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The European Parliament's Challenge to SAFE: Balancing Democratic Legitimacy and Urgency in EU Defence Competence under Articles 122 and 173 TFEU

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RESEARCH REPORT

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RESEARCH REPORT

I. Introduction

As the world passes the fourth anniversary of Russia's invasion of Ukraine, the European Parliament's action to annul the Council's Security Action for Europe (SAFE) instrument, adopted by Council Regulation (EU) 2025/1106[1], highlights the fragility of the EU's competence in defence and crisis response matters.[2] SAFE relies on Article 122(1) TFEU to mobilise immediate financial solidarity for Member States facing acute economic pressure from scaled-up defence expenditure, in response to the Ukraine conflict and its ripple effects, including risks of supply disruptions akin to past energy crises.[3]

Article 138 of Parliament 's Rules of Procedure, which entered into force in July 2024, requires the Commission to motivate its use of Article 122 procedure before MEP's and allows the JURI commission of the Parliament to challenge its legal basis before the Court of Justice if they consider it invalid or irrelevant. By choosing Article 122(1) rather than Article 173(3) TFEU, the Commission and the Council side-step the ordinary legislative procedure and thus exclude Parliament from co-decision. On 20 August 2025, Parliament brought an action (Case C-560/25, *European Parliament v Council*) contesting through the annulment procedure[4] both the legal basis and the adequacy of the statement of reasons under Article 296 TFEU.[5] The litigation exposes deep tensions between Member States' jealously guarded sovereignty in defence, the industrial policy shift in EU defence procurement, and horizontal institutional balance. Article 122(1) TFEU, designed for "natural disasters or exceptional occurrences" requiring "immediate action," operates through non-legislative acts and grants a central role to the Council and Commission, to the detriment of Parliament's formal powers.[6]

The doctrinal stakes extend beyond SAFE. Recent crises (financial, health-related, migratory, energy, and now security-related) have entrenched Article 122 as the Union's "emergency clause *par excellence,*"[7] with increasingly frequent resorts to solidarity-based instruments such as SURE, REPowerEU, and energy emergency measures.[8] The SAFE litigation therefore, becomes a test case for the contours of the EU's "emergency constitution:" Where are the outer limits of Article 122(1), how does it interact with ordinary legal bases like Article 173, and what margin of discretion will the Court of Justice accord to the political institutions in reconciling urgency with democratic and constitutional constraints?

[1] Case C-560/25 European Parliament v Council, Action brought on 20 August 2025 (CELEX:62025CN0560) https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62025CN0560, accessed 18 March 2026.

[2] 'Rearm Europe, Socialists Ready to Back Emergency Procedure. But Schlein Criticises the Plan' (Eunews, 6 March 2025) https://www.eunews.it/en/2025/03/06/rearm-europe-socialists-ready-to-back-emergency-procedure-but-schlein-criticises-the-plan/, accessed 18 March 2026.

[3] Council Regulation (EU) 2025/1106 of 27 May 2025 establishing the Security Action for Europe (SAFE) through the Reinforcement of the European Defence Industry Instrument OJ L106/1, points 8 and 10 https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202501106, accessed 18 March 2026.

[4] Article 263 TFEU.

[5] Case C-560/25 European Parliament v Council, Action brought on 20 August 2025 (CELEX:62025CN0560) https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62025CN0560, accessed 18 March 2026.

[6] E Rebasti, A Funch Jensen and A Jaume, 'Topic I – EU Emergency Law, Institutional Report' (K Pacuła ed, Congress of the International Federation of European Law Publications 2025) vol 1, 77–333, 305.

[7] Ibid,138.

[8] Ibid, 87.

Parliament's challenge is twofold. First, it contests that SAFE satisfies Article 122(1)'s cumulative conditions of exceptionality, urgency, economic adversity, and subsidiarity, which can cover "exceptional economic, financial, military, or geopolitical occurrences,"[9] "without prejudice to any other procedures provided for in the Treaties."[10] Second, it denounces the democratic deficit caused by relying on an emergency non-legislative basis in a structurally sensitive domain, defence industrial policy, where Parliament considers that an ordinary industrial-policy basis under Article 173(3) should prevail.[11]

II. Article 122(1) versus Article 173 TFEU: Contrasting Legal Regimes

SAFE is framed as an emergency solidarity mechanism to support and coordinate defence procurement in response to the security shock generated by the war in Ukraine, strengthening the European defence technological and industrial base (EDTIB) and facilitating joint acquisitions.[12] It operates as a targeted, conditional EU-level framework that is structurally enduring but only operationally activated for time-limited, specifically defined joint procurement projects. To situate SAFE within the Treaty architecture, the regimes of Articles 122 and 173 TFEU must be contrasted, in terms of both procedural design and material constraints. Assessing SAFE's legal basis thus requires a classic aim-and-content test: Does the regulation, in light of its objectives and main components, align more naturally with the ordinary industrial policy basis in Article 173 or with the emergency solidarity clause of Article 122(1)?

