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# Rule of Law- South East Europe

## Press Review April 2020

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# Regional

## COVID-19 and Domestic Abuse: When Home is not the Safest Place

<https://balkaninsight.com/2020/04/21/covid-19-and-domestic-abuse-when-home-is-not-the-safest-place/>

April 21, 2020 – Xhorxhina Bami, Nedim Dervisbegovic, Milica Stojanovic, Sinisa Jakov Marusic, Madalin Necsutu, Samir Kajosevic, Anja Vladislavljevic, Marcel Gascón Barberá and Svetoslav Todorov

The evidence suggests rates of domestic abuse are up since states in the Balkans began imposing strict limitations on movement in the fight against COVID-19.

“Before the quarantine he would insult me, use slurs, tell me I’m a whore, that I’m kissing other men. But he had never hit me, not until now... Last weekend he hit me hard in the head, with his fist, for the first time.” [...]

Movement restrictions, quarantines and, in some cases like Serbia, curfews have helped to slow the spread of COVID-19. But they have worsened the plight of many women already the victims of domestic abuse, experts and rights organisations say.

Ivana Stoimenovska, a psychologist and family councillor in North Macedonia, said that enforced isolation had vastly increased the risk of violence in the home.

“All those who live in dysfunctional families in these times of self-isolation are at greater risk of violence because the additional stress, frustration and tension that the isolation brings can boost the dysfunctional patterns of behaviour among family members or abusive partners,” Stoimenovska told BIRN. “Thus a violent person can become even more violent”.

### **Figures point to rise in domestic violence**

While official statistics in some Balkan countries point to a rise in domestic violence, experts and NGOs say the data rarely reflect the true scale of the problem given victims often do not report incidents and some do not even recognise that they are being abused.

The Animus Association, one of the oldest organisations providing support and shelter to domestic abuse victims, said it had received more than 550 calls to its hotline since January 1, a significantly higher rate than normal.

In one case, on April 8, a 42-year-old woman in the Bulgarian Black Sea port city of Varna died from injuries sustained when she was physically assaulted. Her boyfriend was arrested.

In neighbouring Romania, statistics released by police on April 13 showed a 2.3 per cent increase in cases of domestic violence in March this year compared with March 2019.

In Moldova, in the first three months of 2020 police registered 267 offences related to domestic violence compared to 231 over the same period of last year.

Police protection orders were applied in 173 cases in the first three months of 2020, up from 157 in the first quarter of 2019, Dorel Nistor, head of the Community Interaction Section of Moldova's General Police Inspectorate, told BIRN.

In Montenegro, Maja Raicevic, head of the Centre for Women's Rights, said on April 5 that in March calls to her NGO reporting domestic violence were up 20 per cent on the previous month.

A total of 57 criminal charges were issued for domestic violence last month. "The majority of these cases were reported after the government announced measures against the spread of the novel corona virus," on March 13, a spokesman for the Misdemeanour Court in Podgorica, told the MINA news agency.

In neighbouring Kosovo, police reported 169 cases of domestic violence in March, 36 per cent more than the same month of last year.

### **NGOs concerned authorities neglecting the problem**

In Croatia, police told BIRN that the number of domestic violence cases was up from 94 in March 2019 to 120 in March this year, but stressed the rise should not be interpreted as an "overall increase in violence" but was the result of efforts to educate police officers in how to identify such offences.

Indeed, Interior Minister Damir Bozinovic told a press conference on April 8: "No increase in criminal acts of domestic violence has been registered." But those on the ground say this ignores a rise in calls to shelters.

The Autonomous Women's House of Zagreb said on April 8 that in February and March it had received 19 requests from women for admission to its shelter and was receiving around 10 calls every day.

The Domine association in Croatia's second city of Split, on the Adriatic coast, also reported an increase in calls from women seeking emergency accommodation or other assistance.

Paula Zore of the Platform for Reproductive Rights, a women's rights initiative, said the divergence in numbers and differing interpretation of such statistics reflected the "problematic treatment" of the problem by state bodies.

"They do not take violence against women seriously and do not understand how this situation is causing an increase in [domestic] violence," Zore told BIRN. The fact NGOs were seeing a greater rise in domestic violence than the authorities reflects "a lack of confidence in [state] institutions," she said.

Likewise, in Romania, lawyer Giulia Crisan of the NGO ANAIS, said that between March 13 and April 13 her association had received 74 calls seeking legal and psychological support, compared with fewer than 50 in January and again in February.

"We are getting direct calls from victims who want to know if they can leave the family home, if they can take the children with them or start divorce procedures," Crisan told BIRN. "But we also have cases in which neighbours report that an old woman is being beaten by her son after they heard noise and the victim crying."

In North Macedonia, the Skopje-based Association for Emancipation, Solidarity and Equality of Women – ESE wrote to the government this month called for greater protection for victims of domestic violence, including a “crisis fund” to provide financial support.

### **Many victims unable or afraid to report violence**

Some countries said they had not registered a rise in the number of domestic abuse cases, or that such data was not currently available. Yet in these countries too, the NGO sector says violence is on the rise.

Neither of Bosnia’s two autonomous regions – the Federation and Republika Srpska – have reported a rise in domestic violence since COVID-19 restrictions were imposed, but activists say they expect the numbers to grow in April and May.

“That does not mean that there has not been an increase in violence, but that the women are under the control of the bullies and are not able to report violence,” Nada Golubovic, head of the managing board of the ‘United women’ foundation, told the Nezavisne novine daily in the Republika Srpska on April 13.

In Serbia, the Autonomous Women’s Centre in Belgrade said in a press release on April 16 that during the first month of the state of emergency they had registered a threefold increase in contact from women.

Mirjana Mitic, a social worker with the NGO, said that more than 50 women per week were contacting the organisations for help.

“One should bear in mind that these worrying figures record only cases in which women were able to seek help,” Mitic told BIRN.

“Many of them cannot call because they fear that their violent partners will hear them, and that afterwards the violence will escalate and they will be prevented from trying to leave the house.”

Mitic said almost all callers had cited the state of emergency, isolation or the curfew in Serbia as “affecting the intensity of the violence they are now suffering.”

“Isolation and interruption of the victim’s contact with other people are common patterns of a perpetrator’s behaviour,” Mitic said. “This situation makes it easier for them to exercise control over the victim and prevent her from seeking help.”

### **Lack of shelter space**

In Kosovo, outgoing Prime Minister Albin Kurti expressed concern on April 16 about the effect of the pandemic on domestic violence.

“As leaders of the institutions, we are concerned that with the situation of self-isolation due to the corona virus pandemic, domestic violence has increased,” Kurti said, and announced an increase in state funding for shelters by 900,000 Euros.

Nazmie Abdullahu Leku, a social worker at the Kosovo Rehabilitation Centre for Torture Victims, said it was particularly difficult for victims of sexual violence committed during the 1998-99 Kosovo war.

“Conflicts in the family have increased,” Leku said and this amounts to a “re-traumatisation not only of the victims but also of the children and other family members.”

Enver Cesko, the president of Kosovo Association for Psychotherapy, told BIRN that a number of organisations, including the association, were providing online mental health services. [...]

But in Moldova, because shelters are also under quarantine and cannot take in new residents, Lilia Poting of the Chisinau-based NGO Promo-Lex said her organisation had rented an apartment “where people in need can be placed.”

“We came together and tried to solve this whole problem,” Poting said.

Zore, the activist in Croatia, said that civil society organisations had been warning for years about a lack of counselling centres and shelter space. They were also sending a message to victims that such shelters and support centres continue to operate.

It gives victims “a sense of security,” Zore told BIRN. “Indeed, when it comes to victims of violence, they can rely on support from civil society, not from the state.”

## Some Balkan States Waging ‘Crusade’ Against Media, Report Warns

<https://balkaninsight.com/2020/04/21/some-balkan-states-waging-crusade-against-media-report-warns/>

April 21, 2020 - Sinisa Jakov Marusic

Media freedom in the Balkans continues to decline, with some governments stepping up pressure on independent media while exerting control over public broadcasters, says Reporters Without Borders' 2020 World Press Freedom Index.



Media freedom in Turkey, Bulgaria and Montenegro is the worst in the region, according to the 2020 World Press Freedom Index, published on Tuesday by Reporters Without Borders – but other Balkan countries have largely failed to improve. “In southern Europe, a crusade by the authorities against the media is very active,” the report warns.

**Turkey** holds 154<sup>th</sup> place out of 180 countries worldwide in Reporters Without Borders' media freedom rankings. “Turkey is more authoritarian than ever,” the report says, noting an increase in media censorship, particularly of online outlets, despite the release of a number of imprisoned journalists.

**Bulgaria** is ranked in 111<sup>th</sup> place, and the report notes that despite international pressure, public radio management suspended experienced journalist Silvia Velikova, a government critic. This highlighted the lack of independence of Bulgaria's public broadcasting media and the hold some political leaders have over their editorial policy.

In **Montenegro**, which is ranked 105<sup>th</sup>, the report notes no progress, adding that authorities favour pro-government outlets while exercising pressure against other media outlets and journalists. “In May 2018, investigative journalist Olivera Lakic was shot in the leg. Like in many previous physical attacks on journalists, Lakic's case is still unsolved,” the report adds. It also mentioned the recent arrests of three journalists on suspicion of causing panic and disorder by publishing fake news.

**Serbia** is ranked in 93<sup>rd</sup> place. “After six years under the leadership of Aleksandar Vucic Serbia has become a country where it is often dangerous to be a journalist and where fake news is gaining in visibility and popularity at an alarming rate,” the report notes.

It says that the number of verbal attacks by politicians on media has risen sharply, and that officials increasingly use inflammatory rhetoric against journalists. It adds that the assailants who set fire to the house of investigative journalist Milan Jovanovic have yet to be convicted.



**North Macedonia** is ranked in 92<sup>nd</sup> place, an improvement on last year, which the report mostly attributes to the attempts for better self-regulation and the publishing of a register of professional online media.

But it also notes that municipal authorities are still able to place advertisements, which remains a tool for financial pressure on media outlets, and that the ruling party, the Social Democrats, have advertised their government's achievements.

