

DEMOCRACY AND HUMAN RIGHTS

# DEMOCRACY AND THE STATE OF EMERGENCY

Political Battles Emerging out of the Corona Crisis  
in the Western Balkans, Croatia and Slovenia  
Report Two

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This is the second in a series of reports which sets out to analyse the effects of the Corona crisis management on institutions, political and civil rights, parties, civil society, as well as external factors.



While the governments have managed to prevent the healthcare systems from collapse, we can see a gradual relaxation of the measures affecting civil and political rights.



The fight against the Corona pandemic is becoming more and more of a political battle demonstrating clearly the different strengths and weaknesses of the respective democracies.



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# Editorial

Max Brändle, Filip Milacic<sup>1</sup>

The spread of the Corona virus has been a shock around the globe. Citizens as well as experts, governments as well as opposition forces were confronted with a new and novel challenge. Severe measures, in many instances a State of Emergency, were declared in order to take action and slow down the spreading of the disease in order to prevent the healthcare systems from collapse. The countries in Southeast Europe have been successful in this endeavor for the start; the number of newly infected people and active cases are in decline all around the region, and the capacity of the region's often fragile healthcare systems has not been exceeded.

This robust approach and the adoption of severe measures have restricted the rights of citizens. And in many cases, there is reason to fear that some of these measures are not only based on epidemiological necessity, but follow an authoritarian agenda. There remains the danger that negative effects for the fragile democracies of the region and further democratic backsliding will be one of the lasting effects of this Corona crisis. The pandemic offers an unprecedented opportunity for power grabs and for an erosion of checks and balances. This danger is the greatest in democracies with weak safeguards such as the ones of the region. Therefore, to monitor whether the political actors are relinquishing the power in accordance with the decrease of the danger of the pandemic is of utmost importance.

The Friedrich-Ebert-Stiftung has been active in all the countries of the region for many years, supporting the development of democracy, social justice and the path to European integration. Through our network in academia and civil society, we have asked experts, political scientists, sociologists and political analysts, to write reports on the response of the governments to the crisis and their effects on democratic institutions and public life. The reports cover the situation of "Democracy and the State of Emergency" in Albania, Bosnia and Herzegovina, Croatia, Kosovo, Montenegro, North Macedonia, Serbia, and Slovenia. As the Corona pandemic and responses to it in the region unfold, we will con-

tinue to monitor the development. After our first report in April, this publication will be followed by further analysis in June and July 2020.

Our aim is to analyse the development, provide a basis for comparison and to allow for an investigation of possible negative effects, a further backsliding of the democratic development and authoritarian tendencies. To this end, we are building on a broad definition of democracy that includes institutions, political and civil rights, political parties, civil society, elections, as well as the behavior of external factors. In other words, we are focusing on the restriction of rights, constraints on media reporting, personal data protection, surveillance of citizens, checks and balances, the relationship between the government and opposition, the reaction of civil society, and lastly, but not least, the role of the 'great powers' in the region.

In our analysis of this second month (April-May 2020) of the Corona virus pandemic, we can identify one feature that is common to all countries under observation: all governments initiated a gradual relaxation of measures that are affecting civil and political rights. However, such a 'one size fits all approach' ends here because the political dynamics also show significant differences, i.e., different strengths and weaknesses of the respective democracies. We could already detect these differences in the context of restricting civil liberties. And while in some countries, daily curfews were introduced that even lasted for more than 80 hours (Serbia, North Macedonia) or were quite extreme and included one hour per day movement for one family member alone (Albania), the citizens of Slovenia and Croatia were completely spared from this kind of experience. Interestingly, apart from Slovenia, there were no significant protests on the streets as the citizens did not seem to be too worried that the new laws and measures are vesting extra powers in the executive. In a creative way, the citizens of Serbia have been coming out every night to their windows and balconies to bang pots in protest against the government. All of this clearly shows the different levels of social trust and social capital of these societies.

<sup>1</sup> Disclaimer: The opinions expressed in this paper are those of the author and do not reflect the opinions of the OSCE. The OSCE is not responsible for the content and for any inaccuracies, misinterpretations or fabrications possibly contained in the paper.

Moreover, our analysis clearly demonstrates that in some countries the systems of checks and balances fare better than in certain others. In Bosnia and Herzegovina as well as in Serbia, for example, the parliament only convened to confirm the decisions of the executive - in the spirit of a rubber stamp parliament; or it did not convene at all, like in North Macedonia. In contrast to that, in Croatia and Montenegro, the parliament has been performing its oversight role with several sessions and confrontational deliberation between the government and opposition MPs. The same could be said for the Constitutional Courts which in Kosovo, Bosnia and Herzegovina as well as Slovenia have checked the actions of the executive, but remained passive in Albania, Montenegro, and Serbia.

There might have been a short moment of unity between the government and the opposition, but it is now clearly over. In many countries of the region, the opposition has been accusing the government of misusing the crisis to advance its political agenda. This was very clear in Slovenia where the government used the opportunity to pack the Public Broadcasting Program Council with loyalists and has made it possible to issue building permits more quickly without the influence of environmental NGOs. In addition to the debates about economic measures to mitigate the consequences of the pandemic, the traditional debates are re-emerging, and the political debates are returning to 'business as usual'. In some countries, like North Macedonia, Kosovo, and Montenegro, this means a return to toxic polarization.

Several countries of the region are facing parliamentary elections: Croatia, Bosnia and Herzegovina (local elections), Serbia, Montenegro, North Macedonia, and possibly Kosovo. The date of holding these elections has now become a new matter of dispute. Party interests seem to be the decisive factor in the decision-making process. The people tend to unite behind their governments when they feel that the government is responding well to the crisis. The ruling parties want to capitalize on this trend. And since it is a matter of certainty that the pandemic will be followed by an economic crisis, it is in ruling parties' interest to hold the upcoming parliamentary elections as soon as possible.

With respect to the foreign policy aspect of the crisis, China is still very much active in pursuing its 'aid-diplomacy'. Yet, the EU has stepped in with the announcement of significant financial help to the region and is thus regaining the ground and popularity it had lost after an initial lack of solidarity. Nevertheless, the Eurosceptic forces in the region feel emboldened and are still trying to portray the EU as failing in order to delegitimize the Europeanization process. Interestingly, Russia hasn't been very much active in the region lately, most probably because it is now severely hit by the pandem-

ic itself as well. Accordingly, instead of photos of Presidents Vučić and Putin on the gatherings of Serbia's ruling party, we could now see photos celebrating the fraternity of Presidents Vučić and Xi, i.e., the Serbian and Chinese peoples.

The fight against the Corona pandemic is becoming more and more of a political battle inside the countries of the region. Detailed analyses of the developments in the respective countries can be found in this publication. We hope that we can provide an insight into these processes and allow for some interesting comparisons. The next and third report will follow on June 15.

# ALBANIA

Arjan Dyrmishi

## Abstract

- Albania maintained lockdown measures for a second month, since their introduction on 11 March. Although, citizens have generally been compliant with the measures, there has been an emphasis on sanctions as a means of enforcement through a regime of strict curfew and sanctions for breaches.
- Amendments to the Penal Code added new sanctions that include many years of imprisonment also for breaches of lockdown measures and infection of other persons.
- The impact of the measures on the economy and the comparatively moderate numbers of infections and fatalities have led towards a gradual easing of measures since the beginning of May. The steady return to normalcy has been accompanied by a gradual return of the issues that preoccupied Albania prior to the imposition of the lockdown.
- However, the State of Natural Disaster proclaimed on 23 March, which limits several fundamental rights, has been extended until 23 June, 2020.
- As the Parliament and the judiciary continue to function in reduced mode, decision-making remains concentrated within the Executive's realm and is likely to remain so for the duration of the emergency situation, raising concerns about the implications of the extended measures for the country's democracy.

## Context and Main Developments

Albania maintained the imposition of lockdown measures for a second month. The measures include restriction of air, land and sea traffic, suspension of education processes, the establishment of quarantine procedures and self-isolation, restriction of assembly, events and gatherings, restriction on the right of property, special regulation on public service delivery and administrative proceedings.

In the two months since the first COVID-19 related death was registered, the number of infected persons has been 872 with 31 fatalities.<sup>1</sup> The last fatality was registered on 30 April.

On the other hand, worries and concerns have been raised about the economic impact of the measures. The government estimate on the financial loss amounts to

540 million Euros,<sup>2</sup> but business associations maintain that the real economic loss may amount to 2 billion USD.<sup>3</sup>

The relatively low number of infections and fatalities and the serious implications of the measures on the economy have led towards a reduction of the restrictive measures and easing of curfew hours, since early May. Working hours have been extended from 08.00-13.30 to 08.00-17.30. Additionally, the list of businesses allowed to reopen by following the established timetable and measures to contain the spread of virus was expanded at the end of April.

However, freedom of movement remains limited. All citizens must use the E-Albania portal in order to obtain permits to leave their homes.<sup>4</sup> The portal is organised in such a way that only one family member can use it for one day and this only for two hours of movement. There are specific categories including freedom of movement by vehicle, on foot to buy groceries, on foot to walk pets and so on.

Elderly, retired persons cannot obtain such permits and can only go out during the morning hours of Saturday and Sunday. Also, children up to 14 years old are allowed to go out only at weekends accompanied by parents. All categories of people, and those using vehicles, cannot leave home during Saturday and Sunday.

Some areas where the number of infections has been very small or ceased have been declared as "green areas" where people are allowed to move about within the same timetables but without the need for permission through the E-Albania portal.<sup>5</sup>

The Ministry of Education has announced that schools and universities will reopen for a duration of 2 weeks by 18 May

1 Figures as of 11 May, 2020. <http://open.data.al/covid-19/>

2 Raportii KE: Qeveria shqiptare prethurbje 540 milionë euro të ardhurash në 6 mujorin e pare; Goditjengaturizmidhefqinjët. <https://www.monitor.al/raporti-i-ke-qeveria-shqiptare-pret-humbje-540-milione-euro-te-ardhurash-ne-6-mujorin-e-pare-goditje-nga-turizmi-dhe-fqinjet/>

3 Faturashkonnë 2 mld \$ në sellogaritetinformateti. <https://tvklan.al/konfindustria-masat-e-ashpra-i-kushtuan-ekonomise-400-mln/>

4 E-Albania Portal. <https://e-albania.al/>

5 10 Maj, 2020/ Informacionipërditësuarpërkoronavirusin COVID-19. <https://shendetesia.gov.al/10-maj-2020-informacion-i-perdite-suar-per-koronavirusin-covid-19/>

for graduand students only.<sup>6</sup> Restaurants and bars will also reopen by 18 May under protocols established by the Ministry of Health.

May 18 has been announced also as a deadline for the further easing of movement restrictions within the country and the enabling of flights for the repatriation of persons forced to remain abroad since the imposition of the lockdown.<sup>7</sup> The end of May coincides with the beginning of the tourist season in Albania, so the reopening of hospitality businesses and recreational use of beaches are regarded as vital for economic recovery.

## The Approach on the Implementation of the Measures

The approach to the enforcement of measures has been through a regime of sanctions for breaches of established regulations. During the first month of lockdown the Police administered 7,107 fines for pedestrians and 1,941 fines for drivers.

The Penal Code was amended to introduce sanctions for breaches of the measures imposed by the state authorities during the epidemic, or the State of Natural Disaster, as well as the voluntary spread of infectious diseases. Failure to comply with quarantine or compulsory isolation is punishable by fine or imprisonment of up to three years. Where failure to comply has caused the spread of infectious disease with high risk to human health or has led to death, this is punishable by up to five years in prison. Where such spread has produced serious consequences for the health or lives of people, this is punishable by three to ten years in imprisonment and five to fifteen years where the offence has caused the death of one or more persons.<sup>8</sup>

After the adoption of the amendments to the Penal Code the government adopted an Act to cancel financial and administrative fines and sanctions such as the withholding of driving permits and the suspension of car ownership handed out to 7,107 pedestrians and more than 1,200 drivers during the first month of the lockdown.<sup>9</sup>

Enforcement through sanctions was further emphasised by amendments made to the Penal Code also adding imprisonment. The Albanian government has been among the few countries to have notified the Council of Europe of the deroga-

tion from obligations deriving from Articles 8 and 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms.<sup>10</sup>

## State Police still patrolling the streets accompanied by Military Police

The Penal Code amendments entered into legal effect on 9 May and there have been no changes thus far to the procedural element used in the implementation of the measures. In effect, the state police are still patrolling the streets accompanied by Military Police, and the courts and state prosecution have functioned in reduced activity mode.

There have been no additional legal changes pertaining to the digital surveillance of citizens. While surveillance cameras have already been in place, drones were added to the police fleet since the imposition of lockdown to support police enforcement of the measures.<sup>11</sup>

After an interruption of nearly forty days since 13 March, printed media returned to the newsstands on 22 April.<sup>12</sup> However, despite this absence, media reporting and coverage has been uninterrupted thanks to the plurality of media outlets and social media.

Despite the relative easing of restrictions, freedom of assembly remains limited and the government has not shown any tolerance towards freedom of assembly or protests. On two occasions the police has been quick to disperse protesters and arrest over a dozen participants.

A commemorative rally on Europe Day, held by civil society at the capital's central square on 9 May, was quickly broken up by police and 10 participants and organisers were arrested and detained.<sup>13</sup> Another protest held in the southern province of Divjake, where farmers demanded the relaxation of measures, led to the arrest of 3 persons and the opening of a criminal investigation into 2 senior officials of the opposition Democratic Party.<sup>14</sup>

6 Shahini: Shkollat do hapen pjesërisht në 18 maj-5 qershor për studentët që diplomohen! <https://shqiptarja.com/video/shahini-shkolat-do-hapen-pjeserisht-ne-18-maj5-qershor-per-studentet-qe-diplomohen>

7 Rama: Pas 18 majit hapim kufijtë brenda vendit dhe fluturimet nga jashtë! Nga e hënës kamë karantinë për të riatdhesuarit. [https://shqiptarja.com/lajm/rama-pas-18-majit-hapim-kufijte-brenda-vendit-dhe-fluturimet-nga-jashte-nga-e-hena-ska-me-karantine-per-te-riatdhesuarit?popup\\_first\\_read](https://shqiptarja.com/lajm/rama-pas-18-majit-hapim-kufijte-brenda-vendit-dhe-fluturimet-nga-jashte-nga-e-hena-ska-me-karantine-per-te-riatdhesuarit?popup_first_read)

8 Penal Code. Articles 242/1 and 89/b

9 Falengjobat e COVID-19, Rama: S'dotë ekzekutohen. <https://euro-news.al/al/aktualitet/2020/04/17/falengjobat-e-covid-19-rama-s-dot-ekzekutohen>

10 Supervision of Derogations in the Wake of COVID-19: a litmus test for the Secretary General of the Council of Europe. <https://www.ejiltalk.org/supervision-of-derogations-in-the-wake-of-covid-19-a-litmus-test-for-the-secretary-general-of-the-council-of-europe/>

11 COVID-19/Policia e Shtetit do të përdorë dronë inteligjente, për monitorimin e zbatimit të masave në terren. <https://mb.gov.al/2020/04/13/covid-19-policia-e-shtetit-do-te-perdore-drone-inteligjente-per-monitorimin-e-zbatimit-te-masave-ne-terren/>

12 Rikthet shtypi i shkruar pas ndërprerjes nga Covid-19/ Titujt kryesorë të gazetave përdatën 22 prill 2020. <https://javanews.al/rikthet-shtypi-i-shkruar-pas-nderprerjes-nga-covid-19-titujt-kryesore-te-gazetave-per-daten-22-prill-2020/>

13 Protestën e sheshin Skënderbej, në Ditën e Evropës përplasjes policisë dhe qytetarëve. <https://a2news.com/2020/05/09/proteste-ne-sheshin-skenderbej-ne-diten-e-evropes-perplasje-mes-policise-dhe-qytetareve/>

14 Organizoi protestën e Divjakës në kushtet e pandemisë, policia e vendos në hetim, Saliñji: Do të vazhdojmë takimet. <https://shqiptarja.com/lajm/organizoi-proteste-ne-divjake-ne-kushtet-e-pandemise-ne-hetim-is-hdeputeti-salijni-me-kreun-e-deges-se-pdse>

## Political Discourse

Parliament has been in a major crisis since opposition members' resignation in February 2019. Given that Albania has a closed list proportional system, the seats were taken by those candidates on the list who had run in the previous elections, without holding new ones. The new MPs who took the seats did so against the will of the political parties they represented in the elections. Moreover, only 122 out of 140 seats in the Parliament are currently filled. The Constitutional Court has ceased to function since May 2018, so it has not been possible to adjudicate on the constitutionality of the current status of Parliament. For this reason, the opposition parties consider this Parliament illegitimate, maintaining that those who represent the opposition in Parliament are merely individuals controlled by government.

### *The opposition has raised questions over the effectiveness of the government's financial packages*

After the suspension of its activity for over a month, Parliament reconvened twice in plenary sessions in April during which 14 Normative Acts, 17 Laws and 2 Decrees of the President were debated and voted on.<sup>15</sup> Numerically, the ruling majority possesses the numbers to pass any law or amendment to a law, including those requiring a qualified voting majority. However, some of the MPs who represent the opposition in Parliament have used the plenary sessions to raise questions over the effectiveness of the financial packages adopted to ease the impact of the lockdown measures and on procurements they claim have been conducted though less than clear procedures by applying the secret procurement procedures.<sup>16</sup>

The functioning of the Courts has also been reduced to hearing cases of an administrative, family and criminal nature. According to the Normative Act, court hearings for administrative, civil and criminal cases have been postponed until the end of the State of Epidemic.<sup>17</sup>

Given that Parliament and the judiciary have been functioning in reduced mode, there has been an incremental concentration of all decision-making processes within the executive branch during the crisis. This has been one of the central issues of public debate, fuelled also by the publication during this period of the Nations in Transit 2020 report and the Reporters Without Borders index 2020. In the Nations in Transit index, Albania dropped in the democratic governance and

electoral process indicators.<sup>18</sup> The Reporters Without Borders index marked a further deterioration for the second year, sliding from the 84th position in 2019 to 82nd in the 2020 index. In 2018, Albania ranked 75th.<sup>19</sup>

Another issue of debate has been the management of the crisis and the competence of the government. The government has tried to reassure the public that the crisis management has been a success, referring continually to the low numbers of victims and infected patients. The opposition, on the other hand, has downplayed these statements arguing that Albania has the lowest per capita testing in the region, therefore claiming that the actual number of infected people is much higher, and that the government is manipulating the data.