Article 122(1) empowers the Council, on a proposal from the Commission, to adopt non-legislative measures "appropriate to the economic situation" where "severe difficulties" arise, notably regarding the supply of certain products such as energy. The Court has clarified that the reference to energy is illustrative[13] and the wide discretion enjoyed by decision-makers "in areas which entail choices, in particular of a political nature, on their part and complex assessments"[14] is subject to proportionality review.[15] Article 122(1) excludes the Parliament from the decision-making procedure, unlike Article 173(3), and is conceived as exceptional, temporary, and crisis-bound. Recourse to Article 122 has been justified in successive crises through measures such as SURE, the recovery instrument, and energy emergency regulations on demand reduction, price caps, storage, and joint purchasing.

Against this background, the legal-basis test asks which of Articles 122(1) or 173(3) best reflects SAFE's predominant aim and content, rather than simply maximising institutional involvement.

[9] Daniel Calleja, Tim Maxian Rusche and Trajan Shipley, 'EU Emergency Call 122? On the Possibilities and Limits of Using Article 122 TFEU to Respond to Situations of Crisis' (2024) 29(3) Columbia Journal of European Law 530.

[10] Article 122(1) TFEU.

[11] CNBC, 'Elly Schlein: We Need a Common European Defense System' (22 July 2025) https://www.cnbc.com/video/2025/07/22/we-need-a-common-european-defense-system-says-italys-elly-schlein.html, accessed 18 March 2026.

[12] Council Regulation (EU) 2025/1106 (n 3) point 8.

[13] Case T-450/12 Anagnostakis v. Commission EU:T:2015:739, point 42.

[14] Joined Cases C-643/15 and C-647/15 Slovakia and Hungary v Council EU:C:2017:631, points 123–124.

[15] Calleja, Rusche and Shipley (n 9), 552.

By contrast, Article 173 TFEU constitutes an ordinary legal basis for industrial policy, including the adjustment of industry to structural changes and the promotion of cooperation between undertakings, via the ordinary legislative procedure and full parliamentary co-decision. As defined by the EDIP proposal, the war in Ukraine creates a "security crisis"[16] and a crisis on relevant defence products,[17] which could trigger the Article 122 process. However, even this proposal is based on Article 173 TFEU, not on an emergency procedure.[18] This illustrates that "emergency frameworks" may be constructed on ordinary legal bases. According to the EDIP proposal, Article 173 is relevant to improve EDTIB competitiveness and "adapt to the new market reality."[19]

In terms of stated objectives, SAFE seeks to "enable urgent and major public investments in the European defence industry"[20] to rapidly increase production capacity and ensure the timely availability of defence products, which also contributes to EDTIB competitiveness and adjustment to structural changes.[21] These elements map closely onto Article 173(1) and (2) ("speeding up the adjustment of industry to structural changes" such as the Ukrainian war, and "encouraging an environment favourable to cooperation between undertakings" through joint procurement for instance, and Commission initiatives), which explains why related instruments such as EDIP and EDIRPA rely on Article 173 as their principal legal basis.

However, SAFE's design also embeds crisis-specific features: it is activated in response to an acute, war-induced security-of-supply shock, is expressly framed as an "exceptional and temporary"[22] instrument, and aims at urgent financial support and simplified procedures, which are characteristic of Article 122(1) emergency measures.

The core difference lies less in substance than in institutional balance: Article 173 mobilises the co-legislators and produces legislative acts; Article 122 delivers non-legislative crisis measures centred on Council and Commission.