**Moldova** retains 91<sup>st</sup> position and the report notes an "extremely polarised" media landscape, with continuing concerns about ownership.

"The media empire built by former billionaire and Democratic Party boss Vladimir Plahotniuc has lost its influence but has been quickly replaced by a media group affiliated to the Democratic Party's rival, the pro-Russian Party of Socialists," the report says.

**Albania** is ranked 84<sup>th</sup> in the world, down two places from last year, a result of recently-adopted laws against defamation and tightened regulation of online media which could result in censorship and make journalists more vulnerable to government pressures.

**Kosovo** is ranked 70<sup>th</sup> by Reporters Without Borders, with the report noting that media in the country remains divided among ethnic lines, and that many outlets are not financially stable. "Some of the shared concerns are physical and verbal attacks on journalists, cyber-attacks on online media as well as the lack of transparency of media ownership," the report says.

**Greece's** place in the Reporters Without Borders press freedom index, 65<sup>th</sup>, remains unchanged this year.

**Croatia** moves up five places and is now ranked 59<sup>th</sup>, but the report notes that the government is still meddling in the affairs of the national broadcaster, HRT, the defamation is still criminalised and that investigative journalists are often the targets of harassment campaigns.

**Bosnia and Herzegovina** is ranked 58<sup>th</sup>, also scoring a five-point rise. The report says the further collapse of public service broadcasters in the country is one of the main weaknesses, along with the polarised political climate, marked by constant verbal attacks and nationalist rhetoric, which "has created a hostile environment for press freedom".

**Romania** is ranked 48<sup>th</sup> in the global index – the best position of all Balkan countries – but the report highlights some continuing shortcomings. "The attitude towards journalism and free speech that prevails within the state and the political class continues to encourage censorship and self-censorship," it says.

"The media's funding mechanisms are opaque or even corrupt, and editorial policies are subordinated to owner interests. The media have gradually been turned into political propaganda tools and are routinely subjected to surveillance by the security services," it adds.

The report marks Norway, Finland and Denmark as the three best countries in the world for press freedom, while Eritrea, Turkmenistan and North Korea are at the bottom of the list of 180 countries.

Reporters Without Borders says the report shows that the decade ahead will be “decisive for the future of journalism, with the COVID-19 pandemic highlighting and amplifying the many crises that threaten the right to freely reported, independent, diverse and reliable information”.

## **After the Pandemic: Perils and Promise for Western Balkans**

<https://balkaninsight.com/2020/04/20/after-the-pandemic-perils-and-promise-for-western-balkans/>

April 20, 2020 – Albana Shehaj, Cambridge, BIRN

As the corona virus brings out the best and worst in countries in Southeast Europe, the democratic health of the region is at stake. The corona virus crisis has overwhelmed the health systems and finances of Western Balkan states. It has ignited domestic tensions and revealed political currents that could jeopardise the future of democracy in the region.

Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia and Serbia — all are feeling the strain. With lower wealth and growth rates than their Western European counterparts, they lack the funds, medical assets and crisis-management systems to effectively counter the crisis.

The reported number of COVID-19 cases in the region ranges from several hundred in Montenegro and Albania to more than 1,000 in North Macedonia and more than 5,000 in Serbia, the country hardest hit by the virus.

Yet the true scale of the crisis in the region is difficult to estimate for political and practical reasons.

For one thing, there is little transparency. Fearing panic-induced instability, Western Balkan governments that have long failed to tackle perceptions of political opacity are withholding information on the capacity of health services and numbers of ventilators. A shortage of testing kits also makes it hard to gauge the full extent of infections, with Western Balkan states at a critical disadvantage compared with their EU neighbours in tackling the “silent enemy”.

Serbia, with a population of around seven million, has almost 3,400 testing kits per million people, according to Worldometer data. Croatia and Slovenia have around 4,900 and 18,000, respectively, with populations of around four million and two million.

The stress on health systems has revealed in no ambiguous terms the financial vulnerabilities of countries in the Western Balkans and the need for EU fiscal intervention.

The EU has delivered. Prompted by MEPs to include the Western Balkans in its common European response and keen to maintain order in its geopolitical sphere, the EU has mobilised a crisis relief package to give the region’s health systems the resources to contain and treat the pandemic.

The fiscal agreement unveiled this month allocates 410 million Euros in bilateral assistance to governments in the Western Balkans. In the immediate term, it provides nearly 38 million Euros for medical equipment and protective gear. In the short to medium term, it gives 374 million Euros to address the socio-economic implications of the pandemic and help the region’s economic recovery. [...]

Although critics including the Serbian government have slammed the package as too little, too late, the EU relief has nonetheless helped bolster health systems and alleviate the impact of the disease.

Aside from straining health systems and state coffers, the pandemic has tested the EU's influence in the region, stoked domestic and international tensions and inflamed pre-existing political tensions. [...]

The catastrophe is helping populists construct a political narrative in which Western Balkan states are seen as abandoned by their EU neighbours even as they shoulder the burden of Europe's migrant crisis.

In the long-term, these developments will provoke populism and fuel instability in the Western Balkans — a region all too familiar with authoritarian politics, ethnic tensions and civil wars.

An additional implication of the crisis is its effect on domestic party politics. While the pandemic has aggravated tensions between governing and opposition parties in nearly all countries in the region, some governments look set to come out of the crisis in a politically advantageous position. Others do not.

At first glance, domestic spats concern disagreements on pandemic policies. A deeper look reveals that tensions are rooted in long-standing political conflicts and offer a clue to the fortunes of governing parties post COVID-19.

In Kosovo, the newly elected government of Albin Kurti refused to declare a state of emergency. Kurti even dismissed the country's interior minister, Agim Veliu, for allegedly spreading panic over the pandemic. The decision provoked the collapse of Kurti's government by a no-confidence motion initiated by the Democratic League of Kosovo Party (LDK).

In reality, tensions between the ruling coalition parties, the LDK and Kurti's Self-Determination Movement, had been brewing for months over the vexed issue of import tariffs on Serbia, which Kurti proposed to lift when his party took office two months ago.

With new elections impossible in the midst of the pandemic, Kosovo's domestic political strife has created a leadership vacuum that has critically undermined the country's ability to manage the crisis.

In Albania, Prime Minister Edi Rama and his governing Socialist Party acted decisively to contain the spread of the virus. Still, the opposing Democratic Party (DP) has been critical of the government's response. The DP's criticisms range from the limited supply of testing kits and funds to support the recovery of businesses to Rama's overall strategy in fighting the pandemic.

Tensions between the two parties have been escalating for years, marked by DP parliamentary boycotts over allegations of political corruption and culminating in DP representatives burning their mandates and quitting parliament in February 2019.

The recent crisis, however, promises to be politically advantageous for the governing Socialist Party. Rama's efficient response to the pandemic, combined with his brusque dismissal of the DP's criticism, serves to consolidate the government's authority while undermining the opposition's credibility and long-term electoral prospects.

Finally, the Western Balkans' response to COVID-19 has unveiled a latent tendency to govern with strict authority and little compromise.

All countries in the region have implemented draconian measures to curtail the spread of the virus. They have sealed borders, imposed travel restrictions, banned large public gatherings, closed schools and local roads and imposed time-specific bans on free movement.

In moves eerily reminiscent of the communist past, governments have ensured sweeping police powers, shuttered courts, suspended elections, increased surveillance and imposed media restrictions. [...]

The measures come at a politically opportune time for leaders and have depleted the power of citizen dissent.

In Montenegro, the government's recent decision to prohibit public gatherings effectively shut down months of protests against a controversial law on religious freedom that has compounded tensions between Montenegro and Serbia.

In North Macedonia and Serbia, declarations of states of emergency have enabled governments to arbitrarily suspend basic rights.

In Serbia, this includes a complete ban on movement for people aged 65 or over and curfews for everyone else, plus strict quarantine rules for students and temporary workers coming home from abroad.

As measures get stricter and rhetoric more strident, these tendencies raise concerns about the long-term implications of the crisis on public health outcomes and human rights in the region.

While justified in times of a global pandemic and even recognised under international law, these steps must not be arbitrary or discriminatory and they need to be evidence-based. [...] It also risks normalising political infringements on citizen rights. In the long-term, these crisis-driven practices threaten the democratic prospects of Western Balkan states.

But for all its chaos, the COVID-19 crisis also offers glimmers of hope.

It has connected the Western Balkans — as the rest of the world — in a fight against the invisible enemy. It has induced greater tolerance and created a common awareness that, for the time being at least, humanity takes precedence over politics and that the value of human life is not determined by skin colour, religious beliefs or the imprint on a passport cover.

In some cases, goodwill has come to the fore in the form of international cooperation. [...]

In the immediate term, cooperation in the region is to be welcomed as countries unite to counter the virus. In the long term, however, the crisis-induced cooperation could trigger a shift in political alignment with authoritarian states, risking not only common European values but also stability in the region.

Medical and financial aid sent to the Western Balkans from Russia, China, Turkey and the Gulf states may serve as justification for governments to forge new alliances or introduce policies that under normal conditions would meet voter resistance.

Thus, as Turkey sends help to Kosovo or Serbia receives medical equipment and financial support from Russia, China and Hungary, the question is whether the help comes at a prohibitively high price for the region's democratic prospects.

The struggle to protect democratic rights in post-communist states in the Western Balkans has been ongoing for 30 years. It is a battle that should not be lost during the immediate war against the pandemic.

*Albana Shehaj is a political scientist and a postdoctoral research scholar at the Minda de Gunzburg Center for European Studies at Harvard University.*

*The opinions expressed are those of the author and do not necessarily reflect the views of BIRN.*

# Albania

## Albania's Planned Jail Terms for Curfew Breakers Spark Protests

<https://balkaninsight.com/2020/04/10/rights-organizations-protests-albanias-anti-covid-proposals/>

April 10, 2020 - Gjergj Erebara Tirana BIRN

Dozens of rights groups have published an open letter condemning plans by Prime Minister Edi Rama to impose heavy jail sentences on anyone disobeying quarantine orders or breaking curfews during the current pandemic.

