INTRODUCTION

Finland’s early response to the COVID-19 outbreak blended the Government’s use of delegated emergency powers with legislative instruments adopted by Parliament in the ordinary legislative procedure. The Government, in cooperation with President of the Republic, declared a state of emergency under the Emergency Powers Act (EPA, 1152/2011) on March 16, 2020. The state of emergency...
formally ended 3 months later when the government decrees repealing the EPA powers entered into force on June 16, 2020. The protective and restrictive measures adopted under the EPA and the Communicable Disease Act (1227/2016) introduced a wide range of policy interventions, including a temporary closure of many school buildings, educational institutions, restaurants, and public cultural and recreational venues, quarantine orders, additional border controls, travel restrictions and a general recommendation for people to work remotely where possible. The immediate goal of these measures was to maintain the operational capacity of the healthcare system during the early stages of the crisis.1

While the operation of the healthcare system was secured, it is undeniable that recourse to delegated emergency powers poses a potentially significant threat to the rule of law and democracy. This article explores how the Government's use of emergency powers in Finland during the early stages of the COVID-19 outbreak was controlled by Parliament’s Constitutional review powers. First, the empirical part of the paper reviews the official reports and statements issued by Parliament's Constitutional Law Committee (CLC, “perustuslakivaliokunta”) during the state of emergency.2 The analysis of these documents demonstrates that the availability of information became a major issue of contestation in the CLC’s communications. Second, the theoretical part of the paper will discuss these findings within the framework of complex multicentric policy-making. Contrary to the initial hypothesis that pandemics generate complex multicentric policy processes and structures, this analysis exposes a potential tension between the premises of complexity theory and the revival of centralized policy-making and accountability processes in handling the COVID-19 pandemic.

Recent policy science scholarship emphasizes the need for nuanced case studies of different national responses to the COVID-19 pandemic (Capano et al., 2020 p. 300). The relevant variations can relate both to the adopted policies and to their “sequencing” and “intensity” (Capano et al., 2020 p. 297). Institutional parameters, including Constitutional and legal frameworks, are commonly depicted as “contextual factors” that shape the available policy choices during the pandemic (Weible et al., 2020 p. 227). While the Finnish case provides an example of such contextuality, it will also bring forth the question of how policy processes can be meaningfully theorized under emergency conditions. After this short introduction, Section 2 introduces the Constitutional and legal framework for the use of emergency powers in Finland. Section 3 documents how the CLC reviewed the Government’s decrees that commissioned and implemented emergency policies between March and June 2020. Section 4 considers what implications the crisis-driven focus on transparency-led accountability by the central government has for the study of policy processes. Section 5 concludes the paper and draws these empirical and theoretical threads together.

2 | THE LEGAL FRAMEWORK FOR THE USE OF DELEGATED EMERGENCY POWERS

The Constitution of Finland (731/1999, “Suomen perustuslaki”) defined the limits for the protective and restrictive policy interventions during the COVID-19 outbreak in that country. Section 23 of the Constitution allows provisional exceptions to basic rights in the event of an emergency, which poses a serious threat to the nation, when such exceptions are both necessary and compatible with Finland’s international human rights obligations. The more detailed provisions on the use of emergency powers are laid down by ordinary legislation (for a recent discussion of this topic, see Jonsson Cornell & Salminen, 2018). In civil crises, like the COVID-19 pandemic, the key legislative instrument at the Government's disposal is the Emergency Powers Act (EPA). A dangerous infectious disease, when it is equivalent to a particularly serious major accident, counts as an emergency condition under the EPA (section 3(5)).
The Government's use of emergency powers must always comply with Section 23 of the Constitution. In addition, the EPA lays down a set of criteria for the use of emergency powers. First, public authorities can only have recourse to emergency powers when it is necessary and proportionate to the specific purposes of the EPA (section 4(1), EPA). Second, the authorities can only use emergency powers if the crisis cannot be controlled by their regular powers (section 4(2), EPA). Third, the use of emergency powers must comply with Finland's international human rights obligations (section 5, EPA). The Government can exercise EPA powers within these limits by issuing decrees instead of proposing legislation, provided that the legally defined emergency conditions prevail. In practice, however, Parliament is closely involved in supervising the use of any powers under the EPA in Finland.