The conditions for lawful recourse to Article 122(1) are demanding. Case-law[23] and practice require (i) a situation of exceptionality or urgency, characterised by severe difficulties; (ii) a sudden, serious and relatively short-term crisis, though its effects may be long-lasting;[24] (iii) a need for action in an area intimately connected with the crisis; (iv) temporary and proportionate measures, appropriate to the economic situation; (v) a genuinely economic objective, even if pursued through sector-specific tools; and (vi) a solidarity logic of mutual assistance between Member States, not third countries.[25] An EU-level common response would be indispensable in a "solidarity spirit" to fall under 122 TFEU, as it would constitute "an urgent threat to core values or structures of the community."[26]

[16] Proposal for a Regulation establishing the European Defence Industry Programme and a Framework of Measures to Ensure the Timely Availability and Supply of Defence Products ('EDIP') COM(2024) 150 final, art 2(18).

[17] Ibid arts 2(23), 44.

[18] Ibid, 4.

[19] Ibid, 5.

[20] Council Regulation (EU) 2025/1106 (n 3) point 11.

[21] 'Commission Approves Second Wave of SAFE Defence Funding for Eight Member States' (Defence Industry and Space, 26 January 2026) https://defence-industry-space.ec.europa.eu/commission-approves-second-wave-safe-defence-funding-eight-member-states-2026-01-26_en, accessed 18 March 2026.

[22] Council Regulation (EU) 2025/1106 (n 3) point 11.

[23] Case 5/73 Balkan-Import-Export v Hauptzollamt Berlin-Packhof EU:C:1973:109, point15.

[24] E Rebasti, A Funch Jensen and A Jaume (n6),175.

[25] Ibid 86–87, 172.

[26] Bruno de Witte, 'EU Emergency Law and its Impact on the EU Legal Order' (2022) 59 Common Market Law Review 3, 4.

The protracted nature of the war in Ukraine, however, raises the question whether such structurally chronic conditions can still be framed as relatively short-term crises, or whether Article 122(1) risks becoming a vehicle for managing long-term structural policy under an emergency label.

In this context, it does not seem unreasonable to consider SAFE's context of adoption as a justified emergency because it already justified measures for another crisis in another domain (energy crisis), but with a similar aim to manage risks related to security of supply. The uncertainty surrounding EU-NATO relations, stemming from the United States' wavering stance and its persistent pressure on Member States to increase defence spending, bolsters the case for an acutely impacted economic situation requiring urgent measures.[27]

The temporary-activation requirement is also likely met in SAFE. Even though the Commission recently accorded a second wave of SAFE support, those are punctual financing, under strict conditions of eligibility, applicable to limited joint procurement projects. Moreover, the previous energy crisis proved that even prolonged measures are considered to meet the temporal condition, as long as it is still adequate to the evolved economic situation.[28] Similarly to recent energy emergency regulations[29] under Article 122, SAFE establishes a structurally permanent framework with conditional activation[30]: only when crisis conditions and eligibility criteria are met do specific, time-limited support measures become operative, and those measures are strictly confined to designated joint procurement projects.

The "without prejudice to any other procedures" clause signals a relationship of functional subsidiarity between Article 122 and ordinary legal bases such as Article 173. According to dissenting MEPs, the required element of urgency is missing; in their view, and regardless of subsidiarity, the existence of Article 173(3) as a suitable ordinary basis should have precluded reliance on Article 122(1).[31] Ordinary frameworks should in principle, prevail, and recourse to Article 122 is justified where there is "no adequate provision"[32] in existing common policies for the urgent measures required. Such emergency situations are indeed dealt with by the Union using only the specific tools the Member States allowed it to have[33] through the principle of subsidiarity and competence attribution leading to a logic of national preference, unless a more global EU action seems more efficient. It can be the case in wide-ranging emergency crisis, such as the Ukrainian war. This crisis has already generated an energy supply crisis and now an armament supply crisis according to the SAFE regulation. Recent practice shows however, that many measures adoptable under Article 122(1) could, absent urgency, be adopted on ordinary bases; the emergency clause therefore operates contextually for crises, while ordinary bases provide more permanent regulatory structures[34] (i.e ASAP).[35]

[27] G Rugani, 'La solidarietà dell'art 122 TFUE come base giuridica per il Regolamento SAFE nell'ambito di ReArm Europe/Readiness 2030: un eccessivo ricorso a una logica emergenziale?' (2026) 72(4) DPCE Online, 2386, https://doi.org/10.57660/dpceonline.2025.2619, accessed 18 March 2026.

[28] E Rebasti, A Funch Jensen and A Jaume (n6),175.

[29] i.e. Council Regulation (EU) 2022/2372 of 24 October 2022 on a framework of measures for ensuring the supply of crisis-relevant medical countermeasures in the event of a public health emergency at Union level OJ L314/64.