### *It remains unclear how the Committee of Experts is operating and how its findings have been turned into political decisions*

The lack of clarity from the government on the technical basis of the decision-making processes relating to the measures has been also debated. While officially the management of the crisis is primarily carried out by the Ministry of Health and the ad-hoc body for the COVID-19 crisis management known as the Committee of Experts, the composition and role of the experts in the Committee has remained unclear. After media pressure on the matter, Prime Minister Rama announced the Head of the Committee in a televised interview in early May.<sup>20</sup> However there has been no evidence presented on how the Committee of Experts operates and how the reports or findings generated are turned into political decisions.

The government and opposition parties have also clashed over their approaches to economic recovery and the use of public funds to support vulnerable groups and businesses. However, it has been hard to frame the debate because while the opposition demands that the government pay more, the financial resources of the government are limited. The World Bank forecasts that Albania will have a negative growth of between -5 and -6.9 percent during 2020.<sup>21</sup>

The decision of the European Council to open accession negotiations with the EU has been the most welcome news

15 Kuvendimblidhetnëancëplenare. <https://www.parlament.al/News/Index/10011><https://www.parlament.al/News/Index/10043>

16 "4 mln dollarë ka marrënjëkompanipërtenderasekrete", MurrizijpërgjigjetBallës: Kur tëvijëkoha, flasimte SPAK". <https://www.balkanweb.com/4-mln-dollarë-ka-marre-qe-kompani-per-tendera-sekrete-murrizi-i-pergjigjet-balles-kur-te-vije-koha-flasim-te-spak/>

17 Normative Act nr. 9, date 25.03.2020.

18 Nations in Transit 2020.[https://freedomhouse.org/sites/default/files/2020-04/05062020\\_FH\\_NIT2020\\_vfinal.pdf](https://freedomhouse.org/sites/default/files/2020-04/05062020_FH_NIT2020_vfinal.pdf)

19 Reporters Without Borders. Albania. <https://rsf.org/en/albania>

20 "Na çmendenkëta se kushështëkryetariikomitetit"/ Rama zbulonkreun e KomitetitEksptëve. <https://top-channel.tv/video/na-cmenden-keta-se-kush-eshte-kryetari-i-komitetit-rama-zbulon-kreun-e-komitetit-te-ekspteve/>

21 Recession Looms for Western Balkans as Countries Respond to COVID-19. [https://www.worldbank.org/en/news/press-release/2020/04/29/recession-looms-for-western-balkans-as-countries-respond-to-covid-19?cid=SHR\\_SitesShareFB\\_EN\\_EXT](https://www.worldbank.org/en/news/press-release/2020/04/29/recession-looms-for-western-balkans-as-countries-respond-to-covid-19?cid=SHR_SitesShareFB_EN_EXT)



amid the crisis. However, despite its importance and relevance to Albania, the issue has not been sufficiently debated. The main reason for this is that Albania must fulfil a number of conditions before the intergovernmental conference can take place. So, the decision will not have any immediate effects.<sup>22</sup>

## Civil Society and Social Cohesion

As the crisis has evolved and the trends of the crisis become more visible various societal groups have been increasingly active. Civil society organisations have been active in monitoring and reporting on government activity and calling for transparency and responsible government during the crisis.<sup>23</sup>

### *General support for sustaining the lockdown and social distancing measures by all societal groups*

Even though there has been a relatively large number of fines handed out to people for movement during curfew,<sup>24</sup> there has been general support for sustaining the lockdown and social distancing measures by all societal groups. The Catholic and Orthodox religious communities organised the Easter celebrations by calling on their followers to stay at home, as did the Muslim community for the month of Ramadan.

Trade unions have also supported the measures, and their demands have been focused on requesting that the government take measures to alleviate the economic situation. Business associations have been active with advocacy and proposals for striking a balance between the measures to prevent the spread of the virus and the reopening of businesses.<sup>25</sup>

## Timeline

- March 9 First COVID-19 case detected on Albanian territory.
- March 11 Minister of Health and Social Protection proclaims State of Epidemic. Albania becomes the first country in the region to impose partial lockdown measures to prevent the further spread of virus. The decision is taken on the same day the World Health Organization characterises COVID-19 as a pandemic.
- March 24 Council of Ministers of Albania adopts Normative Act proclaiming State of Natural Disaster for 30 days. The Normative Act provides for the restriction of air, land and sea traffic, suspension of education processes, establishment of quarantine procedures and self-isolation, restriction of assembly, events and gatherings, restriction on the right of property, special regulation on public service delivery and administrative proceedings.
- March 25 The European Council decides on the opening of accession negotiations with Albania. Albanian government approves financial package to support the unemployed and those employed in small sized enterprises. Albanian Council of Ministers adopts Normative Act to postpone court hearings in administrative, civil and criminal cases until the end of the State of Epidemic.
- March 31 Albanian government notifies the Council of Europe on the derogation from certain obligations of the Republic of Albania under Articles 8 and 11 of the Convention for the Protection of Human Rights and Fundamental Freedom, Articles 1 and 2 of Protocol to the Convention for the Protection of Human Rights and Fundamental Freedom and Article 2 of Protocol No.4 to the Convention for the Protection of Human Rights and Fundamental Freedom.
- April 16 The Albanian Parliament convenes for the first time in plenary session since the imposition of the lockdown measures. Second financial package adopted by government to support employees of medium sized enterprises affected by lockdown measures.
- April 23 The Albanian parliament approves the government's proposal to extend the State of Natural Disaster by another 60 days, until 23 June, 2020.
- April 30 Government announces gradual easing of lockdown measures.
- May 9 Police detain 10 civil society activists who gathered at Tirana central square to celebrate Europe Day and protest against extension of lockdown measures.

22 [EWB Interview] Várhelyi: New methodology has put the enlargement policy back on track. <https://europeanwesternbalkans.com/2020/04/16/ewb-interview-varhelyi-new-methodology-has-put-the-enlargement-policy-back-on-track/>

23 Shoqëriacivilebënthirrjepërqeverisjetëpërgjegjshmegjatë COVID-19. <https://www.reporter.al/shoqeria-civile-ben-thirrje-per-qeveris-je-te-pergjegjshme-gjate-covid-19/>

24 Article on Police Statistics: <https://tvklan.al/pandemia-ne-2-jave-policia-ka-vendosur-4857-gjoha/>

25 Article on the demands on Business Associations: <https://businessmag.al/shoqatat-e-agrobiznesit-i-kerkojne-masa-lehtesuese-ministrir-te-bujqesise/>

# BOSNIA AND HERZEGOVINA

Miroslav Zivanovic

## Abstract

- Although statistics confirm that Bosnia and Herzegovina has avoided a significant outbreak of COVID-19, the complex system of executive and legislative power in the state creates significant problems relating to the coordination and harmonisation of crisis management measures.
- The multifaceted institutional set-up and ethnicity-based decision-making are seriously undermining the overall institutional capacity to deal with the pandemic in a comprehensive and harmonised manner.
- As a result of Bosnia and Herzegovina's failure to establish a functional coordination mechanism to fight the health crisis and appropriately coordinate the implemented measures, discrimination has emerged as one of the key human rights issues developing from the mode of implementation of the measures.
- For these same reasons, the independent media, civil society and political opposition face difficulties in dealing with unresponsive and unaccountable authorities.

The institutional response of Bosnia and Herzegovina's authorities to the COVID-19 threat, enforced under the State of Emergency declarations, has brought challenges to BiH's fragile democracy. The established crisis management structures are implementing fairly comprehensive emergency health policies combined with restrictive mobility measures. In order to prevent the further spread of the disease, the crisis management authorities on all administrative levels issued a number of executive orders and significantly restricted freedom of assembly and the mobility of citizens. Since March 22, a "Stay at Home" campaign has been active for the whole population and mobility restriction was made mandatory for everybody under 18 (FBiH) and over 65 (24hrs).

## Political and Civil Rights

Formal declarations of a State of Emergency are still in force. However, since the end of April, authorities have initiated a gradual relaxation of measures. On 27 April, Republika Srpska (RS) Crisis HQ adopted a set of decisions regarding the extension of all measures in RS until 11 May, with a systematically planned schedule of relaxation as of the same day. These began with those over 65, who can now go outside

daily from 7-10am. Subsequently, carwash facilities, dry cleaning stores, automobile repair facilities, furniture stores, museums and libraries opened from 28 April, with specified working hours. 1 May saw shopping malls re-open, but not the playrooms, restaurants or movie theatres located inside them. Some restaurants and catering services were allowed to re-open for delivery and take-out. On 24 April, the FBiH Crisis HQ not only relaxed but in some cases completely withdrew some of the measures: the curfew is no longer in place in the FBiH, neither mandatory quarantine upon entry into the country. Mobility is allowed for two restricted age categories (under 18 and 65+) 3 days per week. Measures concerning protective gear, respecting social distancing rules and the prohibition of gatherings in larger groups have remained in place. City public transportation and intercity bus and train connections remain cancelled.

One of the key human rights issues developing from the mode of implementation of the measures is discrimination. It is a direct consequence of the highly decentralised and complex pandemic crisis management structure and unharmonious measures between different administrations. The Ministry for Human Rights and Refugees of BiH called upon the crisis management authorities of the FBiH and RS to harmonise their approach with all categories of the population, i.e. to respect the Law on Prohibition of Discrimination of BiH and to prevent discrimination by age or any other grounds when adopting measures.<sup>1</sup>

Additionally, still present is the problem of the responsibility of governments to ensure unhindered access to information and decisions regarding the COVID-19 epidemic in a safe and free manner, without imposing any restrictions, censorship or restrictions on journalists. Journalists Associations and media experts are concerned by the practice of one-way and limited communication by the authorities, which quite often includes incomplete, fragmented, and contradictory information. The Crisis Management HQ have different communication strategies on different administrative levels. Some of

<sup>1</sup> Ministry for Human Rights and Refugees of BiH. Available at: <http://www.mhrr.gov.ba/Saopcenja/default.aspx?id=9056&lang-Tag=bs-BA>.

them organise press conferences with a limited number of journalists present (FBiH) or even without the physical presence of journalists (Sarajevo and Herzegovina Canton - Neretva Canton). Some HQs only answer questions submitted by mail in a predetermined timeframe. Complaints from journalists concerning these practices are recognised by The Institution of the Human Rights Ombudsman of Bosnia and Herzegovina which issued an official recommendation calling for the FBiH and some cantonal authorities to revise their practice regarding the physical presence of journalists during press conferences and to ensure the highest possible participation of journalists, paying special attention to the health protection of all participants.<sup>2</sup>

### *Debate on the suggestion to postpone local elections scheduled for the first week of October 2020*

On April 9, the Central Election Commission of Bosnia and Herzegovina adopted a decision according to which it will submit an initiative to amend the Election Law of Bosnia and Herzegovina. The initiative provoked substantial political debate on the idea to postpone local elections scheduled for the first week of October 2020. The Commission and several political parties share the position that the State of Emergency declared by the governments in Bosnia and Herzegovina, which, as a direct result, diminished the working capacity of institutions and limited freedom of movement for citizens, jeopardises timely and comprehensive preparations for the local elections. On the other hand, some leading political parties and their representatives are accusing the Commission and its members of being politically biased and acting in line with the positions of political parties which see the postponement of local elections as being in their interests. Nevertheless, on May 7, the Commission passed a Decision on the calling and administering of the 2020 Local Elections. Article 4 of the Decision stipulates that the Commission shall adopt and publish the Instruction on the deadlines and sequence of electoral activities for the 2020 Local Elections after funds for the carrying out of the 2020 Local Elections have been secured in line with Article 1.2a, paragraph (6) of the Election Law of Bosnia and Herzegovina, respecting the decisions of the competent authorities in Bosnia and Herzegovina concerning the epidemic caused by COVID-19.<sup>3</sup> Usual practice is to adopt these Instructions together with the Decision calling the elections. So, although the local elections have not been postponed, it is obvious that some essential electoral processes and procedures have been postponed and this will have an impact on the fairness and democratic qualities of forthcoming elections.

On March 24, the Personal Data Protection Agency in BiH delivered a decision to ban public disclosure of the personal data of COVID-19 patients and those in isolation and self-isolation. On April 10, the Agency revised its initial confirmation that the release to the public of the personal data of persons violating the isolation and self-isolation measure is justified since it is in the public interest. Now, after a detailed legal analysis, the Agency has taken the position that general and proactive public announcement of personal data of those violating the isolation and self-isolation measure is not legal according to the Personal Data Protection Law of Bosnia and Herzegovina and other relevant legislation.<sup>4</sup>

### **Key Institutions**

Probably the best illustration of relations between the executive and legislative branches of the government during the State of Emergency is the number of legislative bodies' sessions held. Since the first person infected with COVID-19 was reported in RS (March 5), the People's Assembly of RS have met just once to declare the State of Emergency. In the FBiH, the House of Representatives and House of Peoples of the Parliament of the FBiH have held five sessions in total, which includes one regular session of the House of Representatives, extraordinary sessions in both Houses, only to amend their Rulebooks in order to legally regulate the organisation of online sessions, and extraordinary sessions in both Houses to adopt several legislative acts dealing with the pandemic and its economic consequences. A Parliamentary majority in both Houses adopted proposals submitted by the government without accepting any amendments submitted by the opposition. The Parliamentary Assembly of Bosnia and Herzegovina has held just two sessions of the House of Representatives (one regular and one emergency), while the House of Peoples did not convene during the outbreak of the pandemic crisis.

### *Executive measures exceed constitutional provisions, while legislative control deteriorates*

Our expectations from the first report, that executive measures exceeding constitutional provisions would be those measures recognised by citizens and the expert community as human rights violations, has been confirmed with a Constitutional Court of Bosnia and Herzegovina ruling regarding an appeal challenging the prohibition of movement of persons less than 18 years of age and over 65 on the territory of the FBiH. In Decision AP 1217/20 of April 22, the Constitutional Court concluded that there had been a violation of the Freedom of Movement under Article II(3)(m) of the Constitution of Bosnia and Herzegovina and Article 2 of Protocol No. 4 to the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Conven-

2 The Institution of Human Rights Ombudsman of Bosnia and Herzegovina. Available at: [https://www.ombudsmen.gov.ba/documents/obudsmen\\_doc2020050614592038bos.pdf](https://www.ombudsmen.gov.ba/documents/obudsmen_doc2020050614592038bos.pdf)

3 The Central Election Commission of Bosnia and Herzegovina: Available at: [http://www.izbori.ba/Documents/Lokalni\\_izbori\\_2020/Ostalo/Odluka\\_o\\_raspisivanju\\_lokalnih\\_izbora\\_2020-bos.pdf](http://www.izbori.ba/Documents/Lokalni_izbori_2020/Ostalo/Odluka_o_raspisivanju_lokalnih_izbora_2020-bos.pdf).

4 Personal Data Protection Agency in BiH. Available at: [http://www.azlp.ba/default.aspx?langTag=bs-BA&template\\_id=147&pageIndex=1](http://www.azlp.ba/default.aspx?langTag=bs-BA&template_id=147&pageIndex=1).

tion) due to the challenged orders of the Federal Headquarters of Civil Protection No. 12-40-6-148-34/20 of 20 March, 2020 and No. 12-40-6-34-1/20 of 27 March, 2020 (ordering the prohibition of movement of persons less than 18 years of age and over 65 on the territory of the FBiH).

In the opinion of the Constitutional Court, the challenged measures do not meet the request of „proportionality“ arising under Article 2 of Protocol no. 4 to the European Convention as the challenged provisions do not show a basis for an assessment by the Federal Civil Protection Headquarters that the challenged groups the measures refer to carry a greater risk of being infected by or spreading the infection of COVID-19. Furthermore, no possibility of introducing more lenient measures has been considered if there is a justified presence of such a risk. In addition, they have not been limited strictly by time nor has the obligation of their review at regular intervals been established in order to ensure they are implemented as long as deemed “necessary” for the purpose of Article 2 of Protocol No. 4 to the European Convention or that they are reduced or terminated as soon as the situation allows for this.<sup>5</sup>

The crisis has additionally exposed the complexity and contradictions of the political system of Bosnia and Herzegovina. The internal structure of the country as a state consisting of two entities, the Federation of Bosnia and Herzegovina (itself composed of 10 cantons) and Republika Srpska (very centralised), as well as the Brčko District, with Bosniacs, Croats, and Serbs, as constituent peoples (along with Others), and the citizens of Bosnia and Herzegovina determines the overall efficiency and effectiveness of governance and public policies. Several structural issues and functionality problems are the consequence of its complex institutional set-up coupled with ethnicity-related procedures. The composition and decision-making of several administrative bodies are based on ethnic criteria and significantly affect some important and pressing issues caused by the pandemic crisis. For example, the authorities in BiH, to date, have failed to reach a political agreement on the distribution of 330 million EUR of IMF financial assistance, which is part of the wider international community’s financial and material assistance to BiH regarding the pandemic crisis.

As time under the State of Emergency passes, the complex system of executive and legislative power is leading to even more significant problems relating to the coordination and harmonisation of the crisis management measures. While both entities took appropriate and early measures, and initially showed preparedness to work together, including at state level, the country has ultimately not succeeded in establishing a functional coordination mechanism to fight the health crisis and appropriately coordinate the implemented measures. As a result of this lack of coordination, there are currently different levels of measures applied in each entity, and so far it does not appear that there is any clear idea of a

countrywide plan to mitigate the pandemic crisis outcomes. In general, it is becoming more and more obvious that the complex institutional set-up and ethnicity-based decision-making are seriously undermining the overall institutional capacity to deal with the pandemic in a comprehensive and harmonised manner.

## Political Parties

Encouraged by the fact that the country has apparently managed to avoid widespread outbreaks of the virus and significant loss of life, political actors have returned to “business as usual” behaviour. The opposition has increased its criticism of authorities and crisis management structures, especially their non-expert or political segment. They continue to accuse the ruling political parties of misuse of crisis context to promote their narrow and particular political interests, but also of corruption and participation in organised crime, as some incidents concerning public procurement of medical equipment were revealed to the public.

