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Albania: Autocratic Measures in the Shadows of Corona

Demolition of the Albanian National Theatre in Cloak-and-Dagger Operation

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The Mayor of Tirana engaged in a cloak-and-dagger operation to demolish the capital's historic National Theatre. This is not the only controversial decision taken by the ruling socialists during the Corona crisis.

The demolition became a reality in the early morning hours of 17 May 2020: following a two-year struggle to save the historic building of the Albanian National Theatre in Tirana, during which time above all artists, civil society and the opposition under the leadership of the Democratic Party (DP) fought against its demolition, the Mayor *Erion Veliaj* had the theatre forcibly evacuated and demolished. It appears as though the ruling Socialist Party (SP) under

Prime Minister *Edi Rama*, is exploiting the Covid-19 crisis to present a fait accompli such as in the "tedious" theatre situation.

Agenda Setting During the Pandemic

Just like the majority of countries around the world, the Covid-19 pandemic has brought public life in Albania to a standstill. After the first official cases of Covid became known in Albania in early

March, the government's first reaction was to close schools and universities, then bars and restaurants, followed by the order of a lockdown, which was only lifted for a few hours a day to allow people to buy food or medication. The land and sea borders were closed and even the airport discontinued passenger traffic. However, decisive action taken by the government paid off: on 18 May, the level of total confirmed infections was 581, with at least 31 people having died from a Covid-19 disease so far, 714 are recovered.

Even political discussion languished at the start of the pandemic, though it became clear that the government continued to pursue its projects in some other areas. They are operating in an increasingly authoritarian way especially in the fight against independent media. Hence, at the outbreak of the pandemic, Prime Minister *Edi Rama* warned against any telephone call via voice message: "Wash your hands, don't leave the house for leisure, ventilate it as often as you can and protect yourself against the media". What's more, on 15 May the health authority ordered the closure of anti-government private TV broadcaster Ora News, since there were too many studio guests on the shows. Still, the demolition of the National Theatre now represents the culmination of these events.

Destruction of a Cultural Asset

The theatre (Albanian: Teatri Kombëtar) was the most important theatre in Albania. The complex with the National Theatre's buildings and the experimental theatre was a historic ensemble, bearing testimony to various architectural and technical styles and approaches of the past. The buildings were constructed in the 1930s under the strong influence of Italian futurism as part of the so-called "Circolo Scanderbeg" – a culture and administrative complex whose function is still preserved to this day. Several ministries and the town hall are located in close proximity. Within Europe, the materials and techniques used for the construction were considered to be innovative for Italy and beyond, while the building also marked an important stage in the history of urban planning and modern architecture.

Following its opening in 1940, the theatre – renamed cinema theatre "Kosova" in 1944 and people's theatre in 1945 – became a hub in which the most important cultural institutions of post-war Albania were erected. Hence, the theatre bore witness to many events connected to the emergence of the Albanian theatre, while also providing a backdrop for artistic, academic and political events. In light of the historical facts, this architectural complex was part of the country's cultural and national identity.

In March 2020, the European association for the protection of historical monuments, "Europa Nostra", included Albania's National Theatre on the list of seven of the most endangered monuments in Europe, as an extraordinary example of modern Italian architecture dating from the 1930s and as one of the most prominent cultural centres in Albania. With its demolition on 17 May, this cultural asset is now irretrievably lost.

Fight for the Theatre Since 2018

The discussion surrounding the National Theatre began in March 2018 as the Prime Minister *Rama* presented a construction project for a new theatre.

At 3.000 m², the new National Theatre project occupied less than half of the original area, however. The rest was intended for the building of high-rises and a shopping centre. *Rama* argued that renovating the 80-year old theatre building was "impossible", and instead several million euros of public funds had to be spent on a Public Private Partnership (PP).

The building project for the new National Theatre should have been implemented via a special law adopted in the Parliament where *Rama* holds an absolute majority. The so-called "Fusha Law" (named after the company Fusha shpk, which was to receive the contract), revealed serious shortcomings, such as the awarding of state property without a tender. Once people learnt about the news of a planned special law, artists and activists established the "Alliance for the Protection of the Theatre", which was also joined by many prominent public figures such as historians, academics and journalists. They

organised protests, launched a petition, approached national and international organisations and took legal action. For a period spanning 27 months, the Alliance protected the theatre against demolition.

