



## Journal of the American Society of Legislative Clerks and Secretaries

Volume 26

Winter 2021

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**Journal of the American Society of  
Legislative Clerks and Secretaries**

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## INFORMATION FOR AUTHORS

The editors of the *Journal of the American Society of Legislative Clerks and Secretaries* welcomes manuscripts which would be of interest to our members and legislative staff, including topics such as parliamentary procedures, precedent, management, and technology. Articles must be of a general interest to the overall membership.

Contributions will be accepted for consideration from members of the American Society of Legislative Clerks and Secretaries, members of other National Conference of State Legislatures staff sections, and professionals in related fields.

All articles submitted for consideration will undergo a review process. When the Editorial Board has reviewed a manuscript, the author(s) will be notified of acceptance, rejection or need for revision of work.

## STYLE AND FORMAT

Articles should follow a format consistent with professional work, whether it is in the style of the Chicago Manual, the MLA, or APA. Articles should be submitted in MS Word, single spaced with normal margins.

All references should be numbered as footnotes in the order in which they are cited within the text. Accuracy of the content and correct citation is expected of the author. Specialized jargon should be avoided as readers will skip material they do not understand. Charts or graphics which may assist readers in better understanding the article's content are encouraged for inclusion.

## SUBMISSION OF ARTICLES

Articles for the 2022 Journal should be submitted electronically, not later than September 1, to the Chair:

Heshani Wijemanne  
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Inquiries from readers and potential authors are encouraged. You may contact the Chair by telephone at (916) 651-4171 or by email at Heshani.Wijemanne@sen.ca.gov.

Letters to the editor are welcomed and may be published at the conclusion of the journal to provide a forum for discussion.



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## **Adapting the functioning of the parliament of Berlin to the coronavirus pandemic**

*Eva-Maria Wolf-Schneider, Adviser at the Berlin House of Representatives*

The pandemic brought big challenges and sweeping changes to parliamentary procedures as well as to the parliament as a workplace. Some were temporary, some are here to stay. From the start of the pandemic, the then President of the House of Representatives of Berlin, Mr. Ralf Wieland, set the goal that the parliament must remain capable of acting. In times of crisis, parliaments are of particular importance. On the one hand the government needs support for specific measures (such as funding instruments to address the effects of the COVID-19 crisis), on the other hand it is important in a democracy, that the work of the government is scrutinised by the parliament. At the same time, the protection and safety of the Members of the House of Representatives and its staff are paramount.

Every German federal state has its own constitution. Some constitutions include emergency provisions designed to preserve the ability to act during times of crisis, others don't. There was no such article in Berlin's constitution. After many months of deliberation, the parliament of Berlin passed a constitutional amendment in December 2020 allowing for the creation of an emergency parliament, which only requires a quorum of one quarter of its members, if specific conditions are met. This option comes with many restrictions (e.g. it does not include the election of the Governing Mayor and the members of the State Constitutional Court) and precautions (e.g. a majority of 4/5 members of the parliament or a decision by the Council of Elders is required to trigger the emergency parliament), which are supposed to prevent the misuse of the emergency operation. The constitutional amendment was also time limited and expired on the 4th November 2021. Four of the five parties in the parliament voted in favour, thereby attaining a two-thirds majority, which is required for constitutional changes.

There have been additional changes to the parliamentary procedures. While remote participation for plenary meetings continued to be impermissible due to constitutional concerns, a voluntary agreement between the political groups was forged to accommodate issues arising from the coronavirus pandemic. A pairing system was put in place to reduce the number of members who were present in the plenary room at the same time. The constitution sets the quorum for plenary sessions at 50% plus 1 (81). How many members per political group were able to be in the plenary room was decided according to the d'Hondt method, a mechanism to determine a proportional distribution of seats. Due to constitutional requirements (quorum) the voluntary agreement between the political groups was designed to ensure a minimum participation of 50 % plus one (81) member. Depending on the state of the pandemic the participation could also be higher. Currently the House

of Representatives of Berlin is back to its normal mode of operation with regards to plenary attendance of members but has kept various safety measures in place.

A temporary, partial relocation was considered at some point but in the end it was possible to ensure the safety of the members and staff during the plenary sessions by remodelling the plenary seating in accordance with distance requirements. The tables were separated from each other to ensure a minimum distance of 1.5 meters between each member. Furthermore, additional entrances and exits to the chamber were opened.

The committees facilitated digital participation of the members. As laid out in the rules of procedure, a minimum of 50% plus one member had to be present in the meeting room to ensure that the quorum is met, but the remaining members were allowed to participate online. The digitally participating members were allowed to speak but not to vote. How many members from each political group were allowed into the meeting room was decided by the d'Hondt formula to ensure proportionality in accordance with the voluntary agreement between the groups. Furthermore, the meeting rooms are equipped with perspex discs. The committee meetings are streamed live on the internet, an innovation which was introduced as a reaction to the pandemic. Although plenary meetings have been broadcasted live previous to this.