Some 30 human rights organisations in Albania protested on Friday against a new proposal by Prime Minister Edi Rama to impose hefty jail sentences of up to 15 years on people found guilty of breaking curfews or quarantine orders during the current pandemic. They called on parliament to vote down the proposals.

"International rights organisations recommend decreasing the prison population due to the elevated danger that the COVID-19 disease poses to them. However, proposals running against these recommendations are being discussed in the parliament of Albania," their joint letter reads.

"The penal sentences proposed are disproportionate and run against the principle of humanism, which is at the core of the penal code. They also violate basic human rights," the letter added.

Albania has been in an emergency situation since November last year, when a strong earthquake prompted the government to declare a state of emergency up to March 30.

By the time that emergency was expiring, the COVID-19 pandemic provided another reason to extend it and impose new curbs.

Since then, rights organisations have voiced concerns about several governmental proposals, including an "anti-crime package" that grants the police rights to conduct surveillance without seeking court orders, and a much-criticized media law. In each case, parliament has backed whatever proposal the government has put forward.

"We strongly believe that the principle of humanism and respect for human dignity that is enshrined in the constitutional preamble should prevail against such initiatives," the letter concluded.

## Law Committee Approves Criminal Code Changes

<https://www.albaniandailynews.com/index.php?idm=41386&mod=2>

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## Law Committee Approves Criminal Code Changes

Albanian Daily News

Published April 14, 2020



The Parliamentary Law Committee on Tuesday approved legal changes to the Criminal Code, regarding the penalties for violators of quarantine and curfews imposed by government under state of emergency. On Tuesday, the Law Committee reviewed a number of legal acts, which will pass to the Parliament on Thursday for voting.

However, lawmakers introduced some changes to the final draft: failure to comply with the quarantine order is to be punishable by fine or 3 years in prison; violators of quarantine order who have caused serious consequences for someone's health or life are to be sentenced to 5 years in prison; violators who have caused the death of a person by not complying with government order for quarantine are to be sentenced from 10 to 15 years in prison, and repeat violators are to be sentenced by fine or 1 year in prison.

Meanwhile, former interior minister Fatmir Xhafaj opposed amendments to the Criminal Code that foresee fines or prison sentences for those who defy rules of quarantine. "Intervention in the Criminal Code should mark an important event. We must be very careful about making these changes in the Criminal Code, as they violate fundamental human rights. The proposals should be based on broad consultation, not from an emotional point of view. Just as we would punish citizens who go to the markets, we ought to also punish the authorities for their actions or inactions," he said.



## President Decrees Changes in Criminal Code

<https://www.albaniandailynews.com/index.php?idm=41603&mod=2>

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## President Decrees Changes in Criminal Code

BY E.HALILI

Albanian Daily News

Published  
April 22, 2020



President of the Republic, Ilir Meta, announced this Wednesday that he has decreed changes in the Criminal Code, assessing them as necessary at this time of natural disaster.

In a live communication from the Presidency, the Head of State declared that he supports the government's initiative for amendments to the Criminal Code, which provides for imprisonment for all those who intentionally spread coronavirus.

"I responded to the request of the Parliament for changes in the Criminal Code. Based on the developments, the state of emergency, but above all due to the legal gap that the Criminal Code has, regarding the actions that are carried out intentionally, the President evaluates that the initiative of the Parliament and the government, to ensure health protection is guaranteed by the norm, should be supported. The President states that between the draft initially presented by the MPs and the final content, there are many substantial positive changes, which have reflected a part of the suggestions of the civil society, the ombudsman, the President," said Meta.

# Vetting between Provisional Decision of European Supreme Court and Venice 2020

<https://albaniandailynews.com/index.php?idm=41796&mod=2>

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## Vetting between Provisional Decisions of European Super-Court and Venice 2020

BY EDUARD HALIMI\*  
Albanian Daily News

Published  
April 20, 2020



Yesterday, the courts and the prosecution started working, and with them the entire justice system in the country, including the continuation of the establishment of new justice institutions. And that's good news. During these weeks, due to the pandemic Covid-19, few have thought about justice, probably due to the fact that the latter was in quarantine like everyone else. However, there have been some developments that I wanted to share with the reader.

Albania continues to be the only country in the world without a Constitutional Court and its establishment has been introduced as a "freeze", as a final opinion of the Venice Commission is expected, which we will talk about a little below. The High Court seems to be able to start functioning as soon as its first 3 members are appointed, decreed by the President and not yet contested by politics. I have known two of them very well for more than 25 years and I congratulated them after the decree of the President, as I have appreciated and respected them for their integrity and professional training. There are still 16 High Court judges missing, so it can start working normally in order that the mountain of 35,000 files can be processed. For the rest of the system, nothing has changed. Today, the system is starting to work the same way. Judges and prosecutors are completely in chaos, some with their eyes on the vetting list and others from the KCK. The government tried to make some laws quickly from January, but that clearly seemed to be hasty, and I completely agree with a former SP colleague that those laws were hasty. So there is no development, neither for good nor for bad. But what I sat down to write about this weekend has to do with two provisional decisions of two very important institutions for me regarding the vetting process. Both are temporary. One is the decision of the EU's super-European Court of Justice, which suspended the vetting in Poland (similar to the vetting in Tirana) and the other is an opinion (Draft) of the Venice Commission on vetting in Albania, for which the associations of judges have called for it not to be changed under the influence of political vectors. But what do these two provisional decisions contain and how effective are they for Tirana's vetting?

My purpose in this article is to make an analysis of these two decisions from the status of the private sector, in which I have been for more than 2 years, and I do not want to tire the reader with rhetoric whether one political force or the other has been right and so on or who is responsible for the situation, etc., as I am convinced that this can be done much better by my former colleagues, who are active in politics. And as Venice Commission admits in 2020, in paragraph 38 of it: "It is useless to go back."

## DECISION OF THE COURT OF EU LAW (SUPER-COURT)

The Court of Justice of the European Union has ordered Poland, an EU member state, to immediately suspend the activity of a body elected by Parliament, similar to the vetting structures in Albania, which have been set up to conduct disciplinary investigations against Polish judges at all levels.

In a decision dated April 8, 2020, the Luxembourg Court, the EU's Super-Court of Justice, found that the election of members of the Disciplinary Chamber by the Polish Parliament raises strong doubts about the independence and impartiality of the body conducting the administrative investigation on judges. The Chamber of Discipline functions as the Court of First Instance for disciplinary investigations against supreme judges and as the Court of Appeals for administrative investigations against lower-level judges, media reported.

The system adopted in Poland is almost similar to the two-level vetting structures in Albania, there are 15 and here are 19 members.

Under Polish law, the 15 members of the disciplinary body are selected exclusively by Parliament (just like us). But this selection, according to the EU's most important court, does not appear to be in line with the principle of separation of powers. Finally, the European Super-Court has decided to immediately suspend the activity of the Disciplinary Chamber (vetting) until the case is thoroughly examined by it.

There is no doubt that the justice system in Albania has problems with corruption and switching to a scanner of judges and prosecutors was a measure that should be taken. Colleagues in Warsaw must have done the same. To say that our Parliament is more professional than that of Poland and that it has the principle of separation of powers in its blood, and that it does not intend to capture politics, is to make the reader foolish.

Of course, the Polish Parliament wants to fight corruption in Polish justice, just as the Albanian Parliament demanded this with 140 votes in 2016, but precisely the much debated issue by the opposition at that time in Albania, for the far-fetched policy of vetting, the answer came negative even by the Albanian Constitutional Court of the time (today a victim of its own decisions). But the EU's Supreme Court of Justice is not the Albanian Constitutional Court (thankfully) and they are not complicated by propaganda that they are obstructing the fight against corruption in Poland and are opposed to reforms in judicial systems with widespread corruption. They (European super judges) are simply against these models that run counter to standards.

Today, in the private sector where I work, I am very clear about this. And I have it even clearer as I see who is voted to be in the 19th of our vetting.

The approach of the Court of Justice seems clear. They see the Vetting Commission in principle as a "Court" for judges and prosecutors. Is that so or not? And under Article 6 of the European Convention, this "Court" must be independent and impartial. If this Court is appointed by Parliament, even by consensus, that Court does not meet the conditions for the separation of powers because they are appointed by politics. So the Super Court's decision, in addition to being super grounded, is super rational. I don't know what the final decision will be and what suggestions the European super judges will give, but the reasons seem completely rational and have nothing to do with who is in power, whether authoritarian or loyal, whether traditional or exotic. The Super Court says: "No vetting by a body elected by Parliament."

Not to mention the level of those elected by the Polish Parliament with the level of those elected by our Parliament. Where in 19 more than half have either graduated with average below grade 7 at Law Faculty, or have falsified their documentation, or have not paid taxes for themselves and above all none of them has passed the vetting for himself.

If Albania were in the EU, the decision of the Court of Justice would be automatically enforceable, but we are not and this is another issue on the effects of this decision, which I do not want to prolong today due to the fact that it is provisional. The court, whose decisions have an effect on Albania, are the decisions of the Strasbourg Court, which we will discuss below.

The conclusion of this decision should be read clearly and simply: The EU Court of Justice is in favor of the fight against corruption in the Judiciary, but Vetting should not be done by a body elected by parliament, whoever is in power, and whatever its composition. And this decision, obviously it is a justice decision for me.

## PRELIMINARY REPORT OF VENICE 2020 FOR VETTING

On March 6, 2020, the Venice Commission sent a draft opinion no. 978/2020 CDL (2020) 011. The purpose of this Opinion is to address the debates in Albania between the President and the Parliament on the dismissal of the President and the issue of the appointment of members of the Constitutional Court. Anyone who has read it clearly understands that the President does not need a lawyer for the process and clearly has a good explanatory job that his experts must have done in the process. My goal today is not to deal with the whole Venice Report and the political debate about it, but the only thing I want to say is that 6 Venice reporters through 117 paragraphs summarized in 23 pages in the Opinion of March 6, 2020, have done an extraordinary service to the Justice Reform process in Albania, despite the fact that someone likes it and someone does not.