In July 2018, the European Commission, too, had requested that the Albanian Government clarify the reasons for adopting this special law. One of the letter's 15 questions was whether the special law is compatible with Albania's obligations under the Stabilisation and Association Process. *Thorsten Frei* MdB (Member of Parliament), at that time rapporteur for Albania of the CDU/CSU Parliamentary Group in the Bundestag's Foreign Affairs Committee, also expressed doubts during an interview:

"The special law for the National Theatre is highly ambiguous when it comes to how it complies with EU legislation and the Albanian constitution. As I see it, President Meta was right to send the law back to Parliament [...] The case of the National Theatre will clearly demonstrate how serious Edi Rama is about EU accession".

On 25 July 2019, President *Ilir Meta* lodged a complaint with the Constitutional Court, requesting that the special law for the National Theatre be declared unconstitutional. Given that the court was not operational at that point, this complaint was only submitted for examination in late 2019. On 30 December 2019, the Constitutional Court called on the Parliament, the Council of Ministers, the Ministry of Finance, the Ministry of Culture and the Municipality of Tirana to put forward their arguments for the special law. Yet, the case had not even been brought before court.

In February 2020, the Municipality of Tirana announced that the project for constructing a new theatre building had fallen through. *Fusha shpk* was not in a position to implement the project at short notice and in line with the requirements.

Escalation Since Early May

Following a long silence on the fate of the theatre, in May 2020, the Albanian Government

resolved to assign the land, on which the National Theatre stood, to the Municipality of Tirana in order to make a decision about demolition. President *Meta* lodged another complaint with the Constitutional Court against this decision. Nevertheless, on the evening of 14 May, the Tirana City Council secretly approved the demolition of Albania's National Theatre.

Decision No. 50 adopted by the City Council on 14 May 2020, states that the building is to be demolished based on the expertise of the Institute for Construction. The report was drawn up only on the previous day, on 13 May, and attests that the building is not suitable for carrying out activities and that, regardless of any renovations, it cannot be made safe. The City Council resolution also authorised the Institute of Territorial Defence to evacuate, enter and then demolish the building. The resolution did not cite a date for demolition.

There was no legal basis for the Municipal Council's vote. On the one hand, the Municipal Council can only take a decision on something that belongs to the Municipality. In this case, although it owns the land on which the theatre stands, the same cannot be said for the building itself. While the expertise document is an administrative-legal act that can only be subjected to judicial review, on the other. A political institution such as the Municipal Council of Tirana does not have any jurisdiction over a legal act put forward by a central government organisation.

Furthermore, it is unclear how the vote took place. No public announcement for the Municipal Council meeting was made public, as prescribed by law.

Finally, a decision by the Municipal Council only enters into force ten days following the announcement, as opposed to with immediate effect.

The Albanian Ombudsman has also initiated an administrative investigation into the transfer of the National Theatre's land ownership to the Municipality of Tirana. The investigation aims to find out whether "actions of state institutions violated against the rights of citizens".

Failure to Understand the Demolition

President *Meta* referred to the decision taken by the Government and Municipality of Tirana to demolish the National Theatre as “a well-structured criminal activity”; the government’s actions and decisions have been “unbelievable”. It is an “unforgivable constitutional, legal and moral crime”, especially at a time when the legality of this demolition was still subject to examination by the Constitutional Court.

The Democratic Party (DP) had tirelessly opposed the demolition of the National Theatre, and called for it to be fully renovated while respecting its historical and cultural value. Only a few days ago, the Chairman of the DP, *Lulzim Basha*, described the theatre’s demolition as a “red line” and declared that:

“Any act of demolishing the theatre is an act of war, not only against art and the artists, but also against citizens themselves [...]”

In the wake of the demolition, *Basha*, accompanied by the leader of the socialist movement for integration (LSI), *Monika Kryemadhi*, and other representatives of the opposition, blocked the boulevard “Dëshmorët e Kombit” in the centre of the capital.

At the international level, the main criticism was a lack of understanding about the way in which it was demolished in the midst of the Covid-19 pandemic, along with the absence of dialogue. In a statement on Facebook, the German Ambassador to Tirana said:

“The hurried demolition of the National Theatre in Tirana today at the crack of dawn is difficult for me to understand in the form in which we witnessed it. Especially during the current state of emergency, dialogue between government and civil society as well as transparent governance are extremely important.

Whereas the Mayor of Tirana, *Erion Veliaj*, during his first public appearance since the demolition, called on artists to work together to build a new theatre. He described the decision to demolish the building “as the most difficult in his life”, but added that “it was the right one”. [...] „I will

support you to create a better project. In the end, the product will prevail”, said *Veliaj* while adding that: “The old theatre is gone, now is the time to come together.”

Veliaj explained that the Institute for Construction had classified the building as “dangerous”, and that it was not a cultural monument nor was it on the list of protected cultural heritage. Previously, the Prime Minister, *Edi Rama*, had incessantly preached about how the building was an “old box” that needed to be demolished to build a new, more modern theatre building.