Further measures have been taken to ensure the safety of members and staff and implement the wider COVID-19 legislation. There is a mask mandate in the building. Exceptions apply if the concerned person is sitting on his/her seat, which is more than 1.5 meters away from the next person. Additionally, speakers are allowed to take off their masks during parliamentary sittings.

Additional hygiene measures were taken, such as disinfecting the microphone and lectern after each speaker. An important measure is the proper ventilation of meeting rooms and offices. Meetings are paused for regular airing breaks. In some rooms air purifiers were installed.

A new body was formed to advise the President of the House of Representatives of Berlin on measures related to the pandemic. The crisis unit consists of the President and the Vice-Presidents of the parliament, the Parliamentary Secretaries of each political group and the Secretary-General of the parliament.

According to the applicable COVID-19 legislation, employers are obligated to offer their employees free SARS-CoV-2 rapid tests at least twice a week. Therefore, voluntary tests are offered to staff and members. For certain professional groups the tests were temporarily compulsory in line with the wider COVID-19 legislation because they had direct contact with the public. Recently, a new law to fight the coronavirus pandemic was introduced in Germany, obliging employers and employees, who enter the workplace, to show proof of vaccination, recovery or present an up-to-date negative coronavirus test.

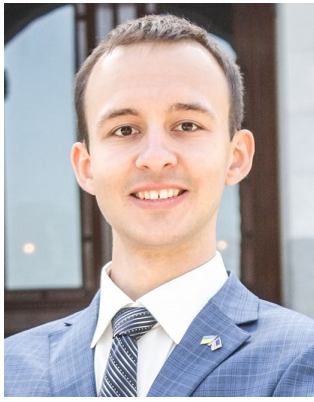
To ensure the safety of the staff, more flexible working from home provisions were introduced. In accordance with the decision of the federal and state governments, epidemiologically relevant contacts at work were reduced as far as possible, if the activities permitted it. At times, staffing was in principle limited to one person per office. During other times, operations returned to normal, albeit with safety precautions such as PPE, distancing, ventilation concepts, free rapid COVID-19 tests,



disinfectants and plastic cutting discs etc. still in place. As a result of the experience during the coronavirus pandemic, the eligibility for remote work provisions was extended.

Throughout most of the pandemic, the physical access of the public to the parliament building was restricted. Events and guided tours of the parliament were banned for a while. The possibility to attend plenary and committee meetings in person as an observer was restricted intermittently. Instead, livestreams of the meetings were provided.

Some measures remained throughout the whole coronavirus pandemic and are still in place. Others were changed in accordance with the changing wider COVID-19 legislation and depending on the SARS-CoV-2 infection rate. Since all German state parliaments are facing similar issues, it is very helpful to exchange best practices and information among each other.



Anton Morgun

## **The Verkhovna Rada of Ukraine and the Response to COVID-19**

Written By: Anton Morgun, Chief Consultant of the secretariat of the Verkhovna Rada

In response to your request for an article on the experience of the legislative bodies of foreign countries during a pandemic, I willingly share the experience of the Verkhovna Rada of Ukraine during these difficult times for the world.

***1) On the availability of the Rules of Procedure of the Verkhovna Rada of Ukraine (hereinafter, "Rules of Procedure") capabilities that would allow to deviate from standard procedures in case of unforeseen circumstances.***

The only way to deviate from the procedures specified in the Rules of Procedure is the provisions of Article 50, which permits the Verkhovna Rada of Ukraine to adopt a decision on a single rejection (ad hoc) of the procedures provided for by the Rules of Procedure. Such a decision is taken without discussion by voting, which is held after the introduction of the relevant proposal and entered into the minutes of the plenary meeting of the Verkhovna Rada of Ukraine.

The adoption of a decision on a one-time deviation (ad hoc) from the procedures provided for by the Rules of Procedure is not allowed if such a procedure, a one-time deviation (ad hoc) from which it is proposed, is stipulated by the requirements of the Constitution of Ukraine or the law.

On issues of legislative procedure, the adoption of a decision on a one-time deviation (ad hoc) from the procedures provided for by the Rules of Procedure is allowed only in relation to postponement of consideration of draft laws, extension or reduction of the time frame for introducing alternative draft laws, proposals and amendments to draft laws, reduction of the time frame for submitting draft laws to people's deputies of Ukraine, and deadlines for consideration of bills in committees.

***2) On amendments to the Rules of Procedure and other legislative acts in connection with the epidemic, in particular, on telecommuting and voting practice.***

In the Ukrainian parliament, together with the Rules of Procedure, the Law of Ukraine "On the Committees of the Verkhovna Rada of Ukraine" is in force, which defines the legal status of the committees of the Verkhovna Rada of Ukraine, their functions, and the organizational foundations of their activities.

Since the beginning of the COVID-19 pandemic and the establishment of quarantine restrictions on the territory of Ukraine, the parliament has amended the said Law of Ukraine in order to provide for the possibility of holding committee meetings via videoconference.