My primary purpose in this paper is to deal with a completely technical point of view of the vetting process, as evidenced by the above decision of the Court of Luxembourg (Supreme Court). In 2015, the Venice Commission gave two views on the draft constitutional amendments, which, among other things, established the vetting procedure. In 2016, at the request of the then Constitutional Court, which was still in force, the Commission gave a brief summary of the "amicus curiae". In these opinions, the Commission stated that the very radical vetting process ("qualification assessment") of all judges and prosecutors in office by the Independent Qualification Commission created specifically, can be seen as appropriate in the Albanian context. However, the Commission insisted that this could only be an extraordinary and strictly temporary measure, and the Commission made some recommendations for safeguards in this process.

The Commission says it will not propose the vetting to CE member states.

In this regard, the Draft Opinion has asked the Judges' Associations not to change paragraph 111. But what does this paragraph say and why is it important?

111. To overcome this impasse, the Venice Commission makes the following recommendations, first regarding vetting:

- While judicial reform and the vetting procedure remain a priority and should have a good outcome, it should be re-evaluated whether the rules as implemented so far (e.g., the request to justify the money earned by the person in question and all members of his / her family for a period of time much longer than the tax laws require that the documents be stored) lead to good solutions or do not allow much room for political manipulation.

- To ensure the same standards of vetting of candidates called for members of the Constitutional Court, the vetting of candidates outside the judiciary should be attributed to the Independent Qualification Commission and the Special Appellate Panel instead of the Justice Appointment Council, as is now the case, etc.

Therefore:

- The Venice Commission in 2020 concludes that the vetting has room for political manipulation. So the Independent Qualification Commission and the Special College of Appeal are not so independent of politics and manipulation. And here the Commission equates the position with the EU Court of Justice in Poland.

- The other conclusion is that the dismissal of judges and prosecutors, requesting documents and tax invoices beyond the legal deadlines provided by tax legislation (the deadline is only 5 years for each citizen, judge, business owner, politician or ordinary citizen) is not consistent with standards. If Venice Commission were the ECtHR, almost all cases of dismissal would be canceled and then consider what a collapse. This fact is an extremely important criterion for all judges and prosecutors awaiting vetting. I do not know if the brains of our "super scientists" in the QSC will accept the criteria set by the Venice Commission, but this remains a matter of interest to the subjects of evaluation and not mine.

- The other equally important conclusion is that the vetting process should be coherent (thus, it is not yet) and the same standards should be applied. That judges appointed from outside the system must be subject to vetting in the same way as those who come from within the system. That members of the HJC and HPC who come from outside the system are not subject to vetting, while those who come from within must pass the vetting. And here the Venice Commission again rightly, demands that the standard should be the same and not double. And the question that arises is: is there anyone who thinks differently? So that some judges or members of new institutions are without vetting, while some others with vetting? !!! Who cares about this double standard in the new justice system? Why some with vetting and some not? To say that this is in the interest of the citizens, of those 99% who demanded the Justice Reform, is to have it written on the forehead.

That's why I think that the reporters of Venice Commission have done a great service to the Justice Reform in Albania with this Opinion, because they have told the truth and no one can dispute or complicate them because they want to protect corruption in Albania or that they do not want the removal of corrupt Judges and Prosecutors or that they are against the Reform, etc., etc.

But to be true to the end and deeply technical, both of these decisions are provisional. We will have to wait for the final decision of the Court of Justice and the final opinion of the Venice Commission. And without a doubt, the only ones that have a direct legal effect will be the expected decisions of the Strasbourg Court.

My real concern is that if the Strasbourg Court thinks the same way as the EU Court of Justice and the Venice Commission, then the retired judges will have to return, while the institutions are appointing new ones to the High and the Constitutional Court. etc. And here we come then to the scenario of Serbia in 2016 and the chaos there has not been resolved yet. Who will stay in the High Court, the Constitutional Court or the new levels, those who will return from Strasbourg, or those who are being appointed now?

And yet, these events, which perhaps the reader did not know at the time of COVID-19, today the justice system starts working again, or so I believe, and this is good news despite for all its evils it has inside.

\* Former Minister of Justice

## Dvorani seeks more time as President urged his Resignation as JAC Chair

<https://albaniadailynews.com/index.php?idm=41832&mod=2>

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## Dvorani Seeks More Time as President Urged His Resignation as JAC Chair

Albanian Daily News

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om/index.php

Through a letter sent to the High Judicial Council (HJC) on Tuesday, the President of the Republic Ilir Meta pointed out that the Justice Appointments Council chair Ardian Dvorani has lost any right or justification to perform his duties during the remainder of 2020.

The head of state urged Dvorani to resign, and the Justice Appointments Council (JAC) to continue to operate regularly under the chairmanship of the deputy chair.

But this Wednesday Ardian Dvorani required more time to HJC in order to give an opinion on his mandate termination, while the head of state underlined that there is need to make public the termination of office of Mr. Ardian Dvorani, who has lost any right or justification to perform his duties as Chairman of the Justice Appointments Council during the remainder of 2020. Mr. Dvorani's final legal obligation to be fulfilled is the administrative procedure of resignation," Meta wrote.

The President argued that with the appointment of three new members to the High Court, JAC chair Dvorani should no longer exercise his duties. With the appointment of each of the new members of the High Court, the vacant position held by Mr. Dvorani has already been completed. In this context, from the procedure followed by the HJC, which was finalized by the President of the Republic with the appointments of proposals brought by the HJC and oath-taking of each of the three new members of this Court, it results that the vacancy held so far by Mr. Dvorani was filled with a substitute judge, and consequently, the further tenure of Mr. Dvorani has been completed de facto and de jure," he said. Meta has previously accused Dvorani of criminal activity and violations of the constitution in the process of adopting legal changes to the oath of judges of the Constitutional Court.



## Dvorani Killed the Justice Reform; Krasniqi

<https://www.albaniandailynews.com/index.php?idm=41839&mod=2>

## Dvorani Killed the Justice Reform; Krasniqi

BY AFRIM KRASNIQI\*

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The political analyst Afrim Krasniqi says that the President's position on the end of the mandate of the member of the High Court and the head of Justice Appointments Council, Ardian Dorani is 100% correct. In an analysis published on the social networks, Krasniqi states that Dvorani has been elected to the High Court for a term of 9 years, while today he has 15 years in office. According to him, this fact alone is enough to overthrow any stance of Dvorani and those who protect his continuation in this task. Krasniqi says that the case of Dvorani has been put to the test the entire justice reform and is an indicator of its problems.

Afrim Krasniqi's full analysis of 'Dvorani' case:

Democracy is not just a procedure. The same goes for Justice Reform. It requires professionalism and integrity to be believed as a "reform" and will bring about "change." The Dvorani case is a significant test. He completed his constitutional mandate in February 2014, 6 years ago, but in respect of the constitutional procedure, he continues in office pending replacement and with this role he continues to be the chairman of JAC.

The President has rarely been right in his constitutional interpretations, but in this case he is 100% correct. The procedure has its value, but surely no meeting of the HJC, no secret ballot, no opinion and no alibi can convince me that a man with 15 years of office in a position for which he was elected for 9 years, will need to remain further in the High Court and consequently also as the Chair of JAC. The High Court has 3 members with a regular constitutional mandate. Perhaps some of them are no more capable than he with the + 6 years mandate is, but at least everyone is much more legitimate. As for JAC, it received the rating from the opinion of the Venice Commission. If even in such cases we do not have the will and ability to shake the concept of corporation in justice, then why is it still called Reform and why do we expect that changing people without affecting the system that will bring Justice?

\*Albanian Institute for Political Studies (ISP)



# Bosnia and Herzegovina

## **Bosnia and Herzegovina's Coronavirus Curbs on Children and Older People Are Ill-Conceived**

[https://balkaninsight.com/2020/04/02/bosnia-and-herzegovinas-coronavirus-curbs-on-children-and-older-people-are-ill-conceived/?lang=sr%3Futm\\_source%3DKlix.ba&utm\\_medium=Clanak](https://balkaninsight.com/2020/04/02/bosnia-and-herzegovinas-coronavirus-curbs-on-children-and-older-people-are-ill-conceived/?lang=sr%3Futm_source%3DKlix.ba&utm_medium=Clanak)

April 2, 2020 – Emina Cerimovic, Margaret Wurth and Bethany Brown, BIRN

Bosnia and Herzegovina's blanket bans on certain age groups from going outdoors during the pandemic are not only harsh, arbitrary and discriminatory – but also risk worsening public health outcomes.

In response to the spread of COVID-19, both entities in Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina and Republika Srpska, have imposed strict bans on anyone over 65 from leaving their home for any reason, even for a short walk, to get groceries, or go to the pharmacy.

The Federation has also banned children from going outdoors. Anyone in either age group found violating the orders may be fined. This is not theoretical; 217 people over 65 have already been fined in Republika Srpska.

These orders remain in effect until further notice in the Federation and until April 13 in Republika Srpska.

As of March 27, authorities in the Federation had amended the order to allow children with disabilities to go outdoors, within 100 meters of their home, and on March 30 Republika Srpska moved to allow people over 65 to go out on Tuesdays and Fridays between 7am and 10am.

The motive behind the bans is to protect people potentially at high risk if infected and reduce the spread of COVID-19.

But the bans are ill suited to achieving those goals and impose overly harsh restrictions on both age groups in a way that is ultimately arbitrary and discriminatory. The authorities in both entities should roll them back, and stop imposing punitive fines on older people and children.

Bosnia and Herzegovina is not alone in using age as a determinant for developing guidance to particular populations, but has taken it to extremes by creating a punishable offence that only certain age groups can be charged with.

The rights group Human Rights Watch has received official data showing that between March 20 and 30, police in Republika Srpska issued 217 fines to older people, and that police in the Sarajevo Canton issued 20 such fines, some to children.

The spokesperson for the Interior Ministry in the Canton of Sarajevo said that older people, who ask for permission to leave their homes in exceptional circumstances, for example, to visit a doctor, will not be fined.

The spokesperson also clarified that the average fine was 500 Marks, or about 255 Euros, which is higher than the average monthly pension in either the Federation [less than 420 Marks] or Republika Srpska [less than 380 Marks].

International law permits restrictions on certain rights, and at times, such as during the COVID-19 pandemic, more extensive restrictions may be justified.