[30] Calleja, Rusche and Shipley (n9), 553.

[31] 'After Voting It, MEPs Raise Voice on von der Leyen's Rearmament Plan' (Eunews, 23 April 2025) https://www.eunews.it/en/2025/04/23/after-voting-it-meps-raise-voice-on-von-der-leyens-rearmament-plan/, accessed 18 March 2026.

[32] *Balkan-Import-Export v Hauptzollamt Berlin-Packhof* (n23).

[33] E Rebasti, A Funch Jensen and A Jaume (n6), 83.

[34] Ibid, 216.

[35] Regulation (EU) 2023/1525 of the European Parliament and of the Council of 20 July 2023 on Supporting Ammunition Production (ASAP) OJ L185/7.

In this light, SAFE sits at the boundary between emergency and ordinary industrial policy. Its objectives, providing financial levers to scale up defence investment, joint procurement, and EDTIB competitiveness, closely map onto Article 173(1) and (2) (adjustment to structural changes, cooperation between undertakings, Commission initiatives).[36] Yet its emergency framing under Article 122(1) is justified by the acute, war-induced combination of security-of-supply risks, the domino effect on defence spending, and the urgency to avoid uncoordinated national bidding wars, drawing explicit analogies with COVID-19 joint procurement[37] and energy joint purchasing.[38] The key doctrinal question, therefore, is whether the combination of urgency, exceptional security-of-supply risks, and the need for rapid, solidaristic financial support is sufficient to justify reliance on Article 122(1) despite the availability of Article 173, which would otherwise be the natural basis for structurally similar, but non-emergency, defence industrial instruments.

From Parliament's perspective, SAFE's predominant aim and content lie in reinforcing industrial capacity and managing structural adjustment in a way that closely resembles EDIP and EDIRPA, while responding to a chronic, ongoing security context rather than a sudden, short-term shock, so that its exclusion from co-decision becomes a weighty factor in the legal-basis test. SAFE's objectives remain general in nature, mobilising financial solidarity to address structural economic difficulties, which seriously questions the relevance of Article 122 TFEU in light of its functional subsidiarity to Article 173. According to JURI, the link between SAFE, the underlying crises, and their economic impacts remains indirect, or at least less evident, than for prior initiatives. Moreover, the argument of NATO and US pressure on defence spending reflects a long-term logic, with nothing novel about it.[39]

III. CJEU Jurisprudence and Likely Outcome of Parliament's Challenge

The Court of Justice has traditionally adopted a deferential approach to institutions' reliance on Article 122 TFEU, reviewing only for manifest error of assessment.[40] This lenient standard has significantly reinforced the Union's discretion in managing emergencies, and there is every reason to expect the Court to maintain it in assessing SAFE's legal basis. Article 122 repeated use has not been curtailed by the Court on separation-of-powers grounds, even though concerns about institutional imbalance have been raised in the literature.[41]

Case-law on legal basis selection requires that the chosen basis rest on objectively verifiable factors, the aim and content of the act, open to judicial review.[42] For emergency instruments, the Court accepts[43] EU institutions' broad margin[44] of political and technical discretion, provided that the conditions of exceptionality, urgency, temporariness, economic character, and proportionality are met.[45] In Balkan Import-Export[46], the Court acknowledged that Article 122 (then Article 103 EEC) forms part of primary law and

[36] See page 3 of the article.
[37] E Rebasti, A Funch Jensen and A Jaume (n6), 183-184.
[38] Ibid, 240.
[39] G Rugani (n27), 2386.
[40] E Rebasti, A Funch Jensen and A Jaume (n6), 87
[41] Ibid, 139.
[42] Ibid, 182.
[43] Slovakia and Hungary v Council (n 14).
[44] G Robakidze, 'EU Unpacked #4 Security Action for Europe (SAFE) through the Reinforcement of the European Defence Industry Instrument (Council Regulation (EU) 7926/25) An In-Depth Analysis for Non-Experts' (EU Awareness 2025), 5, https://euawareness.org/wp-content/uploads/2025/06/GR-SAFE-Instrument-06.25.pdf, accessed 18 March 2026.
[45] Calleja, Rusche and Shipley (n 9), 552.
[46] *Balkan-Import-Export GmbH v Hauptzollamt Berlin-Packhof* (n23).