A decree commissioning emergency powers (“käyttöönottoasetus”) must be submitted to Parliament immediately and within a maximum of 1 week (section 6(3), EPA). Parliament decides whether the decree can enter into force and whether it can stay in force for the suggested period of time (up to a maximum of 6 months at a time). Where this process cannot be followed without compromising the purpose of the Act, the emergency powers can exceptionally be applied before Parliament has exercised its review function (section 7, EPA). If Parliament upholds the commissioning decree, it will ex post review the subsequent implementing decrees (“soveltamisasetus”) issued by the Government to use the emergency powers (section 10, EPA). Parliament can repeal the EPA decrees in full or in part, but it cannot change the content of these decrees.

One of Finland’s Constitutional idiosyncrasies, along with other Nordic countries, is that the country has no Constitutional court (e.g. Husa, 2000, 2019; Lavapuro et al., 2011; Thorarensen, 2018). The Constitution of Finland (section 106) empowers both the lower and the appellate courts to give priority to the Constitution if there is an obvious conflict between ordinary legislation and the Constitution in a particular case. But the courts cannot exercise general judicial review to declare legislation unconstitutional. Instead, the Constitution of Finland (section 74) assigns Parliament’s CLC with the task of ex ante issuing statements on “the constitutionality of legislative proposals and other matters brought for its consideration, as well as on their relation to international human rights treaties.” This mandate extends to the Constitutional review of the EPA decrees.

The CLC is the primary interpreter of the constitutionality of any act or decree in Finland. Its statements bind both other parliamentary committees and the Government (e.g., PeVP 43/2020 vp, § 8; PeVL 16/2020 vp at 10). The system of parliamentary constitutional review distinguishes Finland from many other European countries, several of which also invoked emergency laws during the early stages of the COVID-19 pandemic. The unique role of the CLC as the gatekeeper for whether and for how long the emergency decrees can stay in force means that, in Finland, the COVID-19 emergency policies were subject to a dynamic proactive review of constitutionality, as opposed to a more retroactive judicial review. This system plays an important role in upholding democracy during a state of emergency, as these events showed.

3 | THE EARLY COVID-19 POLICIES THROUGH THE EYES OF THE CONSTITUTIONAL LAW COMMITTEE

In Finland, the system of ex ante constitutional review by the CLC reflects the principle of legislative supremacy and the status of Parliament as the highest organ of the state apparatus (section 2, the Constitution of Finland; HE 1/1998 vp at 62 and 73). From this perspective, the Government’s use of delegated emergency powers under the EPA distorts the normal constitutional balance between the branches of government. Although almost all of the Government’s EPA decrees ultimately passed the constitutional review, the CLC released several highly critical statements regarding the COVID-19
emergency policies. This section will describe the CLC’s review of the EPA decrees in relation to the following three key areas of inquiry: (a) the right procedure under the EPA, (b) the substantive review of necessity and proportionality, and (c) Parliament's constitutional right to receive information.

### 3.1 The right procedure under the EPA

The EPA primarily secures Parliament's participation through its power to decide whether government decrees that introduce emergency powers can enter into force (PeVM 2/2020 vp at 2–3; PeVM 3/2020 vp at 2–3; PeVL 6/2009 vp, at 15). For this reason, the Government needs to carefully justify any recourse to the urgency procedure, instead of the normal review process under the EPA (PeVM 3/2020 vp at 4). The distinction between the commissioning and implementing decrees constitutes another important procedural safeguard in the use of emergency powers: The Government can only issue implementing decrees after the relevant commissioning decree has passed parliamentary review (PeVM 2/2020 vp at 6; PeVM 4/2020 vp at 2; PeVM 5/2020 at 2; PeVM 6/2020 vp at 4). During the COVID-19 pandemic, the CLC explicitly rejected the use of so-called hybrid decrees where the Government tried to combine commissioning and implementing decrees (PeVM 8/2020 vp at 3).

The CLC also stressed the Government's duty to monitor the impact of the adopted restrictions on basic rights and to correct any perceived problems (PeVM 10/2020 vp at 4). In particular, it ordered the Government to interfere promptly with any unjustified use of emergency measures by public authorities (PeVM 19/2020 vp at 4). Any change in the emergency conditions means that the related EPA decrees need to be amended or repealed accordingly (section 11, EPA). The CLC also held that the Government should explicitly assess when the restrictive measures could cease to exist (PeVM 9/2020 vp at 4; PeVM 14/2020 vp at 6). In the CLS' view, these considerations became more important when the emergency conditions were prolonged (PeVM 9/2020 vp at 4; PeVM 17/2020 vp at 5).