Sixteen civil society organisations have condemned the Albanian Government’s demolition of the National Theatre, and the violence exercised against protesters during the clearance. In a press release, they warned that demolishing the theatre during this period harbours the greater danger of suppressing freedom of thought and civic resistance. They called on local and international institutions and embassies to react against the Albanian government’s authoritarian tendencies.

The organisations added that democracy, fundamental human rights and the existence of civil society have never been in greater danger in Albania:

“We find ourselves in a difficult situation and are threatened by violence and constant repression from the state.”

According to media reports, the Corruption Prosecutor’s Office (SPAK) initiated proceedings following a charge made by the “Alliance for the Protection of the National Theatre” on 6 May. The Alliance accuses Mayor *Veliaj* of abuse of power and corruption. The Alliance has also sued three civil engineers from the Institute that drew up the expert report for demolition for abusing their authority. For instance, the Alliance declared that the expert report presented by the engineers was based on forged documents. It is said that three of the five engineers who drew up the report, had never personally examined the National Theatre building.

The Legalisation of Cannabis: Shamed Be he Who Thinks Evil of It

The demolition of the National Theatre certainly represents the culmination of a whole host of controversial government plans and decisions during the Covid-19 pandemic. Besides the previously mentioned restrictions on freedom of the press, particularly the discussion surrounding legalising cannabis has recently caused quite a stir.

By 2016, the country had witnessed a huge growth in cannabis plantations until the problem was brought under control with support from the Italian Guardia di Finanza. During a press conference on 9 May 2020, Prime Minister *Rama* said that the government was preparing a draft law for the legalisation of cannabis for medicinal purposes:

“We have consulted experts in the region from countries that have had positive experiences. Not with the legalisation of recreational cannabis, but with the introduction of medicinal cannabis into the processing industry.”

A few days later, the Albanian Attorney General *Olsian Cela* presented his annual report. According to the report, there were more cannabis plantations across the country in 2019 – making this phenomenon a renewed cause for concern in many regions throughout Albania.

“There was increased activity in Kruja, Gjirokastra und Shkodra”, he said. “We don’t have any official documents from the police or public prosecutors department that explains the true causes of this phenomenon. I deem it to be a highly disconcerting development, and it will be one of our priorities in the year 2020”, explained *Cela*. In 2018, 292 cannabis plantations were investigated by the local prosecuting authorities across the country. In 2019, this figure amounted to 628, and thus 115% higher.

It still remains unclear whether and which connections could exist between *Rama*’s announcement for a law on legalisation and the growth in cannabis cultivation.

A Bad Omen for Opening EU Accession Negotiations

The Albanian Government’s approach also raises a few questions in terms of the imminent opening of EU accession talks, which are strictly subject to fulfilling the 15 prerequisites. The latter relate primarily to implementing reforms in justice and rule of law, freedom of the press and the fight against corruption and organised crime. The most recent measures have the potential to undermine and damage this process.

As far the demolition of the theatre is concerned, some people may take a completely different stance: The building was badly in need of renovation and certainly no longer fulfilled the state of the art. Other countries, too, often ask themselves which buildings should remain and what can be demolished and built from scratch. What is important in a democracy, however, is that there is a dialogue between the various sides. Many international actors, such as the embassies of EU Member States in Albania or the EU Commissioner for Culture, *Mariya Gabriel*, have repeatedly called on the government to seek dialogue with civil society. Though they have failed to do so.

What’s more, many legal questions regarding the demolition, such as the special law, the transfer from the state to the city of Tirana, as well as the decision taken by the Municipal Council have not been subject to legal scrutiny. The traditional legal principle for the right to be heard (*audiatur et altera pars*), was reduced to absurdity by irretrievably destroying the theatre. Be that as it may, this cloak-and-dagger operation rendered a judicial review of the highly controversial demolition plan impossible. In turn, it wasted (another) opportunity to seek a reconciliation of interests under the rule of law, and thus to potentially find a solution that is acceptable for a large share of the Albanian population.

The measures taken by the Albanian Government occur at what is a seemingly tactically astute time for them. Albania has weathered the Covid-19 pandemic, and almost all restrictions have now been lifted or considerably relaxed. But the

emergency situation whose restrictions include freedom of assembly, will remain in force until 23 June. That may be why the government went ahead with demolishing the theatre now, as they may have expected to encounter less protests as well as the fact that people have other problems owing to the economic and social damage caused

by Covid-19. However, it is not yet certain whether the government will pay a heavy price for their victory. Their unilateral decision to demolish the theatre certainly did them a disservice as far as the adoption and application of general European standards is concerned.

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