legitimately underpins extraordinary crisis measures without entailing a drift in competences, so long as its specific conditions are respected.[47]

Applied to SAFE, several factors point towards the validity of Article 122(1) as a legal basis. First, Russia's war against Ukraine and the resulting security and supply crisis qualify as an "exceptional occurrence" within the meaning of provisions referring to "natural disasters or exceptional occurrences,"[48] which can cover "exceptional economic, financial, military, or geopolitical occurrences,"[49] by analogy with the case-law[50] on Article 107(2)(b) TFEU (e.g. post-9/11). SAFE's link to the conflict is indirect but real: the war triggers a domino effect on Member States, forcing increases in defence spending and capabilities, and creating risks of market fragmentation and bidding wars that threaten the integrity of the internal market.

Second, SAFE responds to an economic emergency in the broad sense[51] required by Article 122(1). Its aim is to support the defence industry by strengthening production and investment capacities in a context of security crisis; its content consists of financial and budgetary measures, joint procurement incentives, and supply-chain support. This places SAFE within the economic-policy ambit of Article 122, even if the underlying sector is defence. The requirement that Article 122 measures be aimed at remedying an economic situation is thus arguably satisfied.

Third, the emergency and temporal conditions also appear to be met. SAFE relies on a permanent framework whose activation is conditional and time-limited, closely circumscribed to specific joint procurement projects, with a second wave of support still framed as punctual funding interventions. The energy crisis practice confirms that even prolonged measures may satisfy the temporal requirement if they remain adequate to evolving circumstances.[52]

Fourth, the "without prejudice" clause does not, in the Court's doctrine, render Article 122 strictly residual. It prevents circumvention of other procedures and institutional overreach but does not impose exclusivity or require that no other legal basis exist.[53] The effet utile of Article 122(1) lies in enabling sui generis urgent responses when ordinary procedures, including expedited OLP, cannot adequately address the crisis. Existing legal and spending instruments may not be sufficient nor "well suited" to face crises.[54] Parliament's argument that Article 173 should always prevail whenever it enhances its involvement finds little support in the case-law.

Finally, solidarity is central to SAFE's legitimacy under Article 122(1). Joint procurement, demand aggregation, and financial guarantees pool resources and risks, preventing internal market distortions and bidding wars, as with SURE, gas joint purchasing, and vaccine procurement.[55] The Court's judgments in

[47] Calleja, Rusche and Shipley (n 9), 549.
[48] Article 122(1) TFEU.
[49] Calleja, Rusche and Shipley (n 9), 530.
[50] Case T-268/06 Olympiaki Aeroporia Ypiresies v Commission EU:T:2008:222, point 49.
[51] E Rebasti, A Funch Jensen and A Jaume (n6), 182.
[52] Ibid, 175.
[53] Ibid, 186.
[54] Ibid, 134.
[55] Ibid, 184.

Hungary[56] and *Poland*[57] on rule-of-law conditionality confirm a presumption of validity where Union budgetary resources are mobilised in a solidaristic logic.[58]

From this perspective, the most plausible outcome is that the Court will dismiss Parliament's action against SAFE's legal basis. It is likely to reaffirm the exceptional but flexible[59] nature of Article 122(1), subject to manifest-error review.[60] At the same time, the Court may use the opportunity to articulate more clearly the functional relationship between emergency and ordinary bases (Articles 122, 173, 114, 175, 78(3)), thereby contributing incrementally to a nascent "emergency constitution" of the Union.[61]

IV. SAFE, institutional balance and the EU Emergency Constitution

The SAFE litigation illuminates a broader constitutional trajectory: how Article 122(1) functions in practice as a context-dependent emergency layer sitting alongside ordinary legal bases such as Articles 173, 114, 175, and 78(3). Repeated recourse to Article 122(1) TFEU, combined with the proliferation of ordinary crisis-oriented frameworks (IMERA, Chips Act, EDIP, Crisis Regulation, HERA, RRF), has generated what has been described as a "crisisification"[62] of EU law and a form of "permanent exceptionalism"[63]: emergency techniques and logics progressively migrate into ordinary regimes, narrowing the space governed by standard procedures and entrenching crisis-driven solutions. The Union increasingly conducts de facto economic policy through instruments formally framed as crisis management under Article 122, with tangible, long-term effects on national budgets and reforms.[64] SAFE exemplifies this in defence, where war-induced supply shocks justify Article 122 despite structural parallels with EDIP.