### 3.2 The review of necessity and proportionality

The central starting point in the CLS’s substantive review of the EPA decrees was that the legitimate use of emergency powers is limited to particularly serious crises. The threshold for the use of emergency powers is high, and the precautionary use of emergency powers is prohibited (PeVM 2/2020 vp, at 2, PeVM 3/2020 vp at 2). Securing the operational capacity of the healthcare system during the pandemic met the required threshold of a very weighty reason, read in conjunction with the constitutional duty of public authorities to secure everyone's right to life and to promote public health (PeVM 2/2020 vp at 4–5). In practice, the use of emergency powers enabled the Government to introduce centralized, even nation-wide, restrictive measures, whereas the measures adopted under the Communicable Disease Act are more targeted by nature (PeVM 2/2020 vp at 3).

The CLC repeatedly highlighted the priority of ordinary legislation and the principle of making the smallest possible intervention in basic rights and liberties (PeVM 9/2020 vp at 3; PeVM 19/2020 vp at 3). Individual restrictive measures, such as the rules relating to isolation and quarantine under the Communicable Disease Act, should always take priority over generic measures based on the use of EPA powers (e.g., PeVM 9/2020 vp at 3; PeVM 11/2020 vp at 5; and PeVM 14/2020 vp at 4). Had the emergency conditions lingered, the Government should have proposed amendments to the existing legislation, rather than using the delegated emergency powers (PeVM 17/2020 vp at 4; PeVM 19/2020 vp at 3). This is important because, unlike in the case of EPA decrees, Parliament can change the content of the Government's proposals for legislation (PeVL 7/2020 vp at 2).
In reviewing the Constitutionality of emergency measures, the CLC referred to several international human rights instruments, including the European Convention on Human Rights, the European Social Charter, the UN Convention on the Rights of the Child, the UN Convention on the Rights of Persons with Disabilities, and conventions of the International Labour Organization’s (ILO) (e.g., PeVM 4/2020 vp at 3; PeVM 5/2020 vp at 3; and PeVM 6/2020 vp at 3). The CLC also invoked the general prohibition of discrimination and the Constitutional principle of equal treatment (section 6, the Constitution of Finland) in assessing, for instance, the restrictions on the subjective constitutional right to education during the state of emergency (PeVM 14/2020 vp at 5; see also PeVM 6/2020 vp at 5–6).

The strict requirements of necessity and proportionality apply to the justification of emergency measures both under the EPA and under Section 23 of the Constitution (PeVM 2/2020 vp at 5; PeVM 4/2020 vp at 2; see also PeVL 6/2009 vp at 4). The CLC emphasized that Section 23 of the Constitution allows provisional exceptions to basic rights only if the normally accepted limitations on basic rights are inadequate during a serious emergency (PeVL 7/2020 vp at 3). Moreover, the grounds for limiting basic rights, especially the requirement of proportionality, should guide the Constitutional review of provisional emergency exceptions to basic rights (PeVM 2/2020 vp at 5; PeVM 3/2020 vp at 4; and PeVM 14/2020 vp at 2). For these reasons, the CLC asked the Government to always justify the acceptability, necessity, and proportionality of restrictive measures separately (PeVM 14/2020 vp at 4).

The CLC found plenty of room for improvement in the Government’s necessity assessment. It repeatedly pointed out that a mere reference to the COVID-19 pandemic cannot meet the test for necessity (PeVM 5/2020 at 2; PeVM 13/2020 vp at 2). In reviewing necessity, the CLC examined the material, regional, and temporal scope of the given policy (PeVM 15/2020 vp at 3; PeVM 20/2020 vp at 3). In the CLC’s view, the Government did not adequately address the material and the temporal scope of the adopted policies in justifying their necessity (PeVM 9/2020 vp at 3–4). Moreover, the necessity of emergency policies must always be based on the inadequacy of other, less restrictive, policy measures (PeVM 7/2020 vp at 6). The more open-ended the adopted measure, the more important the assessment of necessity becomes (PeVM 12/2020 vp).