### *Negative impact on public trust in institutions and further fragmentation of the political scene*

After some hesitancy at the beginning of the crisis, political disagreements and conflicts once again and quite intensively occupy public discourse. Political confrontations are developing in two parallel dimensions. The first involves political disputes along ethnic lines between political representatives of constituent peoples, even though they participate in the ruling coalition. The second dimension includes confrontations on a relation position – the opposition. This has created an “everybody against everybody” kind of situation which is very confusing for the general public and has a negative impact on public trust in institutions and politics in general. With the exception of the SNSD, the leading political party in RS which, to some degree, projects an image of confident crisis management leadership, it seems that the majority of political actors have failed to develop a positive perception among the public with regard to their roles in crisis management activities. It is to be expected that this will lead to further fragmentation within the political scene in Bosnia and Herzegovina, especially in the FBiH.

## Political Discourse

Political discourse reflects the complexity of the political system of Bosnia and Herzegovina. However, respect and appreciation for the healthcare system and its workers, as well as other essential sectors, is unanimously underlined on almost every occasion. Everything outside this narrative is a subject of dispute and disagreement. The authorities are attempting to present themselves as competent and committed actors deeply involved in crisis management and policy development. Their political strategy is to ignore the opposition and regard their criticism as irrelevant. In their opinion,

5 The Constitutional Court of Bosnia and Herzegovina. Available at: <http://www.ccbh.ba/novosti/sjednice/?id=8df4d385-2c8c-494f-88c0-588d1ce062a2>.

the idle opposition is misusing the crisis for the politicisation of issues beyond politics and the promotion of superficial populism motivated by short-term political gains.

On the other hand, the opposition has highlighted the alleged incompetence of the political leadership leading toward obvious flaws in the crisis management, including poor communication strategies, inadequate measures, corruptive and criminal behaviour of appointed officials, and so on. These authorities are just a burden to experts and professionals. Authoritarianism is occasionally attributed to the SNSD in the RS entity, but the specific presence of the international community in Bosnia and Herzegovina has not made these concerns very realistic. The Healthcare and economic systems are under the constant evaluation and assessment of prominent experts and professionals. Very often their expertise develops in the direction of strong criticism toward government(s) policies, especially those relating to remedying the negative consequences of the pandemic crisis in the economy.

Differences in media reporting are more than obvious. The media perceived to be close to some of the leading political parties follow lines of reporting based on the detailed positive elaboration of implemented policies, statements of the political leadership and government officials, and at the same time criticise the behaviour of the political opposition as being irresponsible and conflictive without any grounds. More independent media outlets continue with the coverage of a wide area of relevant issues open to the direct criticism of the authorities and crisis management structures. During the reporting period the independent media have been interested in reporting on the general functioning of the healthcare system within the crisis context, political setbacks in the decision-making process regarding the distribution of financial aid and international assistance for the healthcare and economic systems, the alleged misuse of public funds in emergency public procurement procedures, legislative initiatives concerned with the negative economic consequences of the pandemic, as well as changes in labour legislation. These reports have occasionally provoked a negative reaction from the authorities and their officials toward the media and journalists, which is then amplified through pro-government public and private media.

## Civil Society

The decision of the FBIH Crisis HQ to abolish the curfew in the FBIH on 24 April, with much dissent from the FBIH Ministry of Health officials, who claimed that this decision was made without the recommendation from public health officials or the Ministry, had a negative impact on social cohesion. RS authorities, on several occasions, expressed their concern over the prematurity of this relaxation and its possible negative influence on general efforts to combat the spread of COVID-19. The decision was seen as predominantly politically motivated and now it is very likely that all further measures will be analysed with special attention given to possible political motivations behind them, which will cause a further decline in social cohesion.

## *A systematic review of possible civil liberties' curtailing is lacking*

Only a few of the most active civil society organisations in Bosnia and Herzegovina have managed to maintain a watchdog role in the context of the pandemic crisis. For example, Transparency International in BiH (TI BiH) filed a complaint with the Personal Data Protection Agency in Bosnia and Herzegovina against the Ministry of Education and Culture of RS which sent a request to all schools to prepare lists of employees who voluntarily agreed to have their salary decreased for the benefit of the Solidarity Fund for the Recovery of RS. TI BiH complained that the lists of employees who allegedly voluntarily renounced some of their earnings are being compiled illegally and may be used as a means of pressuring and discrimination against those employees who do not accept the renouncing of their earnings.<sup>6</sup> The "Why not" Association daily follows and validates pandemic-related information published in the media and on social networks, as well as statements from officials. They issue daily updates of all disclosed disinformation appearing in the media and officials' statements. However, besides these individual and rare efforts, NGOs' systematic reviews of possible civil liberties curtailing is lacking, as well as a concerted effort to oppose such behaviour.<sup>7</sup>

An important role during the crisis has been given to trade unions and employers associations. Quite expectedly, the two have opposite positions toward measures proposed by the authorities to address the negative economic consequences of the pandemic crisis. While trade unions see the measures as too concerned with employer's expectations, the employers' position is that the proposed measures are more social than economic in character. At the moment, their strong presence in the media is their only strategy of putting pressure on the authorities to develop more appropriate measures.

Religious communities in BiH have also been calling for responsibility and solidarity. They urged their religious communities to act with respect to the official measures, and issued specific measures regarding the organisation of religious ceremonies. However, there were reports of groups of people visiting churches despite the measures in place. Several religious ceremonies, held throughout the country, violated the physical distancing measures and mass gatherings, but this behaviour was tolerated by the authorities and raised public concerns about discriminatory practice from authorities.

6 Transparency International Bosnia and Herzegovina. Available at: <https://ti-bih.org/nakon-prijave-ti-bih-ministarstvo-prosvjete-i-kulture-rs-mora-unistiti-spiskove-radnika-koji-se-odricu-licnih-primanja/>

7 Association "Why not" Available at: <https://zastone.ba/uzivo-pracenje-dezinformacija-tokom-pandemije-covid-19/>

## External Factors

Bosnia and Herzegovina has continued to receive aid and assistance from the international community. Besides aid from individual countries, there is an IMF approved 330 million EUR loan for the Healthcare system and economy of Bosnia and Herzegovina. At the same time, the EU has announced substantial assistance for Bosnia and Herzegovina and confirmed its position as the most influential external factor in the country.

## Timeline

- March 5 First case of coronavirus infection is registered in Bosnia and Herzegovina
- March 9 Educational institutions closed (RS)
- March 10 Restrictions on non-essential businesses (RS)
- March 11 Educational institutions closed (FBiH)
- March 16 State of Emergency declared on the level of Bosnia and Herzegovina entities (Federation of Bosnia and Herzegovina and Republic of Srpska)
- March 17 State of Emergency declared for Bosnia and Herzegovina
- March 19 Restrictions on non-essential businesses (FBiH)
- March 20 Cancellation of all bus and train intercity connections and city transportation
- March 22 Start of the "Stay at Home" campaign and curfews
- March 24 Personal Data Protection Agency in BiH ban public disclosure of personal data of COVID-19 patients and persons in isolation and self-isolation
- March 27 Persons under 18 and above 65 (FBiH) and above 65 (RS) prohibited from leaving their homes at all times
- April 11 Agreement on a Letter of Intent to the IMF to unlock the EUR 330 million available for BiH through IMF's Rapid Financing Instrument (RFI)
- April 15 RS Government establishes RS Solidarity Fund to address economic consequences of pandemic crisis
- April 16 Council of Ministers of BiH fail to agree on criteria for distribution of IMF's RFI funds in FBiH
- April 22 Constitutional Court of Bosnia and Herzegovina confirms violation of freedom of movement for persons -18 and +65 in FBiH
- April 23 IMF transfers EUR 330 million but funds are still waiting for final approval of distribution from Council of Ministers
- April 24 FBiH begins relaxation of measures – curfew and mandatory quarantine abolished
- April 27 RS begins relaxation of measures
- May 4 FBiH Parliament adopts law to remedy consequences of pandemic crisis (Corona Law)

# CROATIA

Nenad Zakosek

## Abstract

- Croatia is able to maintain its good epidemiological results. Two and half months after the first coronavirus infection was registered in Croatia, the spread of the pandemic is successfully contained, with the exception of some problematic spots in southern Croatia. In the last three weeks restrictive measures are being significantly eased.
- Croatia has paid a high price for successful pandemic crisis management in terms of human rights restrictions and economic costs of an overall lockdown. However, the adopted anti-pandemic measures were restrictive but not repressive, there has been no shift towards authoritarian power concentration in the hands of the executive. The parliament and the political opposition are active, media and civil society critically scrutinise the government activity.
- Political controversies increasingly shift from policy issues concerning emergency management to political questions of competition between the government and the opposition. The ruling party is showing a growing inclination towards political exploitation of the successful management of the pandemic crisis. While regular parliamentary elections are due in September 2020, the Prime Minister and the leadership of the ruling Croatian Democratic Union (HDZ) contemplate calling early parliamentary elections in July.
- Public discourse focuses on the contradiction between experts and their guidelines for dealing with the pandemic, which enjoy high public support, and incompetent handling of the crisis by political appointees of the ruling party, who have caused the spreading of the coronavirus infection at some local spots, especially in several nursery homes for elderly and hospitals.

Approximately two and half months since the first person infected by coronavirus was registered in Croatia on February 25, it can be said that the management of the pandemic crisis has been fairly successful. As of May 12, there has been a total of 2.207 registered cases of coronavirus infection in Croatia, out of which 1.808 persons recovered and 91 died. At this moment, there are only 308 active cases of infection which are medically treated. In total 47.480 persons have

been tested for coronavirus.<sup>1</sup> With 22,4 deaths per 1 million inhabitants Croatia has achieved a relatively favourable score which is comparable with scores in other Central and South-east European countries and much better than scores in many West European countries.<sup>2</sup>

These good results have prompted the main national institution in charge of emergency management in the pandemic crisis, the National Headquarters of Civil Protection, to implement a gradual easing of restrictions concerning mobility and business activities. But this relaxation of restrictions bears risks of a second wave of coronavirus pandemic, which could be re-imported from abroad. A recent example of Croatian workers returning from Sweden via Frankfurt, most of whom have proved to be infected by coronavirus, clearly demonstrates this danger.<sup>3</sup>

## Restrictions of Human Rights

The Croatian case of coronavirus crisis management is interesting as an example of a system with developed institutions of public health which have received powers to prescribe and implement wide-ranging restrictive measures without excessive repression and without authoritarian accumulation of power in the hands of the executive. This system has achieved an effective containment of the coronavirus pandemic without introducing the state of emergency. No curfew or mandatory quarantine for certain age groups, as has been the case in some other countries, was ordained.

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- 1 According to the web site Our world in data, as of May 12 Croatia has tested 11,57 persons per 1.000 inhabitants, which is comparable to Greece (10,18), Hungary (11,88), France (12,73) and Poland (13,42). Approximately twice as many persons per 1.000 inhabitants have been tested in United Kingdom (21,51), Serbia (22,24) and Slovakia (22,48) and around three times more tests per 1.000 inhabitants have been performed in Italy (28,81), Czech Republic (29,33), Slovenia (31,05) and Germany (32,89). See: <https://ourworldindata.org/coronavirus-testing#world-map-total-tests-performed-relative-to-the-size-of-population>.
  - 2 According to data provided by the Coronavirus Resource Center of the Johns Hopkins University (see: <https://coronavirus.jhu.edu/map.html>) and my own calculation, as of May 12 the number of deaths per 1 million inhabitants has been 4,9 in Slovakia, 14,2 in Greece, 21,8 in Poland, 26,7 in the Czech Republic, 31,4 in Serbia, 33,4 in Bosnia-Herzegovina, 44,3 in Hungary and 48,6 in Slovenia. At the same time Germany has 93,1 deaths per 1 million inhabitants, Sweden 321,7, United Kingdom 482,6, Italy 512,6 and Spain 571,8.
  - 3 See: <https://www.vecernji.hr/vijesti/croatia-airlines-dostavila-hz-jz-u-trazene-podatke-epidemiolozi-jos-traze-dio-putnika-1401645>.

## *Croatia as a case of coronavirus crisis management without excessive repression or authoritarian accumulation of power*

Nevertheless, the Croatian response to the pandemic crisis has not been unchallenged. It has also sparked some political controversies, which will be discussed below. A nearly total lockdown of the country, with mobility restriction for Croatian citizens and closing of most economic activities has caused serious problems for many citizens. The economic consequences of the coronavirus crisis are expected to be disastrous. Various estimates predict that the Croatian economy will be among European countries with the biggest decline of GDP in 2020: the IMF has predicted a decline by 9,0%<sup>4</sup>, the European Commission by 9,1%<sup>5</sup> and the Croatian Government by 9,4%<sup>6</sup>.

It should be noted that the Croatian Government's fiscal measures as a response to economic crisis, which mostly focus on subsidizing wages in the affected economic sectors and temporarily lifting tax obligations for enterprises, have also been far reaching. According to estimates by the Vienna Institute for International Economic Studies, the fiscal burden of anti-crisis measures enacted by the Croatian Government amounts to 11% of the Croatian GDP, which is one of the highest burdens among Central and Southeast European countries.<sup>7</sup>

In this context, the pressure to relax restrictive measures concerning mobility and economic activities has been growing. Demands for lifting restrictions and opening up of economy and society have been voiced through institutional channels and by various interest groups: business associations, chambers of commerce, representatives of entrepreneurs in tourism and the sector of accommodation and food service activities, etc. At the same time, it is interesting that there have been no citizens protest demanding relaxation of restrictions.

### *The U-turn of the Croatian Government from restrictions to opening borders bears a high risk of a second wave*

On April 23 Government announced a three-stages plan for easing the restrictive measures, which have since then been implemented. A detailed overview is given in the table with the timeline of anti-pandemic measures. On May 11 the Government decided to go beyond the initially announced measures and declared not only the lifting of restrictions of mobility in Croatia, but also the opening of the Croatian borders for EU citizens without any specific requirements concerning quarantine or a proof of negative test results for coronavirus. Croatia has thus become the first EU member state to liberate travel for EU citizens. Critical commentators of the Croatian anti-pandemic policy suggest that this sudden relaxation is not entirely based on epidemiological criteria, but results from strong pressure by lobby-groups of tourist industry, including the very agile Minister of Tourism in the Plenković cabinet, Gari Cappelli. As already mentioned, this U-turn of the Croatian Government from all-encompassing restrictions to opening borders and internal mobility bears a high risk of causing a second wave of coronavirus pandemic in Croatia.

### **Controversies in the Public Discourse**

The focus of public discourse and political and media debates has shifted significantly during last four weeks. The initial willingness of Croatian citizens to accept wide-ranging restrictions in their social and economic life was based on the positive perception of the key institution of emergency management, the National Headquarters of Civil Protection (hereafter: Headquarters). The Headquarters and the associated experts have pursued a very effective communication strategy: they have stylised themselves as experts who give priority to the values of life and health and who are beyond any particular or partisan interest. In their daily press conferences, they showed openness to journalists' questions and criticism. Citizens responded well to this form of communication (which is highly untypical for politicians or public officials in Croatia). Their readiness to follow the guidelines issued by the Headquarters was high even without repressive measures.

### *Political bias of the experts of the National Headquarters of Civil Protection*

But this perception has changed. First doubts came about when the Headquarter's guidelines showed an unusual acquiescence to demands of the Catholic church. During Easter holidays, some mass rituals involving catholic believers were allowed. Catholic priests who openly defied restrictions on assemblies of people were not criticised by the Headquarters. When journalists started to investigate the political background of the key experts involved, it turned out that not only the Ministers of Interior and Health are members of HDZ (which is understandable), but also the Director of the Croatian Institute for Public Health Krunoslav Capak. The popular Head of the University Hospital for Infectious Diseases, Alemka Markotić, had publicly endorsed the HDZ presidential candidate Kolinda Grabar Kitarović.

4 See: <https://www.poslovnih.hr/hrvatska/grozne-prognoze-mmf-a-hrvatski-bdp-pasti-ce-za-golemih-9-posto-4226217>.

5 See: <https://euractiv.jutarnji.hr/EiG/gospodarstvo/prognoze-europske-komisije-hrvatsku-ceka-pad-bdp-a-za-91-posto-ove-godine-i-rast-75-posto-sljedece/10278505/>.

6 See: <https://www.poslovnih.hr/hrvatska/andrej-plenkovic-ocekujemo-pad-bdp-a-od-94-posto-4229524>.

7 See: <https://wiiw.ac.at/files/news/summary-of-measures-cesee-16-04-2020-n-439.pdf>. Only Hungary with an estimated burden of up to 20% of the GDP plans to spend a higher share of GDP for anti-crisis measures.



This political bias of the experts linked to the Headquarters became even more evident in dealing with another controversial topic of public discourse; namely the conflict between expert competence and the incompetence of the partisan political cadre who have been appointed to public positions where they cause damage in the attempts to contain the pandemic. The most prominent of such cases is the incident which occurred in an old peoples home in Split. On April 7, it was revealed that the nursery home for elderly in the Vukovarska street in Split has several patients who have had high fever for 10 days without having been tested for coronavirus. The belated reaction showed that the coronavirus infection has spread in the nursery home, and after testing 54 of residents and 14 employees of the nursery home were proven coronavirus positive. Until now, 18 residents from the nursery home died from a coronavirus infection, which is the biggest death toll in a single institution in Croatia.

The Croatian public, media and opposition parties demanded an investigation into the responsibility for these serious deficits in the management of the nursery home and in the medical handling of the suspected infection (which was not timely discovered despite clear signs of infection). The main suspect for mishandling the crisis was the director of the old peoples home, Ivan Škaričić, a typical HDZ political cadre and appointee. Škaričić is the former mayor of Omiš, a HDZ stronghold, who lost elections in 2013 and was after that appointed to the position of director of old peoples home in Split, although he has no professional competences for that job. An investigation of the case was conducted by the Health and Social Policy Ministries, and it took more than two weeks to publish the results of this investigation.

On April 25 a common report by the two Ministries, which was presented in the press conference of the National Headquarters, entirely exculpated Škaričić from any responsibility for the spread of infection in the nursery home under his management, which resulted in 18 deaths. When explicitly asked by journalists who is to be blamed for the coronavirus infection among the most vulnerable, Minister of Health Vili Beroš answered that the virus is to be blamed. Critical commentators concluded that this result of the investigation, which refused to attribute responsibility to anyone, was a consequence of strong political pressures from members of HDZ leadership, who feared that Škaričić's responsibility could negatively affect their political position. The National Headquarters, by accepting the report, in fact legitimised these political pressures and demonstrated its biased position vis-a-vis the ruling party.

