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CONTRIBUTION

from

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on

**Innovations in the Spanish Senate due to Covid-19: should they be
maintained once the crisis is over?**

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Innovations in the Spanish Senate due to Covid-19: should they be maintained once the crisis is over? (27/05/2021)

As it was brought to light in the ASGP meeting last February, all parliaments have adopted different types of measures to fight against COVID-19. These measures have implied the use of technological instruments (video conferences and remote voting), the reduction of face-to-face meetings and the adoption of precautions for protecting the health of the members of the parliament and the staff, among others.

In all cases, with the certainty that parliaments are essential institutions in the democratic system and that it is particularly in situations of crisis when the exercise of their functions of legislation and control of the Government is, if possible, even more relevant.

We are currently starting to see, especially thanks to the advances in the vaccination, that in perhaps not much time, it will be possible to think about the return to what can be considered “normality in parliamentary life”.

And it seems sensible to assess which of the changes that were introduced as a consequence of the pandemic should be maintained (albeit with modifications or adjustments) and which ones should be discarded.

In the Spanish Senate, the adaptations to the situation generated by the pandemic were deliberately adopted as non definitive. In summary:

- The Standing Orders (and certainly not the Constitution) were not modified.
- A Presidential suppletive Rule was passed to establish compulsory telematic voting for all Senators (with a derogation clause for when the circumstances allow the return to face-to-face voting). Proxy voting is not allowed in the Senate.
- Neither the legislative procedure nor the instruments for the control of the Government were modified.
- The requirement for the physical presence of the Senators and the members of the Government in the House sessions, both plenary and Committee, was maintained, although with political agreements of reduced presence (which at present is 50% for the plenary), on the basis that the Constitution and the Standing Orders do not authorise participation by video conference in the meetings of the bodies which exercise constitutional powers.
- The practice whereby the bodies that prepare the parliamentary work (the Bureau and the Board of Spokespersons of the Senate, and their equivalents in the Committees) can hold their sessions with the

attendance of all or some of their members by video conference has been established.

- For the staff of the Senate, measures have been adopted in terms of physical distancing, partially face-to-face and partially remote work, with special consideration for people who require family reconciliation or are part of at-risk groups.

However, as a guideline, the intention has been not to institutionalise or legally regulate the activity of the Spanish Senate according to the pandemic, nor to permanently incorporate operational mechanisms for exceptional situations into the Standing Orders. The underlying certainty was that what was regulated for situations such as the current one might not be useful in other exceptional scenarios.

On this basis, it seems sensible to assess which of the operational innovations adopted during the pandemic can be incorporated into the normal functioning of the Senate and which ones cannot.

- The return to the physical presence of all Members of the House for Plenary and Committee meetings seems obvious. The requirements of the Constitution and the Standing Orders, the symbolic nature of the image of the House meeting with all its members and the fact that parliamentary work is about interactions, corridors, conversations, to get to agreements and that is only possible physically, are arguments in favour of this conclusion.
- In the bodies that prepare the parliamentary work, the conclusion of physical presence is not so obvious. The Bureau and the Board of Spokespersons could hold remote or mixed meetings. Experience shows that video conference meetings are more rigid and make interaction more difficult. On the other hand, it makes it easier for the members of the bodies to reconcile their lives and avoids travelling for relatively short meetings.
- Remote voting poses the difficulty of taking place simultaneously with face-to-face voting. It does not seem to be operational to cast physical votes *in situ* and then have to wait until the end of a remote voting period. Additionally, the question arises as to when remote voting is authorised: whether it is only for those situations already provided for, such as pregnancy, maternity, paternity or serious illness, or whether others are added, justified from Parliament's point of view (for example, participation in international activities).
- However, telematic voting by ballot for the election of persons in the House has proved to be very useful. The application developed by the Senate services not only allows voting with full guarantees, but also conducts an automatic count, which avoids errors and delays.

- The option of teleworking for parliamentary staff is an open question. There is a technological basis, but a detailed analysis of the organisation and the tasks of each position is needed.