persistent and imminent crises such as mass migration and climate change have just intensified this interest. There have been examples of the former measures before, such as after the terrorist attacks against the United States on 11 September 2001, and then in several large European cities, when a lively scientific discourse also began on the legal aspects of the exceptional means used by the state. However, while the academic dialogue at the time focused on internal security issues, recent health and environmental crises such as the Fukushima nuclear power plant accident, the COVID-19 pandemic, and global warming have drawn attention to the fact that fundamental constitutional values may be threatened not only by armed conflict (many old constitutions only provided for situations of war or civil war) but also other types of crises, the prevention of which requires special legal instruments. Accordingly, in recent years, a huge and growing body of literature has dealt with health and environmental hazards and damages and how to deal with them. This is also true of legal studies, which were primarily focused on the empirical and comparative analysis of crisis management, as well as the legal nature of emergencies. Notwithstanding, less attention has been paid to the normative and constitutional aspects of crisis management law. However, it is of crucial importance to what extent the state can limit fundamental rights and restrict democratic functioning during crises of varying types and severity in order to avert those that threaten or have already occurred.

In 2022, we launched a two-year international research project on constitutional crisis management in the V4 countries at the Institute of Legal Studies, Centre for Social Sciences, to contribute to filling this gap.[1] The research compared the constitutional solutions of the CEE countries during the health crisis caused by the COVID-19 pandemic, their constitutional frameworks for authorizing the exercise of exceptional power, and their institutional guarantees in general. The underlying presumption of our research was that European nation states must be prepared for various types of global challenges in the

[1] The research project was realized within the framework of the *Incubator, Collaborative Research Projects Fund* of the former ELKH, today's HUN-REN Centre for Social Sciences, Budapest, the framework of *The responsiveness of the legal system in post-Covid societies: risks and opportunities* project (number 05016764), funded by the Hungarian Academy of Sciences, and the *CINEM* Widening Project of the European University Institute, Florence.

© The Author(s), 2025. Published by Cambridge University Press. This is an Open Access article, distributed under the terms of the Creative Commons Attribution licence (https://creativecommons.org/licenses/by/4.0/), which permits unrestricted re-use, distribution and reproduction, provided the original article is properly cited.

https://doi.org/10.1017/err.2025.5 Published online by Cambridge University Press

future, like environmental damage and natural and industrial disasters (global warming, etc); global economic crises (financial crises, debt crises, the collapse of international trade); international and internal security risks (threat of war, international terrorism); and mass immigration. Overcoming such crises may require special legal regimes and the exercise of exceptional powers. In addition, we started from the assumption that the success of crisis management in constitutional democracies may be significantly influenced by their constitutional and legal frameworks since the latter provide special authorisation for the exceptional power necessary to avert threats and define the limits thereof.

In order to assess to what extent and how the constitutional system affects crisis management, we examined the emergency constitutions of the Visegrad countries, ie, the Czech Republic, Hungary, Poland and Slovakia, and their functioning in a real emergency situation, for which the treatment of the health crisis caused by the COVID-19 pandemic offered a significant opportunity. These countries form a homogenous sample in many respects, as there are many similarities between their historical pasts and constitutional and political systems. Nevertheless, their current political practices differ in several respects, and they apply different emergency laws.

One of the main research questions was what types of special legal regimes are recognized by national constitutions. The various constitutional arrangements can be classified on the basis of the nature of the respective emergencies that are defined, the extension of authorisations for exceptional powers, and the guarantees the constitution provides. However, if a constitution does not provide rules for emergency situations or contains only a few general provisions, then the role of sub-constitutional regulation is enhanced, so the research also covered what legal rules apply to exigencies at the legislative level. Certainly, constitutional regulations are not self-serving; their adequacy can be verified by their practical application, and the pandemic tested the suitability of these regulatory regimes in reality. This is why we also tried to assess the experiences of constitutional crisis management in these four countries. Finally, the knowledge provided by all this research created the opportunity to examine a normative issue: is it possible – and if so, is it desirable – for constitutional emergency regimes to converge and harmonise with each other to improve crisis management? The question is justified by the well-grounded expectation that further global or regional crises will severely affect countries in a similar situation in the future.

This special issue presents the results of this international comparative research. The first article analyses the major conceptualisations and normative issues, clarifying what is essential in this kind of comparative research. Then, four country studies describe the current constitutional regulatory regimes of the states of exception in their own countries. These contributions are not merely expert descriptions of existing law but evaluative analyses of its adequacy, partly doctrinal and partly based on experience of the constitutional management of the COVID-19 pandemic. A separate study provides a comparative analysis of the constitutional rules on emergencies in European constitutions, providing a framework for assessing the constitutional solutions of countries of the V4. The last article not only summarises the most important conclusions of the comparative study about the experiences of constitutional crisis management in the four countries but also assesses the extent to which rule of law requirements have been met in each country of the region. Finally, this article considers the pros and cons of the possible convergence of the constitutional regulations of the V4 countries.

Although this research project has drawn on constitutional and legal experiences with the handling of the coronavirus pandemic, one of its novelties is that it examines the adequacy of the constitutional framework for emergencies in general and the opportunities for its further joint development. It considers, therefore, the possibilities

https://doi.org/10.1017/err.2025.5 Published online by Cambridge University Press

associated with a normative idea that has not yet been part of the jurisprudential discourse because emergency constitutions (meaning the constitutional provisions associated with emergencies) are traditionally understood as an inalienable part of state sovereignty. The potential convergence of constitutions and regulatory regimes in this area has been outside the scope of mainstream discussion about states of exception so far, but the special issue provides empirical justification for its necessity and offers a normative framework for the development thereof.

Cite this article: Z Szente and F Gárdos-Orosz (2025). "Foreword". *European Journal of Risk Regulation* **16**, 371–373. https://doi.org/10.1017/err.2025.5

https://doi.org/10.1017/err.2025.5 Published online by Cambridge University Press