In general, the Government was asked to use more precise and clearly defined provisions (e.g., PeVM 6/2020 vp at 6). The CLC found the lack of preciseness particularly problematic if it was due to the fact that the scope of application of the provision was unclear (PeVM 13/2020 vp at 3), or if the Government’s memoranda gave the impression that emergency powers were invoked as a precautionary measure (PeVM 9/2020 vp at 4–5). The CLC insisted that the Government should always discuss alternative measures and methods of application in its memoranda (PeVM 9/2020 vp at 3; PeVM 13/2020 vp at 3). Later, it also ordered the Government to assess the cumulative effects of the proposed restrictions and, in particular, the cumulative societal risks of the restrictions in relation to their cumulative benefits (PeVM 11/202 vp at 3; PeVM 14/2020 vp at 5).

One of the constitutionally most controversial EPA measures concerned the restriction of movement to and from the Uusimaa region, which includes Helsinki, for two and a half weeks in the spring of 2020. The CLC emphasized that the right to free movement constitutes part of individual self-determination (PeVM 8/2020 vp at 4; PeVM 9/2020 vp at 3). Yet, the Government memorandum omitted the possible negative effects of the restriction (PeVM 11/2020 vp at 4). The restrictive measure ultimately passed the Constitutional review, taking into account its relatively short term of validity, and provided that movement for necessary reasons would be allowed under the restriction (PeVM 8/2020 vp at 4 and 5). The restriction of movement provoked the CLC to express concern about the erosion of Parliament’s status as the highest organ of the State (PeVM 11/2020 vp at 6). The CLC also noted in this context that the need to amend the EPA, so that a simple majority in Parliament would no longer
suffice for the emergency decrees to be accepted and so that Parliament could change the content of these decrees, should be considered in the future (PeVM 11/2020 vp at 6–7).

### 3.3 Parliament's right to receive information

On several occasions, the official records of the CLC highlight the importance of having access to relevant and adequate information when assessing the constitutionality of COVID-19 policies (PeVM 7/2020 vp at 5; PeVM 8/2020 vp at 6; PeVM 11/2020 vp at 6; and PeVM 19/2020 vp at 2). For example, a statement by the Finnish Institute for Health and Welfare could not alone provide sufficient information and context for deciding on the necessity of a nation-wide closure of restaurants when it did not assess the cumulative societal risks of the closure in relation to its cumulative benefits (PeVM 10/2020 vp at 4). A related point of criticism in these records concerns the difficulties that Parliament experienced in receiving information from the Government during the state of emergency.

Parliament's status as the highest organ of the state and the principle of popular sovereignty require that Parliament receives reliable and comprehensive information from the Government to support its decision-making (PeVP 30/2020 vp at 4). This right is confirmed by Section 47 of the Constitution, which, in the CLC’s view, entails both the Government's duty to deliver information to Parliament on its own initiative and Parliament's right to request such information (PeVP 30/2020 vp at 4). The CLC highlighted during the state of emergency that its right to receive information includes confidential information and that the Constitution of Finland does not include any provision under which the Government or an individual Ministry could refuse to give the requested information to Parliament (PeVP 30/2020 vp at 4). Moreover, only the CLC itself (or, Parliament's Grand Committee and Foreign Affairs Committee in EU and international matters) can declare the Committee's records confidential (section 50, the Constitution).

Although Section 47 of the Constitution on Parliament's right to receive information does not define the quality of the received information, the CLC has adopted the view that a requirement of reliability can be derived from Parliament's status as the highest organ of the State (PeVP 30/2020 vp at 5). In this context, reliability refers to the correctness, comprehensiveness, and meaningfulness of the received information (PeVP 30/2020 vp at 5). The CLC also drew the Government's attention to the fact that the Committee's ability to comply with its constitutional tasks is reduced if the Government fails to set aside adequate time for the parliamentary review process to take place (PeVL 14/2020 vp at 7).

The CLC had to ask the Government to pay particular attention to Parliament's right to receive information during the state of emergency (PeVM 7/2020 vp at 6; PeVM 8/2020 vp at 6). Later, the CLC noted that it had made several requests for information in matters where the Government should have delivered the information on its own-initiative and that the Government had not paid adequate attention to Parliament’s constitutional right to receive information (PeVM 12/2020 vp at 6). The Chancellor of Justice, whose task is to supervise the legality of government actions, also highlighted in a newspaper interview that Parliament's right to receive information belongs to the core of the Finnish democratic system and that the matter was “very serious” (Sajari, 2020). At the end of April 2020, the CLC decided to start its own investigation on the fulfillment of Parliament's Constitutional right to receive information (PeVP 30/2020 vp at 3). The review of EPA decrees was mentioned as one of the areas in which Parliament had faced difficulties in receiving information from the Government (PeVP 30/2020 vp at 5).
The twin challenge of having a sufficient knowledge base and access to information became a major critical theme in the parliamentary constitutional review of the COVID-19 emergency policies in Finland. The need for government openness was primarily discussed in the inter-institutional context and was framed in terms of legislative supremacy, rather than democratic accountability. However, as noted by the Chancellor of Justice, Parliament’s access to information is a cornerstone of the democratic system in Finland. From a broader perspective, Parliament’s demand for adequate and reliable information can be conceptualized as a claim for public accountability on the part of the Government.