Another controversial issue in political debates has been the economic measures of the Government aimed at dealing with the economic crisis caused by the coronavirus pandemic and the ensuing lockdown. Generally, after Government accepted some critical reactions to its first package of fiscal measures issued on March 17 and integrated adequate corrections in the package of measures issued on April 2, most of trade unions, employers' associations and opposition parties supported (although not unanimously) the policies enacted by the Government. Still, some issues remain contro-

versial. The Social Democrats (SDP) have in particular demanded that a general moratorium on credit repayments should be introduced by the Government instead of leaving decision on debtors' requests for a moratorium to the banks. The Government has refused this demand.

There is also a problem of transparent distribution of subsidies for wages. Although the Government has specified criteria which make companies eligible for receiving public wage subsidies, a control mechanism which will check compliance with these criteria has not been elaborated. So, it remains unclear what is the responsibility of company owners and management in dealing with the economic crisis. Government subsidies will not change the ownership structure of subsidized companies, although massive transfer of capital into the private sector has offered an opportunity for the state to acquire shares which could be sold after the crisis.

Finally, the issue of possible wage cuts for public sector workers has been discussed controversially, although the Government has not yet presented any such proposals. Some negotiations between the Minister of Labour and public sector trade unions have been conducted, the Government has requested that trade unions relinquish wage increases which have been promised to public sector employees in 2019. Trade unions have rejected this demand.

## Back to Partisan Politics

It is fair to say that Croatian politics has returned to its usual mode of functioning after the initial shock of facing the coronavirus crisis. There have been no restrictions to the democratic process, and no shift towards authoritarianism has occurred. The usual Left-Right divisions are visible again.

A major incident occurred on May 1, during the ceremony to commemorate the Croatian military action in 1995, which liberated an occupied part of Croatia in Western Slavonia. Members of the official delegation at the ceremony from war veterans' associations displayed T-shirts with emblems of HOS, a right-wing partisan militia which existed in 1991/92, which incorporates an Ustaša slogan. The status of the HOS emblem is controversial and there is no clear political or judicial answer concerning its legality. The President of the Republic Zoran Milanović answered this provocation by leaving the commemoration, while the Prime Minister and the Speaker of the Parliament stayed and later criticised the action of the President.

Competition between the government and the opposition is increasing, in particular because the ruling party has indicated a possibility of early parliamentary elections. In this context, the HDZ is showing a growing inclination towards political exploitation of the successful management of the pandemic crisis. While regular parliamentary elections are due in September 2020, the Prime Minister and the leadership of the ruling HDZ contemplate calling early parliamentary elections in July. A decision on this issue can be expected in the coming weeks.

## Timeline

January 31	New Minister of Health Vili Beroš is confirmed in the parliament. Ministry of Health establishes a crisis headquarters for dealing with coronavirus pandemic.	April 2	Government introduces the second package of economic measures for alleviating the consequences of coronavirus crisis. The Ministry of Justice rules that foreclosures are postponed during coronavirus crisis.
February 25	First case of coronavirus infection is registered in Croatia.	April 7	Massive coronavirus infection in an old people's home in Split is revealed. An official investigation into the causes does not assign responsibility for infection to anyone.
March 11	Government declares coronavirus epidemic on the entire territory of Croatia.	April 9	Market places for fresh agricultural products are reopened with restrictions according to epidemiological guidelines.
March 13	Schools and universities in the Istrian county (in proximity to Italy) are closed. The national football championship and other sport events are cancelled.	April 17	Croatian Parliament adopts changes to the Law on the Protection of Population from Infectious Diseases by which institutional structures and decisions concerning pandemic crisis management are retroactively legalized and specified.
March 16	All nurseries, schools and universities in Croatia are closed by a decision of the Government.	April 27	Reopening of all retail stores except those in big shopping centers. Inner-city public transportation is permitted with restrictions. Museums, libraries and galleries are reopened.
March 17	Government introduces the first emergency package of economic measures for alleviating the consequences of the coronavirus crisis.	May 4	Personal services (hairdressers etc.) are again permitted. Public and private health facilities establish full scope of medical services (previously restricted to emergency cases).
March 18	The Croatian Parliament enacts changes to the Law on the System of Civil Protection by which the Headquarters of Civil Protection of the Republic of Croatia (National Headquarters) is authorized to issue rules and guidelines regarding protection from the coronavirus pandemic.	May 11	Travel restrictions for EU citizens entering Croatia are lifted. Mobility restrictions for travel in Croatia are relaxed: inter-city bus, railway and air lines are re-established. Restaurants, cafes and hotels are reopened. Shopping centers are reopened with restrictions according to epidemiological guidelines. Nurseries and elementary schools (classes 1 to 4) are reopened. Gathering of up to 40 persons is allowed, provided that epidemiological measures are respected.
March 19	All facilities such as theaters, cinemas, swimming pools, gyms, cafes and restaurants as well as retail stores (except those for food and hygiene products) and personal services (hairdressers etc.) are closed.		
March 22	All public transportation on international and national railway, bus and coastal ship lines as well as inner-city public transportation is cancelled. Transportation by ferries to the Croatian islands is restricted to island inhabitants. All marketplaces for fresh agricultural products are closed. A major earthquake hits the Croatian Capital Zagreb.		
March 23	General prohibition of leaving one's residence is introduced, but numerous exceptions are allowed: e-permits allowing travel for business, health and personal purposes are issued by companies, physicians and local headquarters of civil protection.		

# REPUBLIC OF KOSOVO

Besa Kabashi-Ramaj

## Abstract

- Political battle between the government and president over the constitutionality of the measures to contain the pandemic.
- A power struggle has ensued between the coalition parties causing increased polarisation.
- Even in times of a global pandemic, the Kosovar political scene is not united, nor are the people.

Due to the risks presented by the rapid spread of the COVID-19 virus, the Republic of Kosovo, like countries around the world, faced a tremendous challenge ahead, as it ramped up its efforts to stop the spread. What ensued was a two month “battle” to take all measures possible, from the more moderate at the beginning of March, to a complete lockdown by the end of March, in order to halt the COVID-19 spread. While the speedy interventions of the government to halt the spread were commended locally and internationally, controversy followed mainly due to the implications of the strict measures undertaken for constitutionally guaranteed freedoms. At the same time, another layer of controversy followed, as the President contested the route followed for taking strict measures, asserting it was unconstitutional. Despite its gravity, the already critical national emergency situation due to the pandemic became mired due to severe political tensions between the governing coalition parties, Vetevendosje (VV) and the Kosovo Democratic League (LDK), over major disagreements on how to handle negotiations with Serbia and the demand for the RKS’ lifting of tariffs. The rifts culminated in the coming apart of the coalition partnership and a vote of no confidence which led to the fall of the government, leaving the country in political disarray amidst a fight against a major biological threat to the human and national security of the country.

## Political and Civil Rights

The Government of the RKS started to introduce measures to prevent the spread of COVID-19, on March 11, 2020. These measures initially included mild restrictions on public activities, public gatherings, businesses, except for educational institutions which meant schools recessed and public events were to be held without an audience. The measures became stricter as the number of infections began to rise. As a result, instead of using available mechanisms in place and focusing

on increasing their functionality to meet the needs of such an emergency situation at a national level, on March 12, 2020 the Government of the RKS created the Special Commission for the Prevention of Infection from COVID-19, a commission tasked with managing the “Prevention of Infection from Corona Virus COVID-19” on behalf of the Government of the RKS. (Government of the Republic of Kosovo, 2020). As new cases of COVID-19-infected citizens were being confirmed by the Kosovo National Institute for Public Health (NIPH), inter-city transport was suspended as well as flights in and out of the country and all businesses were severely restricted or completely shut down (save for a select few categories considered vital).

By March 15, the Government of the RKS declared a Public Health Emergency but refused to declare a State of National Emergency which, despite an obvious lack of a consolidated emergency management system, would at least enable the activation of national emergency management mechanisms available, as well as the use of institutions which have a secondary role in supporting civil emergencies (Ex: Kosovo Security Forces). On March 23, 2020, the government restricted free movement, providing a schedule as to when residents could leave their homes. This schedule was repeatedly modified to adapt to citizens’ needs and specific categories’ needs, but it has not been lifted since (Government of the Republic of Kosovo, 2020). As a result of the route followed by the government to manage this national emergency, a political battle between it and the President ensued, the latter contending that the measures being used by the government to contain the pandemic, without a declaration of a national State of Emergency, were unconstitutional (Bota Sot, 2020). The President filed a complaint with the Constitutional Courts, which decided that “government Decision [No. 01/15], of 23 March, 2020, is incompatible with Article 55 [Limitations on Fundamental Rights and Freedoms] of the Constitution in conjunction with Articles 35 [Freedom of Movement], 36 [Right to Privacy], 43 [Freedom of Gathering] and Article 2 (Freedom of Movement) of Protocol no. 4, Article 8 (Right to Respect for Private and Family Life) and Article 11 (Freedom of Assembly and Association) of the ECHR” (Constitutional Court, 2020).

## Key Institutions

On March 28, 2020, the Government of RKS tasked the Ministry of Health with managing the state emergency, despite the common practice that the decision-making authority is elevated, in a deteriorating situation. Nonetheless, the Ministry of Health has been reviewing the situation regularly since April 8, modifying old measures and issuing new ones, specific to each municipality, to ensure the containment of the COVID-19 spread. All measures are being enforced with the support of the Kosovo Police (Ministry of Health, 2020). Additionally, the government has adopted emergency financial packages to absorb the impact of the pandemic on households as well as businesses and these are already being implemented by the Ministry of Finance. At the same time, the Ministry of Finance is in the process of planning for financial recovery stimuli (Ministry of Finance and Transfers, 2020).

Despite efforts to contain the pandemic and tailor measures to protect citizens but allow leeway where necessary, controversy arose on May 3 when a 26-year-old allegedly threw himself to his death from the fifth floor of a UP dormitory, being used as an obligatory quarantine facility. This case has been followed by an investigation as well as opposition parties and the public's cries for the resignation of all public office holders connected to the case. This case has put into question the way quarantined cases are handled, as the young man who allegedly committed suicide, had demanded psychiatric help prior to his death (Telegrafi, 2020).

In the past two weeks, as the number of infections started to decrease, the Ministry of Health began reviewing all measures at national level and for each municipality, providing a three-phased approach to going back to a 'new normal'. While the three stages foresee the relaxation of measures, with obligatory protective measures to be observed by all citizens as foreseen by the NIPH (National Institute of Public Health, 2020), a worrisome fact is that from the easing of the measures, there has been a slight increase in infections, over the past two days.

## Political Parties and Public Discourse

Amidst a national emergency stemming from the global COVID-19 pandemic, the response of local political leadership has been disjointed. Furthermore, a power struggle has ensued between the coalition parties, Vetevendosje (VV) who won the election, slightly ahead of the Kosovo Democracy League (LDK), with whom it agreed to form a government. Disputes between the parties in office mostly deteriorated in the face of a drastic split among them on how to handle the tariffs imposed on Serbia and the subsequent dialogue, amidst U.S. pressure to move forward and an obvious split between U.S. and EU foreign policy. This eventually led to VV presenting an unyielding front against lifting the tariffs all at once, and the LDK on the other side, insisting on a more flexible attitude in the matter, especially in a situation aided by a strategic partner like the U.S.

## *Disputes between the parties in office deteriorated over the tariffs imposed on Serbia*

The political crisis continued to deteriorate rapidly with the RKS Government's refusal to announce a national State of Emergency, at the same time increasing restrictive measures for the prevention of COVID-19 to a point where freedom of movement was restricted, and most businesses were brought to a halt. The President of the country contested such measures as unconstitutional, unless a national State of Emergency were to be announced. To understand this public conflict between the President and the Prime Minister of the RKS, it is important to appreciate that once a national State of Emergency is announced, the authority for decision-making is elevated to Presidential level, once the Parliament passes a national State of Emergency, who then leads the National Security Council and has executive powers during the time of the State of National Emergency (Constitution for the Republic of Kosovo, 2020).

## *Deep divisions, polarising opinions, and cases of public and social media hate speech*

On the other hand, the President submitted a request at the Constitutional Court to review the government's decisions, claiming they are unconstitutional, and at the same time he called on local institutions not to abide by the government's decision, culminating in a political battle between Kosovo's President and Prime Minister. This very public rift has caused a deep division among Kosovars, polarising opinions to extremes and producing worrisome cases of public and social media hate speech and open threats to public figures; in some cases even to their families. There have already been two police officers suspended from police service as a result of directly posting or supporting hate speech or threats on social media. One of the cases is the Chief of Police for Skenderaj who, despite deleting his Facebook post where he proposed a vicious way of ending the lives of the President and the DLK opposition party's leader, has been suspended pending an internal investigation (Gazeta Express, 2020).

The situation has brought the coalition parties to a halt, when after a public statement made by the Minister of Internal Affairs supporting the national State of Emergency, the government proceeded to relieve him of his position, citing disloyalty to government policies on handling the COVID-19. In return, on March 25, the LDK brought a vote of no confidence against the government to Parliament, the government losing this vote by 82 votes for and 32 against with one abstention. Uniting to respond efficiently to the pandemic was an illusion at this point, plunging the country into political chaos. The atmosphere that has followed these unfortunate events has been one of bewilderment and sheer hope-

lessness on the part of the people who cannot believe the realities created by their leaders at a time of pandemic. Yet the political polarisation has also estranged certain groups to such an extent that hate speech and even public threats have surfaced, showing a new and worrisome level of societal insecurity (Walker, 2020).

Vetevendosje is a left-wing party which won the October 6, 2019 elections slightly ahead of the Democratic League of Kosovo, on the promise that it would fight corruption. Despite this, it lacked the numbers to govern alone and took several months to build a coalition with the Kosovo Democratic League. What initially started as a “government of hope” became the realisation of people’s worst fears, once the parties in the coalition suffered a serious fracture, amidst the pandemic, over their stance towards the U.S.-supported perspective on the dialogue between the RKS and Serbia, leading to an agreement to be signed this year. The LDK stance was strong, arguing that the RKS can only advance as a state with the support of its strategic partner, the U.S., while VV’s position was that the process cannot develop in such a timeframe and that their fear was it would involve the RKS making more concessions than it should. Amidst all this, Serbia still refuses to recognise the RKS and has not ceased its campaign against RKS recognition around the world.

Local tensions became even more obvious as U.S. and EU foreign policies also publicly disagreed on a timeframe and a way forward for the RKS-Serbia dialogue. Here, the EU’s approach is moving at a much slower pace, Kosovo being a low-intensity issue, while the U.S. insists that the momentum built should be used to resolve the process now rather than later, viewing the potential conclusion of the dialogue between these two countries as a higher priority. The dialogue between the RKS and Serbia has been at a standstill since 2018, in part, due to the tariffs imposed on Serbian imports. Since then, both, the U.S. and EU have called for the RKS to lift the tariffs to resume the dialogue, which is also a condition put forth by Serbia. Subsequently, the White House, via National Security Adviser Robert O’Brien and U.S. Special Envoy for Serbia and Kosovo Negotiations Richard Grenell, hosted a meeting with Kosovar President Hashim Thaçi and Serbian President Aleksandar Vučić, on March 2. There has been much speculation about the discussions in that meeting, the agenda not being public (Security Council Report, 2020). While it is speculated that the possibility of a territorial swap was considered, along with mutual recognition, the U.S. Representatives vehemently denied any support of a land swap (Radio Free Europe, 2020).

As for the future of the political atmosphere, it is unclear if there will be a new government in place or whether the RKS will hold elections. After the President’s request to the Prime Minister to provide a candidate to create a new government, and the prime Minister’s refusal to do so, the President mandated the LDK to create a new government, something the incumbent government has deemed unconstitutional, filing a complaint with the Constitutional Court. Meanwhile, the LDK has already developed negotiations with other parties, NISMA, AAK and the Lista Srpska and has accumulated the

votes it needs for a new government. However, the Parliamentary session to approve the new government cannot be held yet. The Constitutional Court decision of May 7, 2020, approves the incumbent government’s request for an interim measure, in place until 29 May, 2020, suspending the Presidential decree until the same date (Constitutional Court, 2020). The RKS’s constitution mandates new elections, in cases of government dissolution, within 45 days. Such an undertaking, if pursued at present, would have serious implications for public health, in the current circumstances, not to mention budgetary impact at a time of economic hardship.

## Civil Society

While most of the western world seems to have experienced a seismic shift away from its regular, daily life - governments providing systems and security measures relating to the spread of the COVID-19 pandemic, this feeling of insecurity is well-known to Kosovars. The only change here is, now, Kosovars are sharing their crisis with the rest of the world, not alone. Chaos, a lack of human security and a functional “system” for these people is not the exception. Sadly, it is the norm. With a rigid environment comes survival instinct and resilience, hence Kosovars’ historic optimistic outlook on life. Nonetheless, in recent years, Kosovars’ voices have crescendoed in their despair and refusal to continue life under the same conditions. This is where social exhaustion comes in, mixed with a lack of adequately significant change, regardless of what the political leadership landscape is. The outcomes, with small variances, indicate one major social flaw: the tendency to search for the “perfect leader” not the “right solution”, or better said, the tendency to follow individuals rather than ideas. Kosovars keep moving from one administration to another, from one “hero of the hour” to the other, to no avail. Their “Messiah” seems to be a mere illusion. Even in times of a global pandemic, the Kosovar political scene is not united, and nor are the people. On the contrary, they have never been more polarised, standing steadfast by their chosen leadership, in opposing positions, spewing hate speech and even threats publicly and on social media, and not so sparingly even in mainstream media, which should hold some responsibility for the discourse it gives airtime to, causing people to become even more driven apart.

*As Kosovo is facing the pandemic,  
at the same time it is  
facing political turmoil*

It is common knowledge that strong states thrive on strong systems and so do even smaller units, like organisations and companies. As Kosovo is facing a pandemic at the same time as it is facing political turmoil, Kosovars are yet again polarised over their opinion of who their ideal “leader” is, instead of demanding what all these parties never provided them with even before the 2019 elections: a solid program based on the needs of their people and their state institutions. This time, at least, this should be a basic condition for any popular

support - a well-conceived, well-planned platform that prioritises solutions to the most urgent human security needs of the people of Kosovo.