But they still have to be evidence-based and neither arbitrary nor discriminatory. And they also need to be limited in duration, subject to review, and necessary and proportionate to achieve the objective.

The orders in Bosnia and Herzegovina do not meet these criteria.

First, singling out age as the sole determinant is problematic. While older people are among those at high risk of death from COVID-19, there are also increased risks for people of any age with certain underlying health conditions. These include heart and lung diseases, including asthma or chronic obstructive pulmonary disease, liver disease, diabetes, cancer and compromised immune systems, and likely current or recent pregnancy.

Growing evidence globally shows that adults across all age groups may ultimately require hospitalization if they contract COVID-19.

If the objective of the order is to protect people at high risk, limiting it to people over 65 is arbitrary. There are effective ways to prevent exposure, such as social distancing and strict hygiene including hand washing and not touching your face.

Banning people from going outside is not strictly necessary.

Research also suggests that children with COVID-19 have less severe symptoms and lower mortality rates than other age groups. There is little evidence that children play a significant role in asymptomatic transmission, and there is no need to restrict their right to go outdoors, if they adhere to the same social distancing restrictions as adults.

The order can also be a burden on parents and a challenge for children if they must stay confined for extended periods of time.

One mother of two boys, aged three and 11, told us: "The kids have been confined to the house for 15 days now. The boys are restless and nervous. They are bored. They sleep less. The older one has tantrums and the younger one cries more often. ...I've always been in favour of avoiding gatherings, playrooms and parks full of children during flu season, for example. But I don't understand why now they cannot even go out a few meters from our apartment building, or get in and out of [the] car."

Older people subject to such extreme social isolation may struggle to get food, health services and medicine, and their health and mental well-being may be harmed as a result.

The daughter of a 72-year-old woman who lives alone in Zenica told us: "Fortunately, neighbours help out and make sure she has food.... [It's] more the psychological impact. It is not easy to handle this isolation, especially for people who live alone."

"What really made me sad the other day was when mom told me: 'If I could just go out to throw away the trash' ...How terrifying it is that it would mean something to her to be able to walk for 20 or 30 meters to the trash container!"

Many governments in Europe and beyond are taking extraordinary measures to protect public health during the pandemic.

In some cases, it will be difficult to determine whether responses are proportionate and comply with international norms. But blanket measures that impose an undue burden on certain age groups, and may in fact create other risks for them, are neither strictly necessary nor based on the best evidence.

Indeed, they can undermine public health, not least by leading other people to believe that they face minimal or no risk, or undermining the important message of other more effective preventive measures.

The authorities in both entities should immediately end the system of fines and misdemeanours, revoke the current orders and drop a criminal law approach.

Better to opt instead to require everyone to practice evidence-based measures, including social distancing, hand washing and isolation of those who become sick or who have been exposed.

Such measures, which can be monitored and reviewed as the pandemic runs its course, will help protect the right to health and prevent disease transmission without discrimination.

*Emina Cerimovic is a senior disability rights researcher; Margaret Wurth is a senior children's rights researcher; and Bethany Brown is a researcher specializing in the rights of older people, all at Human Rights Watch.*

## **Bosnia Trying to Censor Information About Pandemic, Journalists Say**

<https://balkaninsight.com/2020/04/08/bosnia-trying-to-censor-information-about-pandemic-journalists-say/>

April 8, 2020 - Danijel Kovacevic, Banja Luka, BIRN

Serb-led entity has been urged to withdraw new decree banning the spread of panic – as journalists’ union complains of repeated moves in the country to censor information about COVID-19 under the guise of preventing misinformation.

The rights organisation Transparency International, TI, in Bosnia and Herzegovina has called on Zeljka Cvijanovic, President of the Serb-led entity, Republika Srpska, to withdraw a decree banning the spread of panic and disorder during a state of emergency, saying that the Bosnia’s constitution does not allow the entities to suspend the right to freedom of expression and opinion.

In Republika Srpska, a decree with the force of law prohibiting the spread of panic and disorder during a state of emergency came into force on Tuesday.

The decree, which follows the introduction of the state of emergency in the entity, stipulates fines of 500 to 4,500 Euros for individuals and companies that spread panic and fake news through the media and social networks.

Opposition parties in the RS describe the regulation as controversial.

The Board of Directors of the Association of Bosnian Journalists has meanwhile called on both Bosnian entities 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.

“Such an approach calls for the urgent withdrawal of decisions and regulations with legal force concerning the restriction of freedom of expression and opinion in the media and on social networks, as well as the abolition of the power of individuals, police and other security agencies to censor the media and citizens, with rapid investigations or the imposition of very high fines, as in Republika Srpska,” the Association said in a press release.

The current RS decree is almost identical to the earlier ruling banning panic and fake news that the RS government adopted on March 19.

One of the first individuals fined for violating the decree is a medical doctor, Maja Stojic Dragojevic, who is also a member of the Presidency of the largest opposition party in the RS, the Serbian Democratic Party, SDS.

She was fined for writing on Facebook that there were not enough ventilators, beds, or intensive care services in the RS, and for claiming that the RS was unprepared for what is to come.

The Association of Bosnian Journalists has also warned that the government of Bosnia’s other entity, the Federation of Bosnia and Herzegovina, through its Ministry of the Interior and cyber-

crime units, had begun monitoring information on social networks, and that five criminal proceedings had since been instituted for allegedly spreading false information and panic.

“Regardless of the emergency, it is against all democratic values to impose institutional censorship and restrictions on freedom of expression and information and to give broad authority to individuals engaged in crisis staffs or police and security agencies to interpret and ‘regulate’ journalistic rights and media freedoms according to their standards,” the association said.

The Journalists’ Association has said it will invite international organisations and European institutions for the protection of freedom of expression to respond to the censorship of information about COVID-19 in Bosnia.

The Council of Europe’s Commissioner for Human Rights, Dunja Mijatovic, recently said measures to combat misinformation should not be abused to hinder media freedom. She warned that freedom of the media was being suppressed in several countries under the pretext of combating misinformation about the corona virus.

## **Bosnia May Seek Arbitration on Croatia Nuclear Waste Dispute**

<https://balkaninsight.com/2020/04/08/bosnia-may-seek-arbitration-on-croatia-nuclear-waste-dispute/>

April 8, 2020 - Nedim Dervisbegovic, Sarajevo, BIRN

Minister says Bosnia will ramp up its protests after Croatia gives go-ahead for nuclear waste store to be built near Bosnian border.

Bosnia may request international arbitration if Croatia proceeds with a plan to create a nuclear waste disposal site just across the border from Novi Grad in north-west Bosnia, Foreign Trade and Economic Relations Minister Stasa Kosarac was reported as saying.

Kosarac's ministry said dumping waste from the Croatian-Slovenian jointly-owned Krsko nuclear power plant at a former military storage facility near the Croatian town of Dvor would endanger the health and lives of some 250,000 people living in 13 Bosnian municipalities along the Una River.

He made the statement after speaking with a group of ministers from Bosnia's two entities, state parliamentarians and Novi Grad's mayor via video link on Tuesday.

Kosarac reportedly informed them about his telephone conversations with the Croatian ambassador to Bosnia, Ivan Sabolic, and Croatia's Environment and Energy Minister, Tomislav Coric, after the fund for financing the decommissioning of the Krsko power plant and the disposal of its radioactive waste said last week that it had received approval from Coric's environment ministry to use the former Čerkezovac military barracks at Trgovska Gora near Dvor.

The statement said the video conference had concluded that Bosnia's Ministry of Foreign Trade and Economic Relations would now ask the Council of Ministers – Bosnia's state government – to help set up legal teams “to deal with this open bilateral issue with Croatia, and that budget funds be allocated for this”.

“It was also concluded that it was necessary for all relevant institutions to strengthen diplomatic activities with the goal of preventing Croatia from designating this location as the final solution for the disposal of the nuclear waste,” it added.

Croatia needs to take over half of the nuclear waste from the Krsko power plant, which lies inside Slovenia, by 2023. The plant was a joint venture of the two republics when both were part of former Yugoslavia.

## Srebrenica Genocide Denial Law Remains a Non-Starter in Bosnia

<https://balkaninsight.com/2020/04/29/srebrenica-genocide-denial-law-remains-a-non-starter-in-bosnia/>

April 29, 2020 - Nejra Dzaferovic, Sarajevo, BIRN

Bosnia and Herzegovina's top international official, Valentin Inzko, said a law banning genocide denial would be adopted by this year's anniversary of the Srebrenica massacres - but this hasn't happened yet and Inzko is reluctant to impose it himself.

"I shall advocate the adoption of a genocide denial law by the parliament of Bosnia and Herzegovina. We shall surely have such a law next year on the 25th anniversary of the genocide."

This is what High Representative Valentin Inzko, the international overseer of the implementation of the peace deal that ended the Bosnian war, told media when the 24th anniversary of the Srebrenica genocide was marked in July last year.

Despite this, over the past ten months, the proposed Law on the Prohibition of Genocide and War Crimes Denial has not been adopted by the state parliament.

Ljiljana Radetic, senior adviser on media and external relations at the Office of the High Representative, told BIRN Bosnia and Herzegovina that the issue should be resolved "for the benefit of survivors and victims".

"The focus is on parliament, which still has enough time to invest additional effort. As we often stress, good domestic solutions are best for this country," she said.

The High Representative has the right to impose the adoption of the Law on the Prohibition of Genocide and War Crimes Denial under the so-called 'Bonn powers' that allow him to push through or veto legislation and to sack officials.

But when asked if Inzko will insist that the law be adopted before the 25th anniversary is commemorated, Radetic declined to answer, saying that she did not want to "speculate on eventual future moves by the High Representative".

Two previous legislative initiatives to prohibit the denial of genocide, the Holocaust and other war crimes have been proposed at the state level over the past decade.

But in both cases, the proposals did not receive the required consent from both Bosnia's political entities, the Bosniak- and Croat-dominated Federation and the Serb-majority Republika Srpska. Both times, opposition from Serb politicians scuppered the initiative.

Meanwhile, revisions and amendments to Bosnia and Herzegovina's criminal code to enable the prosecution of genocide and war crimes denial have been proposed at the state level three times, but have not been adopted either.