The quest for transparency-led accountability by the central government can also be examined through the lens of policy process research. As will be seen in this section, the rise of centralized policy-making and accountability processes during the early stages of the COVID-19 pandemic diverge from the decentralized model of accountability, as envisaged by complexity theory in policy process research. This finding counters the assumption that complex policy problems by nature generate complex multicentric policy-making processes.

4.1 Accountability through transparency during the COVID-19 pandemic

Although transparent administration is central to the Nordic models of good governance, empirical studies show that transparency can have “unintended” and “negative” effects on government legitimacy (see de Fine Licht & Naurin, 2016 p. 217; de Fine Licht, 2014 p. 309, 311; Bauhr & Grismer, 2014 pp. 307–310) and the critical theory of transparency views the “ideological form” of transparency as partly embedded in neoliberalism (Birchall, 2014 p. 83). It is also clear that the concept of transparency is not singular and may include several paradoxes (Koivisto, 2016 pp. 21–22). These challenges notwithstanding, the assumed links between transparency, accountability, and legitimacy support the prominent role of transparency when theorizing the concept of governance (Hood & Heald, 2006). The basic idea of transparency refers to “the availability of information about an organization’s or actor’s internal processes and decisions” (de Fine Licht & Naurin, 2016 p. 217). Transparency is supposed to expose both “how” and “why” decisions are made (de Fine Licht et al., 2014 p. 112). It follows that transparency is often indistinguishable from the claim for democratic accountability in public debate.

Political science generally depicts transparency as a necessary but insufficient condition for democratic accountability (Bovens, 2007 p. 43; de Fine Licht & Naurin, 2016 p. 222; Fox, 2007 p. 665). While transparency can have a positive effect on the legitimacy of government action, any simple correlation between them is called into question. Transparency arguably requires “mechanisms for accountability” before it can effectively increase the legitimacy of political decision-making (de Fine Licht et al., 2014 pp. 111–112, 116; see also Fox, 2007 p. 668). However, empirical findings suggest that the “perceptions of transparency” can sometimes be more important than the “actual degree of transparency” in creating public acceptance for political decisions (e.g., de Fine Licht, 2014 pp. 309–310, 313, 324). From this perspective, the CLC’s critique of Parliament’s access to information during the COVID-19 outbreak could create a “transparency cue” (de Fine Licht, 2014 pp. 310, 314), which shapes the public perception of transparency in political decision-making even independent of the actual degree of inter-institutional transparency between the Government and Parliament.
Transparency can only provide a partial solution to the problems of policy-making (e.g., Ball, 2009 pp. 299–300). This is also true under emergency conditions. On the one hand, the assumed potential for transparency to create public trust and support to the Government's policy seems particularly valuable during a state of emergency. On the other hand, the risk of a “trade-off” between transparent decision-making and efficient governance (de Fine Licht & Naurin, 2016 p. 219) may be higher under emergency conditions. At the same time, the Government's recourse to delegated emergency powers explains the quest for transparency-led accountability during the COVID-19 crisis: The common fear that transparency-led accountability would become a false replacement for democracy may seem like a lesser evil under emergency conditions when Parliament's participatory powers are already restricted. This logic, supported by the empirical analysis of the Finnish case, has direct implications for how policy processes during the COVID-19 pandemic can be theorized.

4.2 COVID-19 policy-making as an (un)fitting example of complexity

For policy process research, transparency is one possible “attribute” of policy-making, rather than a normative tool for enhancing democratic accountability (Ball, 2009 p. 301). A central driver in any policy process research is the attempt to develop better and more accurate theoretical accounts of policy-making processes, actors, and contexts (Sabatier, 1991 p. 149; Weible et al., 2012 p. 3; but see also e.g. Hoope and Colebatch, 2016 pp. 122-123). Most contemporary theories of policy processes are skeptical of the idea that policy-making power could, or should, be exercised by the central government alone (Cairney et al., 2019 p. 6). Instead, different theories of policy process capture the inherently plural and decentralized nature of policy-making from a range of different perspectives. While the COVID-19 pandemic might initially look like a quintessential example of this complexity, recourse to centralized emergency policies and the related quest for transparency-led accountability by the central government do not fit smoothly in the theoretical framework of complex multicentric policy-making.