## Timeline

- March 2 National Security Adviser Robert O'Brien and US Special Envoy for Serbia and Kosovo Negotiations Richard Grenell host a meeting with Kosovar President Hashim Thaçi and Serbian President Aleksandar Vučić at the White House.
- March 11 RKS imposes initial mild restrictions on public activities, public gatherings, businesses, except for educational institutions meaning schools recess and public events are to be held without an audience.
- March 12 Government of the RKS creates the Special Commission for the Prevention of Infection from COVID-19, a commission tasked with managing the "Prevention of Infection from Corona Virus COVID-19" on behalf of the Government of the RKS
- March 15 Government of the RKS declares Public Health Emergency
- March 23 Government of RKS restricts free movement, providing a schedule.
- March 24 President files referral with Constitutional Court, on government Decision No. 01/11 for declaration of "Public Health Emergency".
- March 25 Review of Motion of no confidence against the government of the Republic of Kosovo, proposed by a Parliamentary Group of KDL.
- March 28 Government of RKS tasks the Ministry of Health with managing State of Emergency.
- April 6 Constitutional Court interpretation contends measures taken by the government as unconstitutional, despite not questioning the motives behind them.
- May 3 A young man, returned from Germany, allegedly jumps to his death from a government quarantine site.
- May 7 The Constitutional Court approves the incumbent government's request for an interim measure in place until 29 May 2020, suspending a Presidential decree on mandating the runner-up party to create a government, until the same date.

# MONTENEGRO

Filip Milacic<sup>1</sup>

## Abstract

- Loosening of measures that affect civil and political rights has begun.
- Plenary and the parliamentary committee sessions have commenced, at which government and opposition have deliberated in a confrontational manner.
- The pandemic has resulted in the increased salience of economic issues, although 'old' national identity-related topics are slowly returning to the forefront of political debate.
- The ruling parties are the clear political beneficiaries of the coronavirus pandemic so far.

On 17 March, Montenegro was the last country in Europe to confirm the existence of the first coronavirus cases on its territory. Although a state of emergency was not introduced, the measures adopted to fight the pandemic have had significant implications for civil and political rights, particularly freedom of assembly and the mobility of citizens. The National Co-ordination Body for Communicable Diseases (NKT) banned gatherings of more than one person in all public areas and religious ceremonies with citizens present, as well as suspending public transport, while curfews were introduced from 30 March.

Since then Montenegro has dealt successfully with the coronavirus pandemic. The state has demonstrated that it possesses the institutional capacity to deal successfully with even the greatest challenges, as long as the political will exists. As of 11 May, there are only 25 active cases and the country is approaching the status of corona-free zone. Accordingly, on 21 April, the National Coordination Body for Infectious Diseases, which was selected as a crisis management body, decided to ease some of the measures affecting civil and political liberties.

Although the curfew is still in place, it is now shorter, with citizens banned from leaving their homes between 23:00 and 5:00. Domestic public transport in the country's three zones (North, Central and South) is also permitted, while en-

try to religious facilities and the organization of religious ceremonies is allowed under certain conditions, with a maximum of one person occupying each 10 square metre area and a maximum of 20 people outside the building.<sup>2</sup> The additional easing of restrictive measures was also announced for the upcoming weeks. In order to ensure citizens' compliance, amendments to the Law on the protection of the population from communicable diseases were also adopted, stipulating fines ranging from 100 to 20,000 for two people not abiding the physical distance measures and all those failing to wear face masks.

## *No protests against the curtailing of civil and political rights, but dissent*

Although there have been no protests against the curtailing of civil and political rights since the outbreak of the pandemic, adoption of the measures did not go without dissent. In general, the opposition did not contest the substance of the measures, but it did challenge their legal foundation, claiming that the official introduction of a state of emergency was necessary, something the government denied. On 10 May, opposition MP Goran Danilović was joined by 50 others in a silent walk, protesting against what he claimed were the unconstitutional limitation of human rights and freedoms. NGOs also criticized the way the measures had been implemented, with the government introducing a police-controlled lockdown, enforcing compliance through economic and even custodial penalties. On 4 May, assistant Chief of Police Nikola Janjušević stated that since the outbreak of pandemic the Montenegrin police had pressed criminal charges against 1,531 persons for non-compliance with the measures, of which 753 had been arrested.<sup>3</sup> NGOs and some opposition parties protested against the detention measures and the incarceration of people accused of violating measures. Custodial penalties would appear to be too harsh and thus inappropriate.

<sup>1</sup> Disclaimer: The opinions expressed in this paper are those of the author and do not reflect the opinions of the OSCE. The OSCE is not responsible for the content nor for any inaccuracies, misinterpretations or fabrications possibly contained in the paper.

<sup>2</sup> <http://www.gov.me/vijesti/223907/NKT-Zabrana-izlaska-svim-danima-od-23-00-prodavnice-kojima-je-omogucen-rad-mogu-bit-otvorene-od-07-00-do-22-00.html>; <http://www.gov.me/vijesti/224314/NKT-ocjenilo-da-je-CG-svakim-danom-sve-bliza-kraju-epidemije-koronavirusa-i-dalo-saglasnost-na-ublazavanje-pojedinih-mjera.html>

<sup>3</sup> <https://www.pobjeda.me/clanak/janjušević-od-pocetka-pandemije-kivicne-prijave-protiv-1531-uhapšeno-753-lica>

The most prominent cases of violation of the measures concern Metropolitan Amfilohije of the Serbian Orthodox Church (SPC) and some members of the SPC clergy, who violated the measures on several occasions. Amfilohije even announced that he was expecting thousands to attend a service on 12 May, despite gatherings still being banned.

Despite several calls from the opposition and NGOs, the Constitutional Court did not scrutinize the government's acts, failing to fulfil its role as the corrective of the executive. The work of the Court has certainly been affected by the fact that even after four rounds of voting no judge received the required majority to be elected president of the court, meaning that since February the court has had an 'acting chairwoman'.

The key media, which are known for their partisanship, have continued to play a constructive and positive role. The Agency for Electronic Media (AEM) has stated that "the Montenegrin media have evidenced a high degree of responsibility and professionalism, playing an important and irreplaceable role at a difficult time. They have contributed to the preservation not only of the health of citizens, but also to the way the entire system functions".<sup>4</sup> The professional role of the media was also praised by Prime Minister Duško Marković.

## Parliament Reconvened

In the period under observation, plenary and parliamentary committee sessions (including the prime minister's question hour) began to take place, at which MPs mostly discussed the economic consequences of the pandemic and how to mitigate them. The sessions were characterized by deliberation and debates between government and opposition MPs. Prior to the organization of these sessions, party representatives met three times a week at the Collegium of the President of the Parliament. The meetings also included talks with government representatives. On 16 April, the parliament organized sessions of the Committee for the Economy, Finance and Budget and the Committee for the Political System, Judiciary and Administration, using online videoconference software for the first time. This was followed by the first session of parliament since the outbreak of the pandemic, which took place on 22 April.

The decision to convene parliament was beneficial to Montenegrin democracy. Party representatives have met frequently at the Collegium of the President of the Parliament, but this cannot be a substitute for a plenary session. The time of pandemic is the hour of the executive, because it was followed by the accumulation of power in the hands of the executive in order to fight the pandemic successfully. Therefore, the oversight role of parliament is now even more important. In addition, parliament, as a body with direct legitimacy, must be included in decision-making processes.

## *The proposal for a special parliamentary committee on the coronavirus pandemic was rejected by the opposition*

In this context, it should be mentioned that the Vice President of the Parliament and political director of the ruling Democratic Party of Socialists (DPS), Branimir Gvozdenović, proposed the establishment of a special parliamentary committee to deal with the coronavirus pandemic and its consequences for Montenegro's society and economy. This move was highly welcome because parliament and the opposition should be more involved in the fight against the pandemic, not only because these are extraordinary times that require a bipartisan deal and the unity of all forces, but also because the oversight role of parliament is now crucial. Although the opposition had been criticizing the government for weeks for not including it in the decision-making process, it rejected the proposal.

## **New Coronavirus-related Debates and the Re-emergence of Old Ones**

The government has received almost all the press coverage during the pandemic. Being out of the spotlight, the opposition used the scheduling of the parliament session as an opportunity to send its messages in a confrontational manner, which was good for the democratic process. The parliamentary debate was mostly about topics related to the state of the country's economy, which had not often been the case in the past.

## *The coronavirus pandemic has not changed the deep polarization of Montenegrin society*

The unresolved national identity issue has resulted in a high level of ethnification of the Montenegrin party system and contributed significantly to the irrelevance of socio-economic topics for political competition. It has also caused a deep polarization of Montenegrin society and had a negative impact on the process of democratic consolidation. National identity conflict in Montenegro is accompanied by intense partisan polarization and hostility, since, unlike political debate over socio-economic issues, identity-based political debate is not about "more or less" but about "either-or".<sup>5</sup> Montenegrin political actors do not represent different policies, but rather different worldviews that are mutually exclusive. This makes compromise very unlikely because it is very difficult to find an acceptable middle ground between the pro-Montenegrin

4 <https://www.vijesti.me/vijesti/drustvo/aem-crnogorski-mediji-odigrali-nezamjenjivu-ulogu-u-nimalo-lakom-trenutku>

5 Elster, Jon et al. 1998. *Institutional Design in Post-communist Societies: Rebuilding the Ship at Sea*. Cambridge: Cambridge University Press.



and pro-Serbian nation building policies. Accordingly, political competition is dominated by a series of zero-sum conflicts, which are regarded as existential and possess a winner-take-all logic. As a result, Montenegrin politicians often do not respect the difference between an enemy and an adversary, which is a key condition for a democracy to work. As an example of this, the strongest oppositional political actor, the pro-Serbian Democratic Front (DF), has been using a rather peculiar term to describe its political opponents in both the government and the opposition (Social-Democratic Party), calling them “Satanists”, something that the coronavirus pandemic has unfortunately not changed.

However, and as already mentioned, one consequence of the pandemic is that it has increased the salience of the economic component of political disputes. Political actors are now engaging in far more debate about the state of the country’s economy. Opposition parties have used parliamentary sessions as an opportunity to both criticize the measures adopted by the government to mitigate the consequences of the pandemic and propose their own solutions for economic recovery and to mitigate the pandemic’s influence on the country’s economy.

In other words, how much money should the government pump into the system, when to start with the loosening of the measures (whereby the opposition believes that it is necessary to open businesses as soon as possible), the policies toward the banking sector, the suspension of tax payments, the amount of subventions for the companies, the budget for the health care sector, the assistance for the tourism sector, and the potential amendments of Laws on labor, pensions, and value added tax, are the topics that have been at the forefront of the political debates. In this context, ideological differences can also be seen. For example, the DF insisted on the adoption of a fairly neoliberal economic proposal, according to which all adult citizens would receive 222 Euros from the government. Such a proposal treats everyone the same, regardless of income, for which reason it was rejected by the government.

*By violating the measures,  
the Serbian Orthodox Church is  
demonstrating its power*

The increased salience of socio-economic themes in the Montenegrin party system is highly welcome, as this kind of topics are less polarizing than those related to national identity. Yet this tendency might prove to be short-lived, as the topics that dominated political debate before the outbreak of the pandemic are re-emerging. This is particularly the case with the relationship between the state and the Serbian Orthodox Church (SPC), which was a key issue within the national identity conflict in the months prior to the pandemic. By violating the measures to combat the pandemic and trying to force the state to allow religious processions, the SPC is provoking the state and demonstrating its power. Its

stance, criticizing the ban on mass gatherings, is shared by the DF, which claims that the purpose of the ban is to prevent religious processions and the protests against the Law on Freedom of Religion that were the Montenegrin reality before the outbreak of the pandemic. It is in the DF’s political interest for the processions to be revived so it can capitalize on them. Increased debate (and possibly tensions) related to this matter should be expected in the upcoming weeks. This issue is also weakening the social cohesion of society with respect to how fast the restrictive measures should be loosened. SPC believers want social distancing measures and the ban on gatherings to be lifted much sooner than the rest of society. The leaders of other religious communities in Montenegro have respected the measures and have not publicly expressed their criticism.

In other words, the political dynamic has been gradually returning to ‘business as usual’, as the key parties have retreated to their familiar camps. Even in these extraordinary times, culture, identity and ethno-national considerations still reign supreme, being at the front of the political calculus of major political actors.

## **The Ruling Parties are Profiting from the Pandemic**

Amid the successful managing of the crisis the ruling parties are so far the clear political beneficiaries of the coronavirus pandemic. According to a poll conducted from April 6-9, Montenegro’s ruling coalition is supported by 55% of the voters. What is more, the new poll of the same agency from 29 April-6 May recorded a slight increase— 57%.<sup>6</sup> The following reasons seem to be responsible for such a development: politics and the media became less partisan during the pandemic; the opposition is out of the spotlight, while the government gets all press coverage; and in times of crisis, the people tend to unite behind the government when they feel that the government is responding well to the crisis.

Amid entrenched national identity-based cleavage, which is in Montenegro a key factor in deciding for which party to vote, the “rally round the flag” effect is not as strong as in other countries. Nevertheless, it is definitely not insignificant, and the ruling parties want to capitalize on it. This is even more important if one bears in mind that the next parliamentary elections should take place this autumn. And since it is certain that the pandemic will be followed by the economic crisis, it is in ruling parties’ interest to have the parliamentary elections as soon as possible.

*Parliamentary elections should take  
place without postponement no later  
than November*

6 <https://www.antenam.net/politika/157894-istrazivanje-nastavlja-se-rast-rejtinga-partija-vladajuće-koalicije>

It thus did not come as a surprise when President of the Parliament Ivan Brajović sent letters to European officials on 6 May, inviting them to monitor the forthcoming parliamentary election process in Montenegro, thereby announcing that the election should take place no later than November.<sup>7</sup> This confirms that parliamentary elections will not be postponed if the health situation permits.

Opposition parties all agree that the conditions for fair elections are not yet satisfied. They also continued with the accusations against the DPS claiming that it is misusing the pandemic as a start of the election campaign and for advancing its ultimate political aims.<sup>8</sup> Yet, opposition parties have so far been unable to agree on a joint stance over parliamentary elections. Some, like Democratic Montenegro (DCG), the Socialist People's Party (SNP) and the DF have publicly threatened with a boycott, while others, like the SDP and Demos, are cautious, pointing out that a boycott does not have the backing of the EU, which is demanding talks between the government and the opposition on this disputed matter. Nevertheless, the DF and the DCG have rejected Prime Minister Duško Marković's call for talks over the conditions for elections.

The issue of elections has also been debated in parliament. With the votes of the ruling coalition's MPs, parliament has adopted an amendment to the Law on the Financing of Political Entities and Election Campaigns which allows the payment of social security benefits in an election year in the event of an epidemic or pandemic of infectious diseases. The previous provision, which banned the allocation of social assistance from the budget reserve in an election year, was introduced in order to minimize the potential for the manipulation of elections. The opposition and NGOs demanded tighter control of the allocation of social assistance from the budget reserve in election years, but the ruling parties rejected it, claiming that efficient control is already provided. This prompted opposition parties to react by accusing the DPS of planning to misuse state money for party interests.

## Foreign Policy Divisions

Societal divisions on foreign policy orientations were also visible in the period under observation. Within the NATO framework, Montenegro received assistance in the fight against the pandemic from Turkey and the Netherlands, which pro-government media praised as a sign of solidarity, but which was dubbed insufficient and even mocked in pro-Serbian and pro-Russian media. As of 26 April, the Western Balkans' countries are exempted from restrictions on exports of medical devices from the European Union. This new reality was strongly emphasized by pro-government media, together with other plans by the EU to help the region financially. On the other hand, the head of the SPC in Montenegro, Metropolitan Amfilohije, used the opportunity to promote

his anti-EU stance, claiming that the coronavirus is revenge against modern European laws, for instance on abortion, and calling Europe a new Sodom and Gomorrah.<sup>9</sup>

## Timeline

- 13 March National Coordination Body (NKT) bans public gatherings and starts with closing of schools, shops etc.
- 17 March As the last country in Europe, Montenegro confirms the existence of first coronavirus cases on its territory
- 20 March President Djukanović postpones municipal elections in Tivat
- 30 March NKT introduces curfews: on weekdays from 19:00 to 5:00, on Saturday from 13:00 to 5:00, and on Sunday from 11:00 to 5:00
- 16 April Parliament organizes the first online videoconference sessions of the Committee for Economy, Finance and Budget and the Committee for the Political System, Judiciary and Administration
- 21 April The National Coordination Body decides to begin loosening measures that affect political and civil liberties. The curfew is still in place, but is now shorter, with citizens not allowed to leave their homes between 23:00 and 5:00
- 22 April The first session of parliament since the outbreak of the pandemic takes place
- 6 May President of the Parliament Ivan Brajović announces that parliamentary elections should take place no later than November
- 8 May The National Coordination Body announces that religious ceremonies are allowed from 11 May, as well as domestic public transport in the country's three zones (North, Central and South)

7 <https://www.pobjeda.me/clanak/brajovic-pozvao-eu-da-nadgleda-izbore-u-crnoj-gori-2>

8 <https://www.vijesti.me/vijesti/politika/dps-u-kampanji-i-tokom-korone-iz-pandemije-u-izbore; Dan 14/4, p. 3>

9 <https://www.in4s.net/mitropolit-amfilohije-korona-je-osveta-moder-nim-evropskim-zakonima-koji-predstavljaju-sodomu-i-gomoru/>

# NORTH MACEDONIA

Nenad Markovikj

## Abstract

- As the pandemic is calming down, the Government has announced gradual liberalization of the restrictive measures in the country.
- President Stevo Pendarovski has declared a state of emergency on 16th April for the second time, in duration of 30 days.
- Political discourse is highly conflictual, holding elections in summer 2020 actualized.
- Religious organizations in the country have caused major upset in society related to public gatherings and causing potential epidemiological risks during the last period.
- Although the EU remains the biggest supporter of the country in fighting the Covid-19 Pandemic, China has had a visible role in delivering vital aid to North Macedonia.