In the Federation entity, there is a legal provision prohibiting genocide denial if it incites hatred, division or intolerance, but BIRN was told by prosecutors and experts that the legislation is badly written and not used in practice.

'Established facts are frequently contested'

More than 7,000 Bosniak men and boys were killed by Bosnian Serb forces and more than 40,000 women, children and elderly people were expelled from Srebrenica in July 1995. Verdicts handed down by Bosnian and international courts have classified the massacres as genocide.

Despite this, denial of genocide and other war crimes is widespread in Bosnia and Herzegovina, and this took on an institutional dimension last year when the Republika Srpska authorities appointed a commission to investigate "the suffering of all peoples in the Srebrenica area" and another one to probe the suffering of Serbs in Sarajevo during wartime.

Some observers have expressed fears that both commissions have been set up by the Bosnian Serbs to deny the facts about Srebrenica and other crimes committed by Serb forces.

But Milorad Kojic of Republika Srpska's government-supported Centre for Research on War, War Crimes and Missing Persons insisted that the commissions are "needed for reconciliation" and objected to the adoption of any law that would ban the denial of genocide or war crimes.

"In fact, in a nutshell it would mean that all of us, without exception, would have to accept the qualifications determined in verdicts from The Hague Tribunal and the domestic judiciary without being able to point to omissions and logicalities in those verdicts, not only in the case of Srebrenica, but also in many other cases," Kojic argued.

Denial of the Srebrenica genocide, the glorification of convicted war criminals and other revisionist narratives were among the key problems identified last year in a European Commission report on Bosnia and Herzegovina.

Established facts about wartime events, including war crimes and genocide, are frequently contested by high-level political leaders, who cast doubts on the independence or impartiality of international tribunals," the European Commission report said.

"All actors in Bosnia and Herzegovina need to demonstrate full cooperation with the international tribunals by acknowledging and respecting their decisions. Revisionism and denial contradict the most fundamental European values," it added.

'The law should help create security'

Several state-level parliamentarians told BIRN that even before the corona virus pandemic, there was no chance of the legislation prohibiting genocide denial being adopted.

Semsudin Mehmedovic, a member of the Bosniak-led Party of Democratic Action and an MP in the House of Representatives, the lower chamber of parliament, said that the only way to do it would be for High Representative Inzko "to impose such a legal solution".

Zlatko Miletic, a Croat MP from the Democratic Front party in parliament's upper chamber, the House of Peoples, urged Inzko in January to use his special powers to bring in the ban on genocide denial because Bosnian politicians had failed to do so.

Miletic said sentences should range from six months to five years in prison for ordinary citizens and up to 10 years for officials.



"I was hoping that we would be able to adopt such law or that it would be imposed by the High Representative prior to the marking of the [25th] anniversary of Srebrenica," he told BIRN. "In any case, it remains to be seen, but we must find the strength in the coming period to have such a law entered into force, because all [war] victims, irrespective of their ethnicity, are being upset," Miletic said.

Social Democratic Party MP Denis Becirovic, who proposed similar legislation in 2017, said the issue was "above and beyond party interests".

"The text of this law should contribute to the creation of an atmosphere of security, trust, fairness and solidarity with victims," Becirovic said.

But Nikola Spiric, an MP from the Serb-led Alliance of Independent Social Democrats party in the House of Peoples, objected to Inzko becoming involved in law-making, arguing that "any external interference further complicates the situation".

When asked if he thought that a law on genocide and war crimes denial would be adopted in the near future, Spiric said it was difficult to give a prognosis on anything in Bosnia and Herzegovina.

"There is hardly anyone who can say this or that will happen," Spiric said.

Journalist Dragan Bursac said he mainly blamed Serb politicians for blocking the law, arguing that they used genocide denial and the glorification of war criminals as tools to win votes.

"The adoption of such a law will prevent politicians who celebrate the architects and perpetrators of genocide and other crimes from winning local elections," Bursac said.

"This is the most important reason why primarily Serb political power-holders do not want such a law to be adopted, which is shameful."

# Bulgaria

## Bulgarian prosecutors issue nationwide search warrant for Ataka leader Siderov

<https://sofiaglobe.com/2020/04/15/bulgarian-prosecutors-issue-nationwide-search-warrant-for-ataka-leader-siderov/>

April 15, 2020 by The Sofia Globe staff



The Sofia Regional Prosecutor's Office has issued a nationwide search warrant for Volen Siderov, leader of the ultra-nationalist Ataka party and a Sofia city councillor, after he failed to report for questioning by investigators in connection with criminal charges against him for breaking anti-epidemic laws, the Prosecutor's Office said on April 15.

Siderov faces a charge in connection with his calls to the public to defy anti-epidemic measures and go en masse to church for Easter, and another for obstructing a public official from carrying out his duty by serving a summons on Siderov to appear.

Pre-trial proceedings have been initiated against him in connection with another charge, issuing threats on television against the lives of a prosecutor and the investigating police officer dealing with the case.

The April 15 statement said that after Siderov failed to report for questioning, addresses he was known to use were checked, but he was not found. This resulted in the nationwide search warrant for him being issued.

## 720 pre-trial proceedings in Bulgaria for violating emergency regulations against coronavirus

<https://sofiaglobe.com/2020/04/15/720-pre-trial-proceedings-in-bulgaria-for-violating-emergency-regulations-against-coronavirus/>

April 15, 2020 by The Sofia Globe staff



A total of 720 pre-trial proceedings have been launched in Bulgaria since March 13 in connection with breaches of State of Emergency rules against the spread of Covid-19, the Prosecutor's Office said on April 15.

Most of the cases involve breaches of mandatory quarantine imposed by regional health inspectorates, the statement said.

Courts have already handed down sentences.

These have included a six-month prison term, suspended for three years, and a fine of 10 000 Leva, three months in prison, suspended for three years and a fine of 10 000 Leva, and probation, involving compulsory registration at a current address and regular signing of a register in the presence of a probation officer, as well as a fine of 5000 Leva, the Prosecutor's Office said.

## **Prosecutor-General: Three charged over assault of Bulgarian Editor-in-Chief**

<https://sofiaglobe.com/2020/04/24/prosecutor-general-three-charged-over-assault-of-bulgarian-editor-in-chief/>

April 24, 2020 by The Sofia Globe staff



Three people have been charged in connection with the March 17 serious assault of Slavi Angelov, Editor-in-Chief of weekly 168 Chassa, Prosecutor-General Ivan Geshev told a briefing on April 24.

The three were held in a special operation on April 23. They face other charges, including participation in a crime group and possession of illegal narcotics. The three accused are those who carried out the physical assault on Angelov.

Geshev said that those who commissioned the assault, which left Angelov in hospital with serious injuries, were hiding abroad.

He did not disclose the identities of the accused, but confirmed that they were involved in sports. One was found to be in possession of Adolf Hitler's book *Mein Kampf*. Also found in the course of search-and-seizure during the special operation were bats and handcuffs.

Geshev told the briefing that the leading theory about the assault of Angelov was that it was related to his work as a journalist.

"The main leading theory is that it is related to the work of your colleague and is the result of actions by people who want to destabilise the state, who are the subject of criminal prosecution and are located outside the borders of the country, where they are hiding from other pre-trial cases," he told reporters.

An application for the three accused to be remanded in custody will be lodged in the Special Criminal Court at the weekend.

Bulgarian media have published names of the alleged perpetrators and said that they were linked to Sofia West 1999, the most militant of fan clubs of football team Levski Sofia.

# Croatia

## Croatia Charges Right-Wingers for Pro-Priest Protest

<https://balkaninsight.com/2020/04/14/criminal-charges-against-supporters-of-a-croatian-priest/>

April 14, 2020 - Anja Vladislavljovic, Zagreb, BIRN

Thirteen people, including two who displayed the WWII fascist Ustasa movement's insignia, were charged with breaching corona virus restrictions for rallying to support a priest who urged worshippers to attend Easter mass despite the lockdown.

Charges have been pressed against 13 people who rallied in front of a Catholic church in Sirobuja, a suburb of the coastal city of Split, flouting a ban on public gatherings during the corona virus epidemic, Croatian media reported on Tuesday.

The rally on Sunday by the masked, black-clad protesters was held to support a priest who called on worshippers to attend mass, breaching measures imposed to curb the spread of COVID-19 in Croatia. Two of the protesters displayed World War II Ustasa movement's insignia and a banner with the slogan "Journalists are worms". They were objecting to media reports earlier that day of criticism of priest Josip Delas for holding a mass with 20 worshippers despite appeals from the archdiocese and the corona virus crisis authorities in Split to avoid gatherings.

Two of those charged will be prosecuted under the Public Order Act, the first for displaying a flag with the letter 'U' symbolising the Ustasa movement, and the second for holding up a banner with the slogan 'Za domspremni' ('Ready for the Home(land)'), an Ustasa salute that remains popular in Croatian far-right circles.

Another of those charged will be prosecuted under the Explosive Substances Act for setting off a flare, while all 13 men will be reported to the State Inspectorate for violating measures imposed by the national civil protection authority as part of efforts to curb the corona virus epidemic.

"An indictment will be filed against all of them," local media quoted Croatian police as saying on Tuesday.

A journalist from the local news website Dalmatinski Portal and a camerawoman from N1 television who tried to report on the mass on Sunday were physically attacked by several men at the church in Sirobuja.

Local media reported on Monday that two of the suspects are being prosecuted for attacking Dalmatinski Portal journalist Zivana Susak Zivkovic, and the third for assaulting the camerawoman.

Croatia's Interior Minister Davor Bozinovic on Sunday condemned the attack on a journalist "who was just doing her job".

Police will also charge the priest, Delas, who has already been warned once about breaching stay-at-home orders after he opened his church to worshippers for mass on Palm Sunday earlier

this month. During that incident, the 70-year-old priest verbally clashed with police officers who were called to break up the gathering.

## **Ethnic Intolerance, Hate Speech Persists in Croatia: Report**

<https://balkaninsight.com/2020/04/17/ethnic-intolerance-hate-speech-persists-in-croatia-report/>

April 17, 2020 - Anja Vladisavljevic, Zagreb, BIRN

A Zagreb-based human rights NGO said in a new report that Croatia made no progress last year in dealing with war crimes prosecutions, ethnic intolerance, hate speech and historical revisionism.