Complexity theory offers one of the leading theoretical accounts of plural and multicentric policy-making by building on the premise that a complex system cannot be reduced to the sum of its parts (Cairney, 2012 pp. 346, 348–349). This means that complexity is a qualitative, rather than quantitative, attribute (Morçöl, 2012 pp. 22–23; Westhorp, 2012 p. 406). The core features of a complex policy system include non-linear relations of interaction within and between systems, contingent causation, co-evolution, and the recognition of emergent properties (Morçöl, 2012 pp. 22, 266; Westhorp, 2012 p. 409). In policy process research, complexity theory focuses on explaining how complex non-linear interaction between different actors produces “system-wide behaviour” (Cairney et al., 2019 p. 16; see also Morçöl, 2012 p. 45). From this perspective, policy-making necessarily includes “multiple, overlapping, and interacting centers of decision-making containing many policymakers and influencers” (Cairney et al., 2019 p. 1).

A logical consequence of complexity in policy-making processes is that it exposes the boundaries of central government control. In fact, the very idea of a complex policy process challenges the presumption of “central control” and highlights the reality of “interdependence” in policy-making (Cairney & Geyer, 2017 pp. 1–2, 5). It follows that complexity theory sets aside the traditional accounts of government accountability (Cairney & Geyer, 2017 p. 7, 9). A “simplistic search” for government control fails to answer the question of how policymakers can be held accountable in a complex multicentric process of policy-making (Cairney & Geyer, 2017 p. 7, 10). The key normative challenge within the theory of complex policy-making accordingly concerns the changing forms of democratic accountability (Cairney et al., 2019 p. 36).
Complexity theory is primarily a theory about systems, structures, and processes, rather than about substantive policy problems or policies (Morçöl, 2012 p. 45). The term “complexity” has multiple facets (Morçöl, 2012 p. 24) and may sometimes be used rather vaguely when it comes to theory-building (Cairney, 2012 pp. 447, 352). Yet, the idea of complexity inevitably calls into question any direct causality between inputs and outputs in policy processes (Morçöl, 2012 p. 268). Placing the focus on “system-wide” behavior is arguably particularly helpful when studying unforeseeable and ambiguous events (Cairney, 2012 p. 347; see also Geyer & Rihani, 2010). There is no need to specify whether the Finnish policy system is complex, as the relevant literature postulates that “composite policy action systems are the norm” (Morçöl, 2012 p. 60). Instead, the pertinent question is how far complexity theory can explain the systemic dynamics of COVID-19 policy-making—provided that the pandemic constituted a highly ambiguous policy context, and assuming that complexity theory is particularly well-suited to theorizing policy-making in such circumstances.

Policy process research approaches global health crises as complex policy problems ipso facto (Versluis et al., 2019 pp. 84–85). It is characteristic of complex policy problems that they include “uncertain risks” (Cairney, 2012 p. 347; Versluis et al., 2019 p. 85; Capano et al., 2020 p. 288). Recent research views the COVID-19 pandemic as an “extreme case” on this spectrum (Capano et al., 2020 pp. 288–89, see also Colfer, 2020). The state of heightened uncertainty creates seemingly fruitful conditions for complex multicentric policy-making (e.g. Petridou, 2020). But while the early policy response to the COVID-19 crisis affirms that pandemics are complex problems, it simultaneously challenges some of the central premises of complex multicentric policy-making. It can be argued that the claim for transparency-led accountability was the only logical response to the Government’s use of delegated emergency powers during the state of emergency. However, what may be less obvious is that a potential feedback loop exists between the preferred accountability methods and the forms of policy process. This means that the quest for transparency-led accountability by the central government may unintentionally reinforce, rather than curtail, centralized policy-making during a crisis.