Ever since the outbreak of the Covid-19 virus in North Macedonia, the government imposed serious restrictions on the mobility of citizens in the country. The government, on 18 March, 2020, asked the Parliament of the Republic of North Macedonia to declare a State of Emergency. However, Parliament has not been in session due to the scheduled pre-term elections that were to be held on 12 April, 2020. Hence, the President declared a State of Emergency of a duration of 30 days on 18 March, 2020. Additionally, the Republic of North Macedonia was to hold pre-term elections on 12 April, 2020. Regarding this, President Stevo Pendarovski summoned all political leaders of the relevant political parties on 17 March, 2020, where all participants reached a decision that the elections must be indefinitely postponed and held after the Covid-19 crisis comes to an end.

## Political and Civil Rights

Most of the measures adopted in the initial phase of the crisis (10th March – 8th April 2020) caused by the Covid-19 virus are still in effect in the country, although some of them have undergone significant adaptations. The Government is adjusting the measures as a response to the epidemiological state of the pandemic in the country, at the same time trying to evade possible threats. The severest mobility restrictions were initiated in an attempt to intercept possible social dynamics during Orthodox Easter. Complete mobility restriction for all citizens on the territory of the whole country dur-

ing Orthodox Easter weekend (17th-19th April 2020) started at 17th April (Friday) at 5 P.M. and ended on 21st April at 5 A.M. This has been the most radical and longest mobility restriction (84 hours total) on the whole territory until present. However, as the epidemiological situation started to show signs of calming, the Government has gradually started to loosen the measures in late April and early May, with announcement of further liberalization in the upcoming period.

The easing of measures relate mostly to restarting the economy and reopening of private enterprises (bars, restaurants, barber shops etc.), however, under heavy restrictive and protective measures in the initial phase and not before mid-May. Administrative workers are also expected to return to work during May in full capacity. Kindergartens, primary and secondary schools shall not reopen at present, online teaching/grading will continue for primary and secondary level, with the school year ending regularly on June 10th. Universities, at the time being, are instructed to implement online lessons and exams. However, a noticeable increase in infected cases occurred between 7th and 10th May, which might possibly postpone the planned liberalization of the measures.

### *Protest of nearly 150 people against the arrest of violators of the curfew*

There are generally no organized civil society groups revolting or massive media pressure against the Government, when it comes to respecting human rights and freedoms in the country. However, on the 14th April 2020, a major incident occurred in the Chento neighborhood of the capital Skopje, in an attempt of the police to arrest three citizens that were found in violation of the mobility restrictions. The arrest caused major upset in the local community, initiating a protest of nearly 150 people at the time of curfew, who were pushing the police and local politicians to free the arrested. This incident caused major political upset in society, as one of the arrested is a local official of one of the major political parties in the country. The epilogue of this incident was 23 indictments by the Public Prosecutor's Office on account of violation of health regulations during an epidemic, to be processed in the following period.

On account of human rights and freedoms, a major societal polarization occurred concerning the issue of religious rights, given that the Government refused to completely close all religious object and allowed for the communion (Eucharist) to take place during Orthodox Easter.<sup>1</sup> Although social distance was generally respected in the Orthodox churches during the communion, the very practice of sharing the same spoon and cup as well as attendants not wearing protective gear, initiated a major upset in the local public, blaming the Government that it might be responsible for a possible epidemiological bomb and a new spread of the Covid-19 virus. Counter-reaction on the religious part of society have also been vocal, however in the opposite direction.

Media reporting and freedom of speech remain intact in the country during the Covid-19 crisis. No journalists have been arrested or in any way limited to report on the activities undertaken by the Government. Daily press conferences by government officials have continued as a practice from the previous period (Minister of Healthcare predominantly) with the possibility of journalists asking questions on every occasion via Skype.

Personal data protection and possible surveillance measures have raised moderate concern in society, related to the introduction of the "StopKorona!" mobile phone application introduced by the Government. The application exchanges data with nearby phones via the Bluetooth protocol (follows location of user as well) and alerts users on being in close proximity to infected persons in a given time period. Although the Government has guaranteed its safety apropos personal data and surveillance of citizens, the opposition and a number of IT experts on social networks have warned against the safety of the application. Nevertheless, the downloading of the application is solely on voluntary basis. No other forms of surveillance of citizens have been either introduced or problematized. Identity of Covid-19 infected person remains an open issue, given the impossibility to hide the identity of these persons due to the relatively small size of the state and fast circulation of data on social networks. However, the Government has not revealed any personal data on infected persons<sup>2</sup> and exposes data on infected persons only for statistical purposes.

## Key Institutions

The Main Coordinative Crisis Headquarters (MCCH) remains in charge of managing the Covid-19 crisis, while the Government predominantly only confirms the proposals of the MCCH. Due to the prolonging of the state of emergency by President Stevo Pendarovski on 16th April for additional 30

days<sup>3</sup>, the Government can still practice the power to issue decree-laws and limit human rights and freedoms as provisioned by the Constitution. However, a number of public intellectuals and part of the opposition have challenged the content of the decree-laws, blaming the Government that only a third of the decree-laws are in essence related to the Covid-19 pandemic. However, decree-laws are publicly available for scrutiny and the Government regularly informs on enacted decree-laws and content of governmental sessions on its website.<sup>4</sup>

## *Open political conflict about opposing interpretations of the Constitution related to reconvening the Parliament*

Prior to the outbreak of the Covid-19 pandemic, the Parliament of the Republic of North Macedonia voted on self-dissolution (16th February) due to the scheduled elections that were supposed to take place on 12th April. As a result of the crisis, all political parties agreed to postpone the elections indefinitely. However, as the epidemiological situation improved in the country, two major questions reappeared in the public discourse. The first one is related to reconvening the Parliament in the times of crisis, whereas two opposing standpoints were taken by the qualified public in the country.<sup>5</sup> However, the parliamentary speaker, Talat Xhaferi, refused to summon the Parliament, ignoring the initiative of 30 MPs for reconvening, submitted to him on 23rd April. This is one of the reasons why President Stevo Pendarovski decided to declare a state of emergency for additional 30 days, although he openly urged the Parliament to reassemble in order to confirm the very first decision on the state of emergency (18th March), as provisioned in the Constitution. An open political conflict based on opposing interpretations of the Constitution related to reconvening the Parliament is visible between the President of the country and the President of the Parliament of the Republic of North Macedonia.

The second issue is related to the upcoming elections, as well as the timing for their completion. A present legal uncertainty exists on whether the electoral dynamic should continue as previously, once the state of emergency has ended, or whether all legal deadlines are being reset as a consequence of vis major. Nevertheless, the State Electoral Committee has required a minimum of 50 days after the termination of the state of emergency, for preparing the necessary actions for implementing legitimate elections (updating the Voters' registry for instance). Political parties have also opposing stand-

1 The Easter communion (Eucharist) implies use of only one spoon for all attendants during the giving of the sacramental wine from the same cup. It also implies close contact between the priests and the believers.

2 An exception occurred when the Minister of Healthcare expressed condolences to the family on the occasion of the death of a famous TV-show host and singer, but only after the family announcing the event, and his death from Covid-19 becoming shared content on social networks and in media.

3 The possibility of declaring a second state of emergency by the President was challenged in front of the Constitutional court and a verdict is still expected.

4 <https://vlada.mk/vladini-sednici>; <https://vlada.mk/uredbi-covid19>.

5 One group of constitutional lawyers prefers the standpoint that a self-dissolved Parliament cannot reconvene at all, not even under a state of emergency. The opposing group claims that such possibility exists during a state of emergency under the Constitution, and under implications of past verdicts of the Constitutional court.

points on the elections' timing, although there is a consensus that they must take place between the first wave of the pandemic and the possible second wave, expected in autumn 2020. In conclusion, a leaders' meeting is scheduled under the auspices of president Pendarovski on 12th May 2020, where political leaders will try to reach a decision on the date of the following parliamentary elections. Related to the issue of elections, a complaint has been issued in front of the Constitutional court of the Republic of North Macedonia, related to reconvening the Parliament under the constitutional provisions related to the state of emergency, however the initiator of the complaint has withdrawn it and the Constitutional court did not reach a formal verdict.

Speaking of the Constitutional court, an open conflict occurred between the Constitutional court and the Government, related to the decision of the Government to cut back the wages of 2060 government officials, judges, prosecutors and directors to the minimum wage of 14500 denars (236 euros) for April and May 2020, as part of a package of austerity measures. The Constitutional court initiated a procedure for assessing the constitutionality of the decision and temporarily halted its execution, which initiated an open conflict with the Government. The Government has accused the Constitutional court for being biased and selfish when taking the decision, given that the wages of the judges of the very Constitutional court were affected by the measure.

Related to the capacity of the state to fight the pandemic, statistical indicators reveal both positive and negative trends. On one hand, the number of infected persons has been solidly below the projected level of 2000 to 2700 infected persons (1642 persons on 10th May 2020), which indicates that restrictive measures have resulted in relative success. Related to this indicator, hospital capacities have been underutilized and the healthcare system has not been overburdened with unmanageable number of Covid-19 patients. However, when it comes to the number of deceased persons per million inhabitants, North Macedonia is the 115th country (out of 140) on the global rankings with 41,29 deaths per million inhabitants<sup>6</sup>, the only worse countries in the proximity being Slovenia and Turkey. There has been only one detected case of a critical patient surviving after being connected to the respirator machine until present, although scientists globally are still searching for answers as to differences in mortality rates among countries. As the pandemic is slowly put under control, the number of daily tests for Covid-19 is decreasing, as well is the percentage of infected persons out of the total number of tests, although the trend is not linear.

## Political Parties and Political Discourse

As the possibility of holding parliamentary elections in summer 2020 gradually becomes a realistic option, one could notice an increase in the conflictual capacity on the political scene. The relation between governmental parties and the

opposition remains highly antagonistic and subject to daily press-conferences by both the Social Democratic Union of Macedonia (SDSM hereinafter) and VMRO-DPMNE<sup>7</sup>, with exchange of mutual accusations and allegations on corruption and mismanagement of the epidemiological situation. However, the harshest critiques of the opposition are related to economic issues, with the opposition constantly blaming the Government for either undertaking insufficient or inadequate measures or not implementing measures at all in certain affected areas of the economy.

## *Allegations of corruption and mismanagement of the epidemiological situation*

There are no recent polls concerning party ratings in the period following the beginning of the Covid-19 pandemics, with the last opinion poll being published on 16th March 2020. This public opinion research, published by the International Republican Institute,<sup>8</sup> indicated a slight advantage of the ruling social democrats, however within the marginal statistical error, which indicates possible close electoral results. However, since then, no new public opinion polls have been published since the question of holding elections was temporarily put aside. Nevertheless, it is expected that certain movements in the ratings of the political parties are possible due to the ongoing crisis, but the direction of these movements is yet to be determined.

The central topic of the public debate in the last month relates to the tradeoff between liberalization measures/restarting the economy and securing the positive trend of control over the pandemic crisis. The Government insists on the "expertocratic approach" meaning that the recommendations of the Commission for infectious diseases (CID hereinafter) are used as a fundament in all political decisions, or so is the PR approach framed on the side of the Government. The role of the Minister of Healthcare, Venko Filipche, as the governmental frontrunner, remains highly technocratic with political statements limited to debunking fake news or answering to attacks by the opposition. The informational strategy of the Government also includes public officials and high-profile politicians constantly communicating with the public via press conferences or via appearances in relevant TV shows.

Another topic that was prioritized in the public discourse is related to the timing of the elections. While governmental parties insist on elections being held in June, the opposition remains dedicated to the idea that the elections should be held in July, at earliest. This has caused a series of mutual accusations, with the opposition blaming the Government that early elections in June might be an epidemiological risk

6 <https://www.statista.com/statistics/1104709/coronavirus-deaths-worldwide-per-million-inhabitants/>. (6th May 2020).

7 Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity.

8 <https://prizma.mk/anketa-na-iri-mrtva-trka-megu-sdsm-i-vmro/>.

for the population. Additionally, the opposition is accusing the Minister of Healthcare for hiding behind the CID while in reality making purely political decisions on liberalization measures and scheduling the elections.

Combating fake news remains a challenge for the Government, although not limited to the Covid-19 crisis. However, there has been a noticeable decrease in fake news compared to the initial period of the crisis. One should also mention that the general discourse in the given period related to the Covid-19 crisis has been overshadowed by the growing concern of a possible new veto in the EU accession process for North Macedonia, announced by Bulgaria, and the radicalization of Bulgarian positions and demands towards North Macedonia related to historical events and figures that both countries consider part of their own national history.

Opposition as well as other critical voices are not being suppressed or censored in any way in the country. Pro-opposition as well as pro-governmental media are free to report on any aspect of the crisis, confronting over a number of issues on daily basis. Media polarization is visible and political lines are clearly drawn when it comes to media reporting. Social networks are also completely free from governmental control, producing a visible conflictual and antagonistic atmosphere. Reporting on governmental activities seems highly technical and fact-based, without any particular praise related to the activities of the Government. Governmental parties are still not utilizing the pandemic issue for pre-electoral purposes, although such a scenario seems plausible in the upcoming period.

## Civil Society

The restrictive measures implemented in the initial phase of the pandemic crisis were strongly supported by public opinion, with high rates of approval. As restrictive measures were tailored according to the epidemiological indicators and possible threats in the last month, there was no visible resistance or defiance towards the measures. Although the Ministry of Interior regularly updates on arrests of citizens based on breaching mobility restrictions, such incidents are on the level of isolated, individual actions rather than based on wide societal trend.

### *No public outcry against the measures undertaken by the government*

There is no organized resistance by civil society on any level concerning the curtailment of civil liberties, nor is there a public outcry directed towards the measures undertaken by the Government. The NGO scene has been relatively quiet ever since the beginning of the crisis, and seems more focused on solidarity-based activities rather than performing the traditional watchdog function, especially when the complete debate on a possible shift to authoritarianism and possible misuses of the pandemic for curtailment of civil liberties is of very low intensity in Macedonian society at present.

However, the two biggest religious communities (Macedonian Orthodox Church and the Islamic Religious Community) have caused major concern with their behavior during the crisis. On one hand, both religious communities have initially strongly opposed the idea to close all religious objects. However, and with substantial political and public pressure, they accepted the idea with certain concessions made by the state. The leader of the Islamic Religious Community, Reis-ul-Ulema Suleyman Rexhepi, directed an ultimatum to the state that, unless the Islamic Religious Community is financially supported, he will allow for gatherings of believers in religious objects, which caused a general public outrage. On the other hand, the Macedonian Orthodox Church was allowed to perform the Communion (Eucharist) during Orthodox Easter, which also caused massive dissatisfaction among one part of the citizens. An Orthodox religious procession (litija) on 7th May in the city of Struga, with considerable attendance, has caused major upset in society as the procession was a clear breach of the limitations on public gatherings. The Ministry of Interior was blamed for not reacting adequately and stopping the procession, and the Public Prosecutor has opened a case against the organizers. Additionally, the Islamic Religious Community has announced opening of mosques on 12th May, without prior consultations with any relevant medical factors. The Minister of Healthcare has openly warned against possible epidemiological risks deriving from this possible action.

The Government found itself in between an open conflict between the trade unions and the chambers of commerce. The economic measure that entails financial aid to companies was initially envisaged as a measure for all companies, and it was only after the tremendous pressure by the trade unions when the Government decided to exclude the companies that have laid off workers in the crisis period from the possibility of using this measure. While trade unions are predominantly focused on keeping jobs and protective policies for the exposed workers, the chambers of commerce are pressuring the state for financial aid and less restrictions in the following period of restarting of the economy.

## External Factors

There is no substantial change of the political course of the country apropos external centers of power related to receiving international aid for combating the Covid-19 crisis. However, it is visible that some of the countries that were initially exposed in their efforts to deliver aid to North Macedonia have gone into hiatus, while others maintain a low profile from the very beginning. Namely, Russia is continuing its policy of not taking active part in delivering aid related to the pandemic, while after the initial proactive role in North Macedonia, Turkey has not been exposed in the last period. The same could be concluded about Hungary, which has delivered substantial aid to the country on 6th April (100 000 masks and 5000 protective suits) and ever since has withdrawn from the public eye.

## *China has increased its visibility by delivering essential aid*

In contrast, China has increased its visibility in the country by delivering essential aid on 18th April, consisting of 5000 Covid-19 tests, and a number of protective suits, masks and hats. The aid was received at Skopje airport, with presence of high governmental officials (vice Prime minister and foreign aid coordinator, Bujar Osmani) and the Chinese ambassador, H.E. Zhung Zao. The ambassador announced that the aid is not incidental and will continuously arrive in the country. This has put China on the map of foreign donors and has raised its visibility in the country substantially.

However, the EU remains the biggest donor and supporter of North Macedonia in fighting the Covid-19 pandemic. As a part of the emergency medicinal aid of 4 million euros (out of 66 million euros overall in the initial phase), in late April the EU delivered medicinal aid (12 respirator machines and 5000 protective masks) and announced the procurement of additional critical equipment in the following period for support of the healthcare system of the country. In addition, in early May, the EU decided to allocate 3 billion euros for ten countries in support of the fight against the pandemic and the economic systems of the countries, mostly from the Western Balkans region. Out of these assets, North Macedonia will receive around 160 million euros, subject to approval by the European Parliament.

The public image of the EU was seriously shattered in the initial phase of the pandemic related to its decision on export restrictions on medical products to third countries and the special export permit regime. However, after the consolidation of the EU and the announcement of financial aid and common medical procurements with the countries of the Western Balkans, EU's image has slightly improved in Macedonian society. Public opinion polls<sup>9</sup> (24th April) indicate that 56,2% of the respondents in a recent public opinion poll fully or substantially agree that the EU is giving the needed support for the country during the crisis, while 38,4% are substantially or fully dissatisfied with its support. Support for joining the EU is still very high although optimism has decreased as Bulgaria announces its possible veto in the upcoming period.