Human Rights House Zagreb said in its annual report published on Friday that “as in previous years, war crimes prosecutions were stagnant” in Croatia in 2019, while hate speech and intolerance toward minorities persisted in the public arena and the digital environment.

“Instead of improving regional co-operation with the judiciary of the countries where war crimes indictees live, the number of trials in absentia is increasing. Croatia continues to prosecute a small number of suspected members of Croatian military and police units,” the report said.

It noted that the identification of wartime missing persons did not make significant progress in 2019. According to the Ministry of Croatian Veterans’ Affairs, the fate of over 82 per cent of people who disappeared during the 1990s war has been resolved, but there are still 1,871 unresolved cases.

“The identification process is still not effective, especially because of the extremely poor cooperation between the relevant authorities of Croatia and Serbia,” the report said. According to the report, the trend of “denying and ignoring judicially established facts” continued in 2019, as did the phenomenon of “glorifying the war efforts of people convicted of war crimes”.

The report also criticised the history curriculum for Croatian schools, which it said “does not support a critical understanding of historical events and multiperspectivity, but promotes nationalist discourse”.

The report highlighted a series of verbal attacks on the Serb ethnic minority in Croatia. “What continues to cause concern are statements in the media and on social networks specifically targeting the Serb national minority, characterised by ethnic intolerance, hate speech, discriminatory speech and historical revisionism,” it said, adding that physical attacks on Serbs were even more worrying.

In February 2019, a group of men attacked three Red Star Belgrade water polo players in the coastal city of Split. Then in June, a group of five men, members of Hajduk Split’s hardcore fan club Torcida, attacked four seasonal workers in the town of Supetar on the island of Brac. Two of the workers were Croatian Serbs.

Two separate attacks on Croatian Serbs then took place in August. The Serbs were watching a Red Star Belgrade football match in bars in the villages of Uzdolje and Djevrske when their assailants burst in. Five people, including a minor, were slightly injured.

In December, Sibenik Municipal State Attorney’s Office indicted 15 men who allegedly took part in the incident for committing a hate crime.

# Kosovo

## Kosovo Govt Tightens Freedom of Movement Restrictions

<https://balkaninsight.com/2020/04/14/kosovo-govt-tightens-freedom-of-movement-restrictions/>

April 14, 2020 - Xhorxhina Bami, Pristina, BIRN

Kosovo's outgoing government is tightening up restrictions on people's movement to curb the spread of COVID-19, despite a Constitutional Court ruling that such measures infringe people's human rights.



*A man passes through a sanitising tunnel in Mitrovica in Kosovo. Photo: EPA-EFE/ Valdrin Xhemaj*

Outgoing Health Minister Arben Vitia told a press conference on Monday evening that starting from April 15 at 6am, people in Kosovo will not be allowed to leave their houses for more than 90 minutes a day.

The reason for the intensification of the restrictions lies in the government's expectations of a significant increase in the number of cases during the next couple of weeks, before a gradual but steady fall.

People will be allocated time slots according to their identity card numbers to leave their homes to carry out essential tasks, Vitia said. "Then there will be disinfection of the spaces where this number of citizens has circulated," he added.

Based on initial calculations, about 40,000 people will be out of their homes at any one time, he said. Vitia said that people can go out for "food and medicine, as well as for financial tasks and needs". However, they are "obliged to wear masks or other coverings for the mouth and nose when going out onto the streets", he added.

People cannot go out accompanied, unless they have special needs or are under the age of 16.

Anyone over the age of 65 is recommended not to leave the house at all, unless there are urgent health reasons. There are also strict regulations governing the use of vehicles.

Failure to comply with the measures is punishable by fines of 1,000 to 2,000 Euros for individuals and 3,000 to 8,000 Euros for legal entities, while officials at legal entities can be fined from 500 to 1,500 Euros.



The measures are to stay in place until May 4 and apply to the whole of Kosovo. However, Serb-majority municipalities have not respected all the government's measures in the past so it remains to be seen whether the new ones will be observed.

BIRN contacted the Ministry of Health, the Ministry of Economy, Employment, Trade, Industry, Entrepreneurship and Strategic Investments and the Work Inspectorate about the implementation of the new measures but did not receive answers by the time of publication.

Kosovo opposition parties, and the former junior governing partner, the Democratic League of Kosovo, LDK, condemned the new measures.

They noted that the outgoing government, which lost a no-confidence vote last month, failed to respect a ruling by the Constitutional Court on March 31 that previous measures restricting freedom of movement by introducing a curfew were unconstitutional.

The largest opposition party, the Democratic Party of Kosovo, PDK, alleged that the outgoing government is "gripped by panic over the worsening of the pandemic situation" and is "continuing its legal and constitutional violations" despite the fact that "citizens are respecting the advice of health professionals".

Currently, there are 377 COVID-19 infections in Kosovo, and eight people have died.

# Moldova

## **Moldovan authorities are flirting with further reining in media freedoms as the COVID-19 pandemic worsens**

<https://balkaninsight.com/2020/03/31/battling-coronavirus-moldova-targets-unwanted-media-opinion/>

March 31, 2020 – Madalin Necsutu

A short-lived order for media in Moldova to refrain from printing or broadcasting ‘opinion’ and to convey only the position of authorities during a state of emergency imposed to aid the fight against the COVID-19 pandemic has set alarm bells ringing in the former Soviet republic.

The decree was issued on March 24 by Dragos Vicol, president of Moldova’s Audiovisual Council, CCA, the country’s chief media regulatory body, but it was met with a storm of criticism from journalists and media associations.

“Journalists will unilaterally renounce formulating their own opinion or other arbitrary opinions in reflecting on topics concerning the COVID-19 pandemic,” the order read.

The following day, Vicol tried to defend the order, saying it referred only to “unqualified opinion”. The media, he told the TVR broadcaster, should get their information from the World Health Organisation, WHO-approved sites, the government and the health ministry, “not from persons who bear no responsibility.”

His order followed weeks of government criticism of the way Moldovan media have been covering the unfolding crisis, with pro-Russian President Igor Dodon, Prime Minister Ion Chicu and Health Minister Viorica Dumbraveanu repeatedly accusing journalists of printing unverified information and spreading panic.

On March 23, Dodon said Moldovan media were trying “to make a show” of the health situation in Moldova, Europe’s poorest state.

Chicu, the PM, initially endorsed Vicol’s order, while stressing the authorities had no intention of restricting the freedom of the press

But media NGOs and associations were unbowed, and launched a petition calling for the order to be withdrawn.

The authorities are concealing information from the public, the director of the Independent Press Association, Petru Macovei, told BIRN, “This is why people need to be informed because quality information is an important point in tackling the pandemic.”

Dodon, who will bid for a second term in an election set for November, eventually distanced himself from the decree.

Vicol rescinded it on March 26 “to calm spirits in the society,” but its main provisions will still be discussed during an upcoming session of the CCA.

### **'Dangerous precedent'**

Regardless of Dodon's U-turn, media experts said it was unlikely Vicol acted of his accord in issuing the order in the first place.

"I believe that Vicol's decision was requested by the authorities," said Cornelia Cozonac, director of the Centre for Investigative Journalism in Chisinau. Primul in Moldova rebroadcasts content from Russia's state-owned Channel One.

Vicol's order stressed that foreign broadcasters in Moldova must also obey the new rules, citing in particular the broadcasting regulator in Romania's Moldova's western neighbour and a member of the European Union. It made no mention of the Russian media outlets which hold a large share of the Moldovan market.

Aneta Gonta, director of the School of Advanced Journalism Studies in Chisinau, said Vicol's order should be seen in the context of the pandemic and as "a call for media responsibility and compliance with the law, but also with the Code of Ethics."

But its ban on 'opinion', she said, was offensive to medical professionals and others who may have something constructive to say on the issue.

Ion Manole, director of the Chisinau-based human rights NGO Promo-LEX, said the pandemic presented the authorities with a powerful temptation to censor the media.

"I hope that with this failed attempt such steps will no longer be recorded," Manole said. "We have a society that has already tasted democracy and I think it will not easily give up on this freedom so hard won in recent years."

## Absence of a quorum represents failed attempt by Government to assume responsibility, CC

[https://www.ipn.md/en/absence-of-a-quorum-represents-failed-attempt-by-government-to-7967\\_1072879.html](https://www.ipn.md/en/absence-of-a-quorum-represents-failed-attempt-by-government-to-7967_1072879.html)

April 14, 2020

The April 2 law for which the Government assumed responsibility was adopted with violations of the constitutional provisions and runs counter to Articles 6 and 106 of the Constitution, said the Constitutional Court (CC), which published the arguments for its judgment by which the given law was declared unconstitutional, IPN reports.

The Court reiterated that the assumption of responsibility by the Government cannot prevent Parliament from fulfilled its role of the only lawmaking authority as the given procedure should take place before the legislature.

Acceptation of the idea that the executive can discretionarily accept responsibility for a bill anyway and in any conditions would be equal to the transformation of this authority into a public lawmaking authority competing with Parliament.



The CC noted the constitutional provisions stipulate four stages of the procedure for assuming responsibility by the Government. At the first stage, the executive should adopt a decision by which it assumes responsibility for a bill. At the second stage, the Government's representative should present the bill in front of Parliament. At the third stage, a no-confidence motion can be filed, while for the fourth stage the Constitution envisions two scenarios, when a no-confidence motion is submitted and when it is not.

On the one hand, the Government launched the procedure for assuming responsibility for the bill. This was registered with the Parliament's Secretariat. When the legislative body was convoked, the Prime Minister was in the Parliament's assembly hall and was ready to present the bill to the MPs. This way, the Government took all the steps needed for the bill to be presented to the MPs.

On the other hand, even if Parliament was convoked, it wasn't possible to present the bill as the quorum was not present. The law was considered adopted by Parliament even if the plenary sitting failed.

The Court reiterated that the three-day period starts from the day the bill is presented in Parliament and a no-confidence motion can be submitted in the period. Consequently, the legislature could have come together for a new plenary sitting for the Government to present the bill. The absence of a quorum represents a failed attempt by the Government to assume responsibility for a bill before Parliament.