Developing a “realistic understanding” of policy processes is the first step to enhancing the democratic quality of policy-making (de Leon & Weible, 2010 p. 27). The potential increase in executive policy-making is not unproblematic, bearing in mind that an “election seeking executive” might not always act in the public interest (Canes-Wrone et al., 2001 p. 532). In so far as this was potentiality actualized during the first months of the COVID-19 pandemic, it is unclear what should happen after the return to normalcy. It cannot be taken for granted that the empowerment of the executive branch at the expense of the legislature will not leave any mark on the democratic system after the state of emergency formally ends (Agamben, 1998 pp. 28, 181; Honig, 2009 p. 9). The remnants of repealed emergency policies are more likely to be subtle, rather than overt. Therefore, the normative analysis of what is (and is not) permissible during and after the state of emergency cannot trace the long-term effects of emergency policies on democratic governance. Instead, longitudinal research on policy processes can fill this gap of knowledge by identifying changing patterns of policy-making.

In sum, the analysis of the COVID-19 emergency policies in Finland revisits the postulation that centralized accountability models lose their significance within complex policy systems. This finding is in line with the argument that “composite” systems tend to become more “singular” “when there are strong challenges to the collective well-being of a pluralistic society” (Morçöl, 2012 p. 60). It can also be read as a reminder of how “context” and “contextual issues” always shape policy processes within a state of complexity (Walton, 2016 p. 81; Westhorp, 2012 p. 408). This theoretical analysis leaves us with the following puzzle: The explanatory power of complexity theory does not necessarily hold under the conditions of “uncertain risks”—although these are the conditions in which the emergence of complex policy processes and structures would seem most logical.
At the same time, the potential feedback loop between the accountability methods and the forms of policy process highlights the need for further research on the transition from emergency policies to the normal mode of policy-making in the aftermath of the COVID-19 crisis. In particular, it is important to monitor the potential long-term effects of the emergency policies on the centralized and decentralized modes of policy-making. While it is still too early to predict such effects, the empirical and theoretical findings of this article establish a future research need in this field and clarify the central role of policy process research in responding to that need.

5 | CONCLUSION

From a comparative perspective, Finland’s early policy response to the COVID-19 pandemic constitutes a useful case study in its own right. The dynamic relationship between the Government’s use of delegated emergency powers and Parliament’s constitutional review powers set Finland apart from many other European countries, where the COVID-19 outbreak resulted in the declaration of national emergency. In this paper, the empirical study of the Finnish case also raised a much broader question of how policy processes are theorized during and after the pandemic. From the perspective of policy process research, this analysis highlights two paradoxes: First, while the COVID-19 pandemic constitutes a quintessentially complex policy problem, the revival of centralized policy-making and transparency-led accountability processes subverts the presumption of multicentric policy-making as a necessary corollary to a complex policy context. Second, while these findings clearly relativize the explanatory power of pluralist theories of policy-making under emergency conditions, they also highlight the central role of policy process research in monitoring the long-term effects of emergency policies on democratic governance.

CONFLICT OF INTEREST

The author has no conflict of interest to declare.

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ENDNOTES

1 Quantitative data on COVID-19 and its effects on society in Finland are provided by the Finnish Institute for Health and Welfare at https://thl.fi/en/web/infectious-diseases-and-vaccinations/what-s-new/coronavirus-covid-19-latest-updates/situation-update-on-coronavirus and by Statistics Finland at https://www.stat.fi/ajk/koronavirus/koronavirus-ajoja-tilastotietoa_en.html.

2 The official records of the Constitutional Law Committee are available in Finnish at https://www.eduskunta.fi/FI/valiokunnat/perustuslakivaliokunta/Sivut/default.aspx

3 The specific purposes of the EPA (Section 1) are “to protect the population, to secure the livelihood of the population and the national economy, to maintain legal order and fundamental and human rights, and to safeguard the territorial integrity and independence of Finland in emergency conditions.”.

4 For different constitutional approaches to the COVID-19 outbreak, see the country reports provided by the Verfassungsblog and Democracy Reporting International in April 2020: https://verfassungsblog.de/introduction-list-of-country-reports/

5 The Constitution of Finland does not include a particular provision on how basic rights can be limited, but the Constitutional Law Committee has defined the general and specific grounds for limiting basic rights (PeVM 25/1994 vp at 4–5).
Similar concerns emerged, for instance, in relation to Parliament's access to information relating to EU matters, including the Government's extensive request for secrecy in relation to its report on the EU’s COVID-19 recovery plan. The CLC held in that matter that Section 50(3) of the Constitution could not justify such broad and undifferentiated secrecy as the Government had requested (PeVL 16/2020 vp at 5–6).

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