These changes assume the following:

- Committees carry out their work in the form of meetings, which can be held in the mode of videoconference with possible simultaneous broadcast on the official website of the Verkhovna Rada of Ukraine, with the prior consent of the majority of the number of members of the committee approved by the Verkhovna Rada of Ukraine, sent to the chairman of such a committee using a unified automated system document flow and the imposition of a qualified electronic signature. Consent to hold a meeting of the committee via videoconference is provided by each MP of Ukraine separately by sending a personal letter to the chairman of the committee;
- The agenda of the meeting of the committee held by videoconference and the draft acts planned for consideration at such a meeting are sent to the members of the relevant committee by the secretariat of such committee without delay, but no later than twenty-four hours before the start of the meeting, using a unified automated document management system;
- Voting at a committee meeting, conducted by videoconference, is carried out by committee members personally and openly by raising their hands and expressing their position "for", "against" or "abstained";
- Counting of votes during voting at a committee meeting held in videoconference mode is carried out by the secretary of the relevant committee, and if it is impossible to take part in such a meeting by the committee secretary, votes are counted by the chairperson of the meeting or another member of the committee designated by him; and
- Acts of committees and minutes of their meetings held by videoconference are signed with qualified electronic signatures with subsequent paperwork within 10 working days from the date of expiration of this Law.

Separately, it should be noted that the Ukrainian parliament discussed the possibility of holding plenary sessions of the Verkhovna Rada of Ukraine via videoconference. However, a preliminary analysis of these proposals showed that it would contradict the provisions of the Constitution of Ukraine and the Rules of Procedure.

***3) Regarding access to houses, structures and office premises of the Verkhovna Rada of Ukraine and the organization of work of employees of the parliament (Apparatus of the Verkhovna Rada of Ukraine) during the first year of the pandemic.***

From the beginning of the pandemic to the start of the vaccination campaign in Apparatus of the Verkhovna Rada of Ukraine (hereinafter, "Apparatus") (duration of about one year), a mixed mode of work was introduced, namely, employees of the Apparatus structural units combined both

remote work and stationary work (two days in the parliamentary premises and three days remotely, from home).

The schedule and duty were determined by the management of each structural unit separately, taking into account the workload and urgency of the issues that are under consideration.

In addition, changes were made to the internal documents of the Verkhovna Rada of Ukraine, which limited access to the premises of the parliament:

- Journalists and mass media (later these restrictions were eased - one journalist and one cameraman from one mass media were allowed access to the premises of the Verkhovna Rada of Ukraine);
- Assistant-consultants of people's deputies of Ukraine - only one assistant-consultant of the people's deputy of Ukraine, working under an employment contract, had the right to access the premises of the parliament;
- All events (excursions, round tables, scientific conferences, trainings, seminars) were canceled or moved online.

***4) On access to houses, structures and offices of the Verkhovna Rada of Ukraine during the second year of the pandemic.***

Since the beginning of the second year of the pandemic and the start of the vaccination campaign, the Verkhovna Rada of Ukraine adopted a Resolution, which provides that for the period of the quarantine established by the Cabinet of Ministers of Ukraine (COVID-19), the admission of the current convocation of the Verkhovna Rada of Ukraine, People's Deputies of Ukraine of previous convocations of the Verkhovna Rada of Ukraine, employees of the Verkhovna Rada of Ukraine, employees of state enterprises and institutions that support the activities of the Verkhovna Rada of Ukraine, assistant-consultants of People's Deputies of Ukraine, members of the Cabinet of Ministers of Ukraine, representatives of central executive authorities, officials of other government bodies and representatives of local self-government bodies, scientists, experts, practitioners or representatives of the public and others, as well as representatives of the media was allowed if one of the following documents is available:

- A document confirming the receipt of vaccination against COVID-19 with one or more doses of vaccines included by the World Health Organization in the list of permitted for use in emergency situations, issued in accordance with the International Health Regulations (2005) or in accordance with international agreements concluded by Ukraine on mutual recognition of documents on vaccination against COVID-19;
- A foreign COVID certificate confirming vaccination against COVID-19 with one or more doses of vaccines included by the World Health Organization in the list of approved for use in emergency situations;

- Negative test result for COVID-19 by polymerase chain reaction (PCR test), conducted no more than 72 hours before presentation of the document or rapid test for the determination of the SARS-CoV-2 coronavirus antigen, carried out no more than 48 hours before presentation of the document; or
- Certificates of the person's recovery from COVID-19, if the person was ill no more than 6 months before the presentation of the document.

***5) On the limitation of workload and staff.***

There have been no changes in this direction. The number of bills submitted to the Verkhovna Rada of Ukraine has not changed. The impact of the pandemic, in this part, was reflected only in the priority of parliamentary consideration of bills aimed at combating the spread of the acute respiratory disease COVID-19 caused by the SARS-CoV-2 coronavirus.

In summary, the above changes were the response of the Ukrainian parliament to the challenges posed by the spread of COVID-19.

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