Yet this evolution does not simply marginalise Parliament and empower an unconstrained executive. Ordinary procedures have proved remarkably adaptable, supported by targeted flexibilities in Parliament's Rules of Procedure.[65] Revisions to Parliament's Rules of Procedure (on urgency resolutions and pre-hearing Article 122 proposals) and interinstitutional arrangements now convert "mere information" into pre-emptive scrutiny via structured dialogues, committee rights, and budgetary leverage.[66] Parliament's influence is thus re-anchored across the crisis lifecycle, even where it is formally excluded from the initial emergency act.[67]

[56] Case C-156/21 *Hungary v Parliament and Council* EU:C:2022:97, point 129.
[57] Case C-157/21 *Poland v Parliament and Council* EU:C:2022:98, point147.
[58] Calleja, Rusche and Shipley (n 9), 554-555.
[59] G Robakidze (n44).
[60] E Rebasti, A Funch Jensen and A Jaume (n6), 87.
[61] M Chamon, 'The Rise of Article 122 TFEU: On Crisis Measures and the Paradigm Change' (Verfassungsblog 2023) https://verfassungsblog.de/the-rise-of-article-122-tfeu/, accessed 18 March 2026.
[62] E Rebasti, A Funch Jensen and A Jaume (n6), 268.
[63] Ibid.
[64] M Chamon (n61).
[65] E Rebasti, A Funch Jensen and A Jaume (n6), 291.
[66] Ibid, 300.
[67] See for instance EURI - Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis

At the same time, Council implementation powers have expanded in crisis-related spending and conditionality regimes, while remaining constrained in practice by technical complexity and Commission initiative.[68] This yields a dynamic but fragile executive equilibrium[69]: the Commission retains operational primacy and strengthened accountability; the Council provides political oversight and Member-State sensitivity; Parliament exerts *ex ante* and *ex post* control through legislative adaptation, budgetary powers, and structured dialogues. But this balance remains politically fragile and depends heavily on informal practices and Parliament's vigilance rather than formal rules alone.

These developments collectively sketch the contours of an emerging EU "emergency constitution": a dense constellation of Treaty-based emergency clauses, ordinary crisis frameworks, and institutional safeguards that together define how the Union reacts to shocks. The discipline imposed by the legal-basis test, proportionality, solidarity, temporariness, and economic focus prevents Article 122 from becoming an unchecked "super-competence,"[70] while still permitting a dynamic interpretation of the Treaties as living instruments capable of absorbing existential crises without rupturing the constitutional order.[71]

Looking ahead, the SAFE case invites reflection on how to consolidate this emergency constitution. One path points towards further "legislative primacy": crisis-tested practices under Article 122 are progressively repatriated into ordinary law, narrowing the Council's margin for emergency action and reinforcing Parliament's role.[72] Another path accommodates a more permanent, conditionally activable emergency layer, with clear material and temporal limits, embedded rights-protection (via the Charter and strict necessity/proportionality review), and structured channels for parliamentary and judicial oversight.[73]

The central challenge is to avoid normalising exceptions while preserving the Union's capacity to act under conditions of urgency. SAFE, and the Court's response to Parliament's challenge, will contribute significantly to determining whether the EU's evolving emergency constitution strikes a sustainable balance between effectiveness, solidarity, and democratic legitimacy in an age of chronic crises.

[68] E Rebasti, A Funch Jensen and A Jaume (n6), 316.
[69] Ibid, 309.
[70] M Chamon, M (n61).
[71] E Rebasti, A Funch Jensen and A Jaume (n6), 269.
[72] Ibid, 292.
[73] Ibid, 269.

V. Conclusion

The recurring use of Article 122 TFEU reflects a broader shift in the way the European Commission has operated under Ursula von der Leyen: states of emergency are invoked to justify the swift adoption of far-reaching measures, presented as acts of solidarity in response to successive crises. While this approach has strengthened cooperation among Member States, it also normalizes the use of exceptional procedures, turning emergency management into an almost permanent mode of governance and weakening democratic participation.[74]

The resulting exclusion of the European Parliament from the legislative process further deepens institutional imbalance and raises concerns of principle. By sidelining the citizens' representative body in favor of mechanisms driven by speed and solidarity, the institutions risk undermining the link between democratic legitimacy and decision-making efficiency, two dimensions that should remain inseparable within the Union.[75]

[74] G Rugani (n27), 2389.
[75] G Rugani (n27), 2390.

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