## **Timeline**

- February 26 First case of infection with Covid-19 virus detected
- March 10-11 Discontinuation of the educational process on all levels, prohibition on public events in confined and open spaces over 1000 participants
- March 16 The Government decides to close all border crossings for civil transport (cargo transport excluded) as well as to shut down the airport in Skopje for civilian transport.
- March 17 Parties agree to postpone elections indefinitely
- March 18 President Stevo Pendarovski declares the state of emergency
- March 19 Restriction on free movement for all citizens on the whole territory of the country
- April 14 Incident in the Chento area of Skopje, massive breach of mobility restrictions with nearly 150 protesters requiring a release of three persons arrested for violating the police hour.
- April 22 Mandatory wearing of protective gear, i.e. masks
- April 30 Decision by the Government on the ending of the school year – the school year will end regularly on 10th June 2020, online. Maturity (graduation) exam for high-schools students abolished. Postponing of enrollment procedures for new pupils for elementary schools and high schools.
- May 7 A massive procession of Orthodox believers occurs on the second day of the religious holiday devoted to St. George (Gjurgjovden). Massive attendance. Videos materials indicate no social distance and almost complete absence of protective gear of attendees.
- May 8 Mobility restriction changes – mobility restriction during weekends from 7 P.M until 5 A.M the following day.  
Allowed mobility for persons above 67 years – 5 A.M until noon, minors - 1 P.M until 7 P.M.
- May 10 1642 infected in total, 1135 persons cured, 415 active cases, 91 persons deceased.

<sup>9</sup> <https://www.youtube.com/watch?v=no49-vEJnZo>.

# SERBIA

Tara Tepavac and Tamara Brankovic

## Abstract

- Steady decrease in the number of newly diagnosed coronavirus cases.
- Executive's grip on power remains strong despite the re-activation of parliament.
- State of emergency ended and elections relaunched.
- Further escalation of political tensions resulted in protests that could cause significant threats to public health.

The COVID-19 pandemic reached Serbia amid an election campaign marked by a reshuffle of the opposition, decisions by several opposition parties to boycott the elections and the ruling majority's dominance of the media. Coronavirus was not treated particularly seriously for the first few days of the pandemic. The first official case of coronavirus in Serbia was officially recorded on March 6. A state of emergency was declared on March 15. The next day, the Republic Electoral Commission postponed the 2020 parliamentary and local elections. Measures to combat COVID-19 introduced by the government included a strict curfew and closure of business and schools, as well as stricter border controls.

## COVID-19 Contained, Rise in Support for Vučić

Serbia is seeing a steady decline in the number of registered coronavirus cases, along with a rise in political tensions and a high level of popularity for Serbian President Aleksandar Vučić. Two weeks prior to the ending of the state of emergency, IPSOS published the results of an opinion poll revealing that support for President Vučić is on the rise. A dramatic increase in positive assessment of his behaviour was indicated, reaching over 60 percent in comparison to the 44 percent recorded before the epidemic. Moreover, citizens' trust in President Vučić is at a record high, with almost half of citizens trusting him alone, which marks the highest level of citizens' trust in a politician recorded by IPSOS since they began measuring citizens' attitudes and perceptions in Serbia in 1997.<sup>1</sup> The announcement of these astonishing results on the public broadcasting service came as a prelude to the official continuation of the election campaign, as it was followed by an-

nouncements of the phasing out of the state of emergency and the re-launch of elections.

*Almost half of citizens place their trust in President Vučić, the highest level of support ever recorded by IPSOS in Serbia*

The complete lockdown has resulted in a significant decrease in the number of new coronavirus cases detected each day. Perceived solely from the perspective of these figures, the manner in which Serbia has dealt with the crisis has brought good results compared to other European countries. The number of patients diagnosed with COVID-19 dropped from over 400 per day in mid-April to around 200 new cases per day at the end of the month.<sup>2</sup> By mid-May, Serbia had succeeded in containing any further escalation of coronavirus, with a total of 10,176 confirmed cases among 145,604 tested, 218 deaths and a mortality rate of 2.14 percent.<sup>3</sup> Yet, the atmosphere in society offers a quite different picture of the success of crisis management, while citizens remain deprived of information about levels of donations and loans from various sources, the procurement of medical equipment (i.e. ventilators), the number of infected medical staff across Serbia, etc.

As uncertainty regarding the economic and social challenges facing citizens continued to rise, the government adopted a set of economic and social measures aimed at countering the potentially devastating consequences of the COVID-19 crisis for the economy, entrepreneurs, small and medium enterprises and other vulnerable groups. Apart from postponing the payment of taxes and social contributions by private entrepreneurs and their employees in order to demotivate layoffs, as well as paying a grant of around EUR 250 to each individual from this group, the government decided to give every adult Serbian citizen a grant of EUR 100.<sup>4</sup>

1 Tanjug, "Ipsos: Građani najviše veruju Vučiću, podržavaju i mere", 22.4.2020 <https://nova.rs/politika/ipsos-gradani-najvise-veruju-vucicu-podrzavaju-i-mere/>

2 Official data for May 11, 2020, recorded on the government web page dedicated to coronavirus information. <https://covid19.rs/home-page-english/>

3 Official data for May 11, 2020, recorded on the government web page dedicated to coronavirus information. <https://covid19.rs/home-page-english/>

4 Slobodna Evropa, "Siniša Mali: Vlada usvojila mere za pomoć privredi.", 10.4.2020. <https://www.slobodnaevropa.org/a/30546475.html>



Citizens' frustrations nevertheless intensified, building up around the uncertainties and restrictions, particularly during the prolonged weekend curfews, the longest of which, introduced around Orthodox Easter, prohibited citizens from leaving their homes for 84 hours, with restricted exceptions for dog owners and grocery-shopping in strictly defined periods for those aged over 65.

While most opposition parties remained respectful and silent regarding the preventive measures, a challenge to the prohibition of movement and public gatherings was brought forward by the Serbian Orthodox Church. By demanding the lifting of the curfew for Orthodox Easter to enable believers to attend Easter services, the church came the closest to "breaking" the government's orders, as the state authorities failed to provide a solid and unambiguous reply to church's requests. As Orthodox Easter Sunday approached, following reports of coronavirus spreading among several priests and clergy participating in services around Serbia, the President reconfirmed his decision not to allow any gatherings for Easter services.

Following an immense positive hype of the ruling majority around China, positive media reporting on China and Russia continued throughout April, playing on emotional messages of "brotherhood" and "friendship". The news on Russian donations of medical aid brought a spike in the number of positive articles in Serbian media. China was particularly in public focus in mid-April, with a peak of positive media reporting on the announcement of the official visit of Chinese President Xi Jinping to Serbia following a telephone call with President Vučić.

The public stance towards the EU as well as the media reporting included mixed messages. The news on the EU donation of 4.9 million Euro to Serbia for medical equipment triggered a moderate peak in media reporting in the beginning of April. Yet, negative reporting was also on the rise, as Serbia decided to reject the emergency loan package offered by the EU through the International Monetary Fund support to its candidate countries as a contribution in dealing with the effects of the pandemic. President Vučić elaborated that Serbia is in no need for the IMF money at the moment, assessing it also as too expensive. However, the rejection of the loan offered by the EU and the IMF was expressly followed by the meeting of Vučić with EU Member States' ambassadors to Serbia on April 24, and a joint press conference between President Vučić and the EU ambassador to Serbia Sem Fabrizi. Reassuring Serbia's dedication to remain on its EU track, Vučić stated that the EU had changed its approach from the beginning of the outbreak, but that Serbia also has the right to its own opinion. Finally, by the April, further announcements of donations from the EU and Norway, as well as the reporting on the Western Balkans Summit held in Zagreb in the beginning of May, contributed again to a moderate peak in positive images of the EU in the media.

## Executive Domination Continues

After 44 days of silence, the Serbian Parliament finally woke from hibernation to claim its place in the decision-making process. Following numerous appeals for its engagement, both domestic and from the European Parliament, an announcement delivered by President Vučić on Pink Television served as a tipping point for parliament to convene. From that point, swift and efficient organisation was displayed as all the safety precautions for a plenary session of 250 MPs were prepared over the weekend, providing necessary protective gear and making arrangements to enable the respect of the required physical distancing. The reasons for such a long break in the work of parliament remain unelaborated to this day. Despite several demands addressed to the Speaker of the Serbian Parliament, no substantive explanation was given of why parliament had not convened before, nor of who assessed that the necessary conditions had not been met earlier, and on what terms.

*A complete lack of awareness of the position and power that parliament should exercise, among both MPs and the government*

Parliament met three times in just two weeks, firstly to confirm the decision to declare a state of emergency along with a rebalance of the budget and all 44 government decrees introducing specific measures and later to abolish the state of emergency and adopt changes to the electoral laws.<sup>5</sup> Although the Speaker announced that they would serve as an example to other countries, these sessions yet again illustrated a complete lack of awareness of the position of the supreme legislative and representative institution and the power it should exercise, among both MPs and government representatives. The abrupt reactivation of parliament and the participation of government representatives and part of the opposition that had previously engaged in parliamentary boycott brought some hope of its meaningful engagement in the decision-making process, in spite of the long term trend of degradation. However, instead of providing a plenum for substantive debate on vital issues, such as ending the state of emergency, the preconditions for the re-launch of the electoral process, government reports on the results of the fight against coronavirus or plans for a potential second wave of the epidemic, parliament again served as the mere setting for the formal confirmation of decisions made by the executive. Demands by some MPs for written reports from the government were ignored, with heated disputes revealing an unacceptable stance towards opposition MPs from government representatives. Discussions were dominated by a series of insults, accusations, assaults and hate speech, which fuelled tensions to the point of physical violence erupt-

<sup>5</sup> Agendas and details of parliamentary sessions are available on the Serbian Parliament's official website. <http://www.parlament.gov.rs/activities/national-assembly/sessions.544.html>

ing at the entrance to parliament, further degrading the already diminished integrity of this institution.<sup>6</sup>

### *The ruling majority retained almost complete domination of the media sphere*

As the Constitutional Court remained absolutely silent, despite multiple requests for it to assess the constitutionality of the measures, the executive's firm grip on power continued throughout the quarantine lockdown. Although regular press conferences were held, predominantly by the Crisis Headquarters medical expert team, the ruling majority retained almost absolute domination of the media sphere. Media monitoring by the CRTA revealed that the ruling majority continued to consume the media space almost exclusively. The ruling party's representatives occupied "only" 92 percent of prime-time on five television channels broadcast nationwide throughout April, thereby marking a drop from the astonishing 99 percent recorded in the second half of March 2020.<sup>7</sup>

### **Epidemics of Electoral Ills**

In an atmosphere of significant uncertainty, Serbia will hold regular parliamentary and local elections on June 21. The electoral process, launched on March 4 then frozen for 56 days on March 16 due to the state of emergency and the suspension of voting rights, was re-launched on May 11. The forthcoming election campaign will face multiple challenges, ranging from the technical conditions for organizing the election day safely, to ensuring the conditions for free and fair elections. Still, once the state of emergency was abolished and voting rights reinstated, regular elections could not be postponed any longer, in line with Serbia's constitution and the relevant laws.

The election clock continues to tick off the 41 days left for political actors to campaign, submit their candidacies and communicate with voters before election day. The overall COVID-19 environment will, however, impact on the reach and methods of political campaigning, while the behaviour and activities of political actors will be dictated by the government's measures to constrain the virus. This will severely challenge the electoral landscape that Serbia used to know and will negatively affect the starting position of electoral contestants. On the one hand, the parties that submitted their lists prior to the declaration of the state of emergency are in a more favourable position than parties that still have to collect the necessary 10,000 signatures under social distancing restrictions in order to submit their candidacies by the

deadline. On the other hand, the overall electoral environment for communication with voters will be challenging. On top of this, representatives of the ruling majority have used every opportunity during the state of emergency to dominate the media space or conduct activities which often resembled the continuation of election campaigning.

An illustrative example of COVID-19 campaigning is the hand-delivery of ventilators by President Vučić in Novi Pazar and Niš, accompanied by a large gathering of people exceeding the number prescribed by the government's order. These events were soon followed by Vučić's return to making non-COVID-19-related public appearances. On April 21, he visited a major Russian-invested construction site in the company of the Prime Minister and the Russian ambassador.<sup>8</sup> Activities resembling political promotion were also visible in local communities across Serbia through ongoing humanitarian engagements by political party officials and activists. In addition to volunteers organized by local self-government, the Red Cross and various civic groups, political parties emerged as additional actors providing support and comfort to people in need. In line with their usual dominance of all spheres, Serbian Progressive Party activists have been the most active in delivering humanitarian packages of life essentials (i.e. food and other household supplies), with or without party visibility accompanying these activities, as indicated by CRTA's monitoring of the state of emergency in local communities.

### *The further decline of the already poor quality of electoral conditions in Serbia is particularly worrisome*

The swift switch from the state of emergency and the COVID-19 crisis to the elections will surely reflect the nature and dynamics of the election campaign, as well as its outcome. The potential for further harm to the already poor quality of electoral conditions in Serbia is particularly worrisome, as the abuse of public resources and public office for political campaigning, pressure on voters and uneven media representation threatens to amplify in the overall electoral environment. After the containment of the COVID-19 outbreak, the epidemic of the virus seems to be being replaced by an epidemic of electoral ills with a history of cases of contamination of Serbian elections.

6 Otvoreni parlament, "Osuda eskalacije tenzija i nasilja u Narodnoj skupštini", 8.5.2020, <https://otvoreniparlament.rs/aktuelno/159>

7 Milijana Rogač. "Za vlast rezervisano 99 odsto TV programa", Istino-mer, 21.4.2020. <https://www.istinomer.rs/analize/za-vlast-rezervisano-99-odsto-tv-programa/>

8 Tanjug, "Nismo se odrekli ni jednog infrastrukturnog projekta", Nova.rs, 21.4.2020. <https://nova.rs/politika/nismo-se-odrekli-nijednog-infrastrukturnog-projekta/>

## Escalation of Tensions: Torches versus Pot-banging

The repressive measures and complete lockdown have taken their toll, provoking citizens to share their frustration with the drastic measures and the dominance of the executive through the symbolic gesture of pot-banging each evening. The recorded skyrocketing of support for Aleksandar Vučić coincided with a country-wide public display of citizens' dissatisfaction with the government's measures and its attempts to misuse the crisis for its own political benefit and centralize power further. Since April 26th, the "Raise Your Voice: Noise against Dictatorship"<sup>9</sup> initiative, launched by the political movement "Ne davimo Beograd" has seen Serbian citizens come to their windows and balconies each night at 20:05, immediately after the new tradition of applauding medical workers and other civil servants at 20:00. Participants bang pots, play loud music, whistle and make other types of noise. Similarly to swearing in parliament and the scenes of MPs being carried out of the plenary session by security, pot-banging at windows is another dreary reminiscence of the events of the 1990s.

However, citizen protests have received a tough response from the ruling majority and its supporting groups. On April 29 at 20:30, burning torches were lit on rooftops in several Belgrade neighbourhoods, demonstrating the power of the opposite camp, i.e. groups of men, mostly hooligans, in the company of several state officials who did not hesitate to promote and fuel the action. Vladimir Đukanović, an MP for the ruling majority, was recorded as being one of the men lighting torches, as was the president of a Niš municipality.<sup>10</sup> The frightening sight of buildings lit up by torches, the open flames potentially endangering tenants' lives and property, spread across other areas of Belgrade and other cities in Serbia the following nights.

### *Violent groups and messages lead to alarming tensions in society*

The orchestrated light show of torches, organized and promoted by groups close to the ruling Serbian Progressive Party, aimed to overpower the pot-banging protests and counter political opponents. Chanting and playing from loudspeakers "Hey, hey, Đilas, give the money back, you thief!", a jingle prepared in the studio of the pro-regime television channel Pink that was also played on its radio station, complemented the visual display of power of the lit torches and increased the chilling atmosphere. Eventually, on May 3, the chanting of violent slogans against opposition leader Dragan Đilas in front of his home triggered a wider public

reaction. A disturbing video message by Đilas became viral, showing a visibly distressed father who cannot protect his children from being scared by the closeness of violent groups and the messages they were forced to listen to. The alarming tensions in society reached a point in which a consensus seems impossible even around such basic principles in the political arena. The event was not condemned by all political actors, but rather triggered Serbian Progressive Party MPs and officials to fuel polemics on whose children were more important, Đilas's or Vučić's.<sup>11</sup>

The heightened political tensions continued to escalate with the ending of the state of emergency on May 6, as the campaign moved from windows and rooftops to the streets. Continuous warnings that safety measures (social distancing, wearing masks and gloves) must be respected as the "new normal" even after the relaxation of the restrictions were quickly forgotten by the majority of citizens, eager for fresh air and long walks. In less than a week, images of ghostly Belgrade streets were replaced by squares crowded with protesters and a heated atmosphere. Return to the "normalized" routines of our polarized society was unimaginably fast, with several protests by citizens organized in just the first week after the ending of the state of emergency. Instead of this being a time devoted to soothing the uncertainties stirred up by the COVID-19 crisis and the recovery of society, the epidemic has contributed to the deepening of the political crisis in Serbia, which is teetering dangerously on the edge of a spiral of violence.

9 Ne davimo Beograd, "Digni glas: Bukom protiv diktature – Nedelja 26.4. u 20:05" <https://nedavimobeograd.rs/digni-glas-bukom-protiv-diktature-nedelja-26-4-u-2005/>

10 Ljubomir Filipov. Neuspela bakljada naprednjaka na Paliluli. Južne vesti <https://www.juznevesti.com/Drushtvo/Neuspela-bakljada-naprednjaka-na-Paliluli.sr.html>

11 Suzana Vasiljević: Video poruka Đilasa „jeftin politički performans“. N1. <http://rs.n1info.com/Vesti/a595685/Suzana-Vasiljevic-o-poruci-Dragana-Djilasa.html>, Poslanice SNS: Đilas odglumio nervni napad, razglas spontan, bukom protiv Šerpi. N1, <http://rs.n1info.com/Vesti/a595733/Poslanice-SNS-Djilas-odglumio-nervni-napad-razglas-spontan-bukom-protiv-serpi.html>

## Timeline

- February 26 First press conference related to coronavirus held by the President and Crisis Headquarters - "The funniest virus in history".
- March 4 Parliamentary and local elections called for April 26 2020.
- March 6 First case of coronavirus infection registered in Serbia.
- March 13 Two Crisis Headquarters established: 1) Crisis HQ for Combating Disease, led by the Prime Minister and including medical experts; 2) Crisis HQ for the Economy, co-led by the President of the Republic and the Minister of Finance.
- March 15 State of emergency declared on the entire territory of Serbia.
- March 16 Republic Electoral Commission ceases the electoral process until the end of the state of emergency. Nurseries, schools and universities closed by government order.
- March 18 Lockdown measures with curfews introduced for the first time since the Second World War. Total ban of movement until further notice for citizens over 65 years of age. Prohibition of movement from 20:00 to 5:00 every day for citizens under 65 years of age.
- March 20 Minister of Health declares the outbreak of a coronavirus epidemic in Serbia. First coronavirus-related death registered. Inter-city transport cancelled. Borders closed.
- March 21-22 Public transport in cities cancelled by government order.
- March 22 Curfew for those under 65 years of age extended from 17:00 to 5:00.
- March 28 First special ad-hoc COVID-19 hospital established at Belgrade Fair.
- April 10 Government adopts package of economic and social measures to alleviate the consequences of the coronavirus crisis.
- April 28 First session of parliament and confirmation of the state of emergency.
- May 6 State of emergency ended by parliament. Bill on the validity of decrees adopted by the government during the state of emergency adopted by parliament, reversing the measures in 11 of the government's decrees and prolonging those in another 15.
- May 11 Republic Electoral Commission unfreezes the electoral process.

# SLOVENIA

Igor Luksic

## Abstract

- The government still behaves as if Slovenia were at war. In a month and a half they have replaced leading people in key positions responsible for repressive and control apparatuses.
- Media associations have succeeded in gaining the support of international institutions in the fight for freedom of the press.
- The opposition has united in the interpellation of the Minister of the Economy and Technology due to the very problematic spending of public money on medical equipment. Protests against the government are intensifying and moving out on to the streets.
- Slovenia is doing very well regarding health and social policy goals, but very poorly on the democratic standards of the government.

Prime Minister Marjan Šarec resigned on January 27, announcing that Slovenia was going to the polls. He was convinced that none of the parties in his coalition would join Janez Janša's government. However, Janša managed to form a new government from the SDS, NSi, SMC and DESUS. This new government was elected on March 13 and immediately held its first meeting. The first case of COVID-19 infection in Slovenia was confirmed on March 4. On March 7, the Šarec government banned the gathering of more than 500 people and proposed that a maximum of 100 people could congregate indoors. The Minister of Health, Aleš Šabeder (in Šarec's government), declared an epidemic on March 12 due to the increased risk of spreading the new coronavirus. In its first week in office, Janša's government prohibited public transportation, then air transport and also restricted movement across the borders.

## Key Institutions, Political and Civil Rights

The government has adopted a decision allowing the application of Article 103 of the "mega law to combat COVID-19" for the exchange of information on COVID-19-infected persons between the National Institute of Public Health (NIPH) and the police. The police will be familiarised with information on the type and duration of quarantine due to COVID-19 infection and other restrictions imposed on each individual. By the end of April, the government insisted on restrictive measures, despite the very favourable results from monitor-

ing the epidemic. Instead of a phasing-out plan, the government feared a second wave of epidemics. Only the decision of the Roman Catholic Church (RCC) Bishops' Conference on the re-activating of religious ceremonies compelled the government to ease the measures. The government has announced that it will open kindergartens and resume the first three years of primary schools on May 18. The fourth year of high schools will be returned on the same date as will the last year of primary school a week later. Schools are expected to fully open only in September. The government reopened public passenger transportation, but the NIPH's instructions are inappropriate, bus drivers warn. The government announced that the borders should start to open gradually at the end of May.

## *The Government has made it possible to issue building permits without the influence of environmental NGOs*

The work of the National Assembly is ongoing. On April 28, the National Assembly passed three laws with new and renewed measures to tackle the crisis. With an amendment to the March-anti-corona law (Article 42), the government has made it possible to issue building permits more quickly without the influence of environmental NGOs and the expert public. This change comes from an assessment that the environmental impact of NGOs prevents quick decisions on large investments, especially foreign direct investments.

The Commission for the Prevention of Corruption (CPC) has warned the government that opening up building permits and tightening conditions for NGO involvement increases the risk of corruption and integrity violations. The State Audit Committees and the CPC have already begun investigating the procurement of medical equipment. More than 50 procedures conducted by the Commodity Reserve Institute are alleged to have been carried out.

The National Assembly has also appointed seven new members of the Public Broadcasting Program Council, all from coalition parties, although at least one representative should have been elected at the proposal of the largest opposition party.

The Constitutional Court accepted the initiative for initiation of the constitutional review procedure and the legality of the Decree on the temporary prohibition of movement and gathering in public places and areas in the Republic of Slovenia and out-of-county bans. They ordered the government to “at least every seven days, based on the opinion of experts, check that the measures taken are still necessary to achieve the objectives, and if necessary, renew, amend or eliminate.” In accordance with this request, the government amended the Decree. Interestingly, the initiator wished to remain anonymous and the Constitutional Court did not disclose their identity to the public.

PM Janša commented on the decision of the Constitutional Court that it is the most politicised constitutional court in the history of the Republic of Slovenia. Government officials and supporters have condemned the initiators of the constitutional review, claiming that they are throwing sand at the crisis resolution engine. Those facts point to the strained relationship between the government and those who criticised government decisions during this time. The Ombudsman carefully monitored the measures and the possible consequences of violations of the rights of different categories of citizens and published its opinions.

In his video messages, Slovenian President Pahor has addressed his fellow Presidents all over the world, one by one, and calls for a joint crisis resolution. He is not involved in internal political decisions.

### *It is disputed that the police will obtain personal data for completely unclear purposes*

The Information Commissioner (IC) has also been active this month. According to the IC the text of Article 103 also contains serious cause for concern. From the point of view of the constitutional right to privacy, it is disputed that, on its basis, repressive bodies, as well as the police, will obtain personal data for completely unclear purposes. The IC has issued a series of opinions on issues considering proposals for measures on different levels: Tracking individuals with COVID-19 through mobile phone applications; the processing of personal data when using an employer’s work-at-home monitoring application; the health monitoring application and so on. The IC always has warned the competent authorities to be careful of interfering with the sphere of individual freedom and human rights.

## **Political Parties**

The opposition has in recent weeks focused on irregularities and suspicion of corruption in the procurement of masks, ventilators and other equipment indirectly ordered by the RS government. The public broadcaster, RTV SLO, has prepared two very high-profile discussions. It revealed testimony and documents on the alleged involvement of representatives of the Ministry of the Economy and some other politicians in

the supply of equipment needed in the corona epidemic. Some public voices and opposition leaders appealed to PM Janša to consider resigning because of these irregularities. Namely, the orders were made through companies affiliated with the ruling parties and that individual politicians of the ruling coalition were proven to have mediated this. The main defence of the PM and the Minister was the mantra that they were saving lives and that therefore there was no time for lengthy and prescribed procurement procedures.

### *Suspicious of corruption in the procurement of masks, ventilators and other equipment*

All four opposition parties filed an interpellation. The Minister of the Economy and Technology, Počivalšek, is accused of tolerating non-transparent and non-economical procurement for protective and other medical equipment, as well as for consciously concealing the facts relating to procurement and purchasing procedures. He is also accused of misleading the public in quoting a false legal basis for the orders, as well as unethical, clientelistic and corruptive involvement in favouring businesses and individuals. The same topic was also discussed in the parliamentary bodies.

The government published a report on the purchase of masks, in which it accuses the previous government of not doing anything but at the same time accuses it of buying protective equipment at higher prices. In this report they proclaim themselves as the ones to have saved Slovenia from scarcity and death. The paradox, of course, is that the same Minister of the Economy and Technology has been in the previous and current governments, and therefore a report on the situation left by the previous government will not make sense in defence of the actions of Minister Počivalšek. The National Assembly is acquainted only with such reports. In this case, the government is demanding that the National Assembly also vote on resolutions stating that the entire blame falls on the previous government, and that the resolution of the crisis is the responsibility of the Janša government. Based on this proposal, one of their supporters has already filed a complaint with the public prosecutor to bring charges against former PM Šarec, the current president of the LMS opposition party.

The opposition also announced the establishment of a parliamentary inquiry commission to investigate public procurement procedures to manage the epidemic, but the coalition overwhelmed them. This means that the process of parliamentary inquiry into government conduct will be investigated by the government majority itself. Even with this act, Janša’s government shows disrespect for the fundamental idea of parliamentary democracy that the opposition monitors the work of the government. Notwithstanding the fact that under the Rules of Procedure of the National Assembly only one commission can be set up concerning the same matter and that the proposal submitted first has priority, the opposition filed its proposal for a committee of inquiry on purchases of medical equipment, also.

## Political Discourse

From mid-March to mid-April, the public's confidence in the government to make the right decisions on the corona epidemic increased from 58.1% to 75.9%. The proportion of those who consider the measures excessive increased from 6.5% to 21.6%, while the proportion of those who are satisfied increased from 70.2% to 74.2%. As many as 52.9% of respondents said that their economic situation would worsen after the crisis, and only 0.4% said that it would improve.

Government support rose from 42% in March to 64% in April. Support for most parties did not change much, except for former PM Šarec's LMŠ party, which lost another 5% from March and PM Janša's leading SDS party gained an additional 3% from February to April. The number of undecided voters increased by 5% from March to April. Interestingly, greater support for the government does not translate into the same amount of greater support for the individual coalition parties.

Some medical doctors have noted that Slovenia is mainly dealing with patients with COVID-19 in the healthcare system and we have almost forgotten about those patients with other diseases. Therefore, health facilities were to a large extent unused at the end of April and beginning of May, as the number of COVID-19-infected dropped completely. Therefore they criticised politicians' interference in health policy.

Three medical doctors as top experts evaluated one type of ventilator as not adequate for the purposes of COVID-19 treatment, but the government ordered them despite their opinion. When one of them went public with his criticism he was attacked personally and very brutally by government officials and supporters so much that the Chamber of Health had to defend his integrity. He was supported also by a petition of 88 medical doctors. The doctor received death threats, so the Chamber of Doctors called on the police to protect him. The largest authority among them publicly pointed out that a split in the medical profession was being artificially created, that Slovenia has enough ventilators and that it had already returned more than a hundred of them to the supplier.

The Ministry of Health commissioned a study on COVID-19 infections, which showed that mortality was significantly lower than expected: not 3-5%, but around 0.14%. This study also shows that the infection of the population with the new coronavirus is somewhere between two and four percent, which officials transformed into an argument for the threat of a significantly stronger second wave. Representatives of pro-government experts therefore immediately began announcing a second wave of the epidemic to justify the extension of measures and strengthen the government's policy of intimidation.

More than 80% of all deaths in Slovenia have occurred in elderly care homes. The government is unfortunately not investigating the causes behind the high mortality in the na-

tion's nursing homes. Government and medical authorities have shown no interest in bringing a clear picture of what is really happening.

The pro-government press highlights that the only option to solve the crisis is with a vaccine, which the PM announced in the first month of the crisis. Expert microbiologists are gradually emerging, pointing out that COVID-19 is not so deadly and that the fear of it is excessive.

There are also warnings that domestic violence and psychological problems are increasing and that home-based learning will have major consequences, especially for children from uneducated families.

The *Deutsche Welle Freedom of Speech Award 2020* was dedicated to "all courageous journalists worldwide who are suffering repressions because of their reporting on the pandemic." Blaž Zgaga, freelance investigative journalist won the award as he has faced "harassment from the government and anonymous death threats". He was the only one from EU member countries. PM Janša and government supporters distanced themselves from the prize. With this reaction they have legitimised Deutsche Welle's decision, which was in fact criticism of the government's treatment of the free press and media.

## *Migrants are portrayed as even more dangerous as they carry COVID-19 and death*

Under the influence of the ruling SDS party, NOVA TV reported in early May that migrants from the east had come to Ljubljana and that the police had their hands full dealing with them. No one confirmed this, which means that the ruling SDS has tried to impose its agenda of 'fighting migrants and protecting the Slovenian nation' at a time when fear of the epidemic has begun to subside. Migration risk has been the top political topic of the SDS for many years. During the epidemic period, in this discourse, migrants are portrayed as even more dangerous because they carry COVID-19 and death.

Initially, the public supported the introduction of harsh measures fully, but in the second part of April the proportion of those who felt that the loosening of measures should have already begun, increased. As the government got caught up in the overly demanding conditions under which it would begin to release some measures, it was rescued by the RCC which unilaterally proclaimed that on May 4 it would resume religious ceremonies, revoking the constitutional separation of the church from the state. The government announced on the same day that some restrictions would be eased and allowed religious ceremonies under some health measures conditions.

## Civil Society

The peaceful protests, organised by the 'Anarchist Initiative of Ljubljana' and 23 other associations and NGOs, were escorted by police officers. Protests also took place in Maribor and other Slovenian cities. The largest protest by cyclists was on May 8 in Ljubljana under the slogan 'Protest from the Balconies Gets on a Bike' with more than 10,000 participants. The police reacted very responsibly and there were no incidents. Intellectuals and academics, who signed a statement on the authoritarian danger if Janša succeeds in forming a government in February, wrote to the public again in early May that they were right and that the government was making moves that would lead Slovenia into an authoritarian regime. That is why they supported the protests against the government.

*Intellectuals and academics:  
government was making moves  
that would lead Slovenia into  
an authoritarian regime*

Representative Trade Union federations and confederations which are members of the Economic and Social Council (ESC) called on the government to include them in the preparation of emergency measures for resolving the present economic crisis due to the epidemic and to immediately establish a social dialogue through the functioning of the ESC. They criticised the government since it had ignored almost all of their proposals on previous measures. The ESC has met regularly once a month in the past and has always addressed labour, economic and financial policies and laws.

## External Factors

The fact that EU leaders have not agreed on an optimal scenario for resolving the crisis has resonated negatively in Slovenia. Therefore, the information regarding Chinese aid was received as a bandage on the wound. On May 1, China sent 12 tonnes of protective equipment to Slovenia.

Regarding criticism of Orban's policies within the EU and even the European People's Party, Janša has taken Orban's side and adopted a significant Eurosceptic tone. As the fight against coronavirus drags on, Janša has spied an opportunity to reorientate Slovenia towards the politics of Orban.

## Conclusion

Overall, the state's capacity can be assessed as good, as all state institutions are functioning and taking decisions. Dissent on the political scene is increasing since the government has become more hostile towards all those who disagree with its course of activity. The major split is between the SDS and all other political actors. PM Janša's goal is the maintenance of power. His method is to claim personal credit for anything that goes right, to blame others for anything that goes wrong and to complain about how the media in the hands of his political enemies treat him.

*The crisis is increasingly moving  
from epidemic to political*

The Janša government is facing difficult trade-offs between safeguarding public health and ensuring economic stability. The government places the paternalistic state as responsible for every life in the country that is lost to the corona virus. From here, they draw political capital against Šarec's government, which allegedly did not care about saving lives and try to make him responsible for every death due to COVID-19. A government that draws power from such a concept of the state cannot lead the country in a rational way out of the epidemic, but can only become the biggest part of the problem. The crisis is therefore increasingly moving from epidemic to political.



## Timeline

March 4	First case of COVID-19 infection in Slovenia confirmed	May 1	Demonstration of at least 4000 cyclists in front of the Parliament in Ljubljana, in Maribor and some other cities.
March 13	Janez Janša's new government of SDS, NSi, SMC and DESUS coalition elected	May 2	Journalist from Slovenia Blaž Zgaga wins Deutsche Welle Freedom of Speech Award. First day with 0 new cases of COVID-19 infection.
March 29	The Government adopted the prohibition of movement and assembly of people in public places and areas within the Republic of Slovenia and the prohibition of movement beyond municipalities	May 4	The first major relaxation of the measures – restaurants are allowed to serve customers outdoors. Religious ceremonies and some other activities allowed.
April 17	The European Broadcasting Union calls on the Slovenian authorities to restrain from exerting undue political pressure on the public broadcaster RTV Slovenia	May 6	A national survey on the prevalence of COVID-19 published; 66,000 people have traces of the infection; mortality is 0.14%.
April 21	Reporters Without Borders and six other free press organisations urge the EU Commission to put pressure on the Slovenian government and remind it of its responsibility to “protect the press, to ensure journalists are able to report independently, as well as to guarantee free and open access to information.”	May 8	Demonstration of more than 10,000 cyclists around the Parliament in Ljubljana and several hundred in other large Slovene cities.
April 24	European Commission vice-president and Commissioner for Values and Transparency Vera Jourova contacts Slovenian authorities regarding the media freedom situation in the country. She sends a message to the government: “No hate, no threats, no personal attacks.” The first anti-government demonstration of cyclists in front of the Parliament in Ljubljana.	May 11	Public passenger transportation restored.
April 25	Council of the National Institute of Public Health elects Milan Krek, SDS government favourite, as the new director. (The government dismissed the former director, Nina Pirnat, at the beginning of the mandate in mid-March as she had not frightened people enough.)		
April 28	The RCC Bishops' Conference announces that it will resume religious worship on May 4.		
April 29	Under the influence of the RCC decision, the government announces easing some measures.		

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# DEMOCRACY AND THE STATE OF EMERGENCY

## *Political Battles Emerging out of the Corona Crisis in the Western Balkans, Croatia and Slovenia*



The “Democracy and the State of Emergency” reports monitor and analyse the development of Corona crisis management, provide a basis for comparison and allow for an investigation of possible negative effects, a further backsliding of the democratic development and authoritarian tendencies in the Western Balkans, Croatia and Slovenia. For this purpose, the reports are building on a broad definition of democracy that includes institutions, political and civil rights, political parties, civil society, elections, as well as the behaviour of external factors. After our first report in April, this publication will be followed by further analysis in June and July 2020.



The countries in Southeast Europe have been successful in preventing the healthcare systems from collapse. The number of newly infected people and active cases are in decline all around the region. As a consequence, we can see a gradual relaxation of measures which had been affecting civil and political rights. Significant differences can be observed in the severity of the measures taken as well as in the role of institutions, especially of the Parliaments in the region. These differences are indicative of the various strengths and weaknesses of the respective democracies.



The fight against the Corona pandemic is becoming more and more of a political battle inside the countries of the region. In addition to the debates about economic measures to mitigate the consequences of the pandemic, the traditional debates are re-emerging, in some countries – like North Macedonia, Kosovo, and Montenegro – this means a return to toxic polarization. Several countries of the region are facing parliamentary elections and the date of holding these elections has now become a new matter of dispute. Party interests seem to be the decisive factor in the decision-making process. The ruling parties would like to capitalize on the trend of the people uniting behind their governments who have successfully managed the first phase the Corona pandemic.

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