The Court held that the procedure for assuming responsibility does not exclude and cannot be used to exclude parliamentary control by initiating a no-confidence motion. The possibility of submitting a no-confidence motion is the main instrument for exercising parliamentary control when the Government assumes responsibility, which Parliament cannot abandon by not offering Government the possibility of assuming responsibility in a plenary sitting.

The CC noted that authors' arguments refer to the violation of the procedure for assuming responsibility by the Government for the April 2 law. These arguments apply not only to the challenged provisions, but also to the whole law as an alleged violation of the procedure for assuming responsibility produces effects on the whole law. Consequently, the Court considered it necessary to examine the constitutionality of the law on the whole.

The judgment is definitive and cannot be appealed. It takes effect when it is passed and is published in the Official Gazette.

## **Domestic aggressors will be monitored electronically**

[https://www.ipn.md/en/domestic-aggressors-will-be-monitored-electronically-7967\\_1073042.html](https://www.ipn.md/en/domestic-aggressors-will-be-monitored-electronically-7967_1073042.html)

April 22, 2020



Domestic aggressors will be monitored electronically by using a hand or ankle bracelet that will be fitted immediately after the court issues the protective order. This is provided in a bill that was approved by the Parliament's legal commission for appointments and immunities, IPN reports.

## **Constitutional Court has a new president**

[https://www.ipn.md/en/constitutional-court-has-a-new-president-7965\\_1073081.html](https://www.ipn.md/en/constitutional-court-has-a-new-president-7965_1073081.html)

April 24, 2020

The Constitutional Court (CC) will be headed by Judge Domnica Manole, who was elected president of the CC by secret ballot on April 23 following the dismissal of Vladimir Țurcan, IPN reports.



A decision published on the Court's website says Vladimir Țurcan was dismissed from the post of CC president by a vote of no confidence. The decision is definitive, takes effect when it is adopted and is published in the Official Gazette.

By another decision, Domnica Manole was named president of the CC for a three-year term. This decision is also definitive, takes effect when it is adopted and is published in the Official Gazette.

Former Socialist MP Vladimir Țurcan, who was appointed constitutional judge by Parliament, was elected president of the CC on August 19 last year.

The same day, the CC suspended the law to ratify the lending agreement between the Government of the Republic of Moldova and the Government of the Russian Federation for the provision of a state financial loan of €200 million to Moldova following an application filed by the parliamentary opposition.

## **CC suspends €200m lending agreement with Russia**

[https://www.ipn.md/en/cc-suspends-200m-lending-agreement-with-russia-7965\\_1073082.html](https://www.ipn.md/en/cc-suspends-200m-lending-agreement-with-russia-7965_1073082.html)

April 24, 2020

The Constitutional Court (CC) suspended the legal effect, including the procedure for enforcing the law to ratify the lending agreement between the Government of the Republic of Moldova and the Government of the Russian Federation for the provision of a state financial loan of €200 million to Moldova. The judgment was passed on April 23 following a requisition filed by MP of the Pro Moldova group Sergiu Sîrbu, IPN reports.

The MP requested the CC to verify the constitutionality of the agreement and to suspend the legal effect of the Government decision of March 13 concerning the initiation of negotiations and approval of the signing of the agreement and the Government decision of April 21 concerning the approval of the bill to ratify the agreement.

He noted the suspension of the legal effect of these documents is needed for suspending the legislative procedure for ratifying and enforcing the challenged agreement until the requisition is fully examined.

Examining the application to suspend the legal effect of the challenged documents, the CC noted that Parliament debated the Government decision of April 23 several hours after the Court received the given application.

The Court held that the legal effect of the law, including the procedure for its enforcement, should be suspended based on legal and constitutional provisions. If the assertions of the requisition's author concerning the violations of provisions of the Constitution are confirmed, the fundamental principles of ownership can be encroached upon.

The Court also said that the legal effect of the law of April 23 should also be suspended because, after the international agreement ratified by Parliament by this law takes effect, the constitutionality of the agreement could not be verified. This way, the CC accepted the suspension application submitted by MP Sergiu Sîrbu.

The CC suspended the legal effect, including the procedure for enforcing the law to ratify the lending agreement between the Government of the Republic of Moldova and the Government of the Russian Federation for the provision of a state financial loan of €200 million to Moldova, until the requisition is fully examined.

The judgment comes into force when it is passed and is published in the Official Gazette.



## **PPPDA requests CC to determine constitutionality of state of emergency**

[https://www.ipn.md/en/pppda-requests-cc-to-determine-constitutionality-of-state-of-emergency-7965\\_1073169.html](https://www.ipn.md/en/pppda-requests-cc-to-determine-constitutionality-of-state-of-emergency-7965_1073169.html)

April 28, 2020

The Party “Dignity and Truth Platform” filed an application to the Constitutional Court, asking it to determine the constitutionality of the regime of the state of emergency. According to the party, a number of abuses were committed and illegal fines were imposed during the state of emergency.

“It seems that the government desperately wants to fill the budget gaps with the fines collected massively from people,” the party says in a press release that is quoted by IPN.

“I know that you were wronged. I know that you were fined sums that exceed the size of a pension for two or even three years without you blame being proven. I know that business entities were hunted and obliged to pay heavy fines of tens of thousands of lei for unsubstantiated deeds so that they could bring money into the robbed budget at any cost. I know that the 72-hour period for examining cases does not ensure an equitable trial and was imposed by an illegal decision taken by the Commission for Exceptional Situations,” said PPPDA MP Vasile Năstase.

Since the state of emergency was declared on March 17, the police have imposed fines totalling over 36 million lei, according to the Ministry of Home Affairs.

Under the Constitutional Jurisdiction Code, the date, hour and place of the hearing of the Constitutional Court are communicated to the sides within ten days before the start of the hearing, except for extraordinary cases.

## **Pandemic Fires Hate Speech in Moldova**

<https://balkaninsight.com/2020/04/30/pandemic-fires-hate-speech-in-moldova/>

April 30, 2020 – Madalin Necsutu

The COVID-19 outbreak has worsened divisive and irresponsible public discourse in Moldova, an expert monitoring hate speech from Promo-LEX organisation tells BIRN in an interview.

Hate speech and irresponsible language by politicians, clerics and journalists has worsened in Moldova as a result of the COVID-19 outbreak, aggravating xenophobia and internal divisions, the human rights organisation Promo-LEX – which has been monitoring the phenomenon for years – says.

The trends are also worrying, its expert in charge of the monitoring process, Irina Corobcenco, told BIRN in an interview. “This type of speech is a problem, and the competent authorities must take measures to prevent and tackle it,” she said. [...]

Irresponsible public language was evident from the start of the COVID-19 pandemic, she notes, recalling how on March 7 Prime Minister Ion Chicu blamed the first infection case in Moldova on a 48-year-old woman who had flown home from Milan.

“In this case, we have proof of total irresponsibility; that person endangered the health of several people, including the Italian airport, the aircraft and our [citizens],” Chicu said at the time. The next day, President Igor Dodon revealed the name, sex, age and other details of the woman, breaking privacy law in order to focus popular outrage on her.

But after recovering, the same woman on April 9 told Jurnal TV station that the allegations were untrue, and that she never contracted COVID-19. “Nothing said on TV was true, especially Mr. Dodon and Mr. Chicu,” she said.

She said she lost her job and home after the Italian woman she worked for dropped her services after she got sick and went to the hospital. The doctors in Italy had diagnosed pneumonia and told her to rest, after which, using her last savings, she bought a plane ticket back to Moldova.

### **Dynamic accelerated started before the pandemic:**

Corobcenco said hate speech has been on the rise in the country before the COVID pandemic hit the country in 2020. “The number of cases in 2019 was 2.2 times higher than in 2018, and they were registered mainly in a political and religious context,” she recalled.

In 2018, over six months of monitoring, from February to August, 368 cases of hate speech and incitement to discrimination were identified. In 2019, over seven months of monitoring, from January to April and from August to November, Promo-LEX identified 835 cases of hate speech.

“Basically, if there were an average of two cases of hate speech per day in 2018, the number reached an average of 4.2 cases per day in 2019. In 2020, the monitoring process is still running, and data have not yet been analyzed,” she added.

Those most affected by hate speech during the pandemic are often members of the Moldovan Diaspora living in the West, she continued.

“After declaring the state of emergency [on March 17] there were several cases of hate speech in relation to the Diaspora, to people infected/affected by COVID-19, politicians, their supporters and to the Roma community,” she said.

About one million Moldovans live abroad, split almost equally between Europe and North America, and the Russian Federation, out of 2.7 million in total. Their political views are also split, between loyalties to West and East.

As the pro-Russian Socialist Party has little support among the Western Diaspora, the media affiliated with them and their deputies in parliament have often used hate speech against them in the context of the elections, and now in the context of the pandemic, Corobcenco asserted.

Press briefings organised by the authorities routinely separate “foreign” cases of COVID-19 infection from “internal” ones, stigmatizing the former. One example of this was provided by the reply of Socialist deputy Bogdan Tirdea to another deputy on April 8 on TV 8 channel, when Tirdea accused former speaker Andrian Candu of planning “to bring Moldovans sick with COVID to Moldova”.

On April 1, the Moldovan Ombudsman, Mihail Cotorobai, expressed concern about the aggressive messages being sent to and about the Moldovan Diaspora in the context of the pandemic.

“Politicians are affected also by hate speech in the context of the pandemic ... the hate speech generated by politicians refers to other politicians, usually their opponents. And hate speech against politicians is also generated from outside the country,” Corobcenco told BIRN. [...]

### **Better legal framework is needed:**

Corobcenco told BIRN that Moldova does not have a proper legal framework to stop or punish hate speech.

“We need a relevant legal framework for the prevention and sanctioning of hate speech ... Draft law no 301/2016 on crimes motivated by prejudice must be adopted in the second reading by parliament,” she said.

However, deputies have so far shown little interest in adopting a new law regulating hate speech in the country.

The expert also calls for a national strategy, which would bring together the authorities, civil society and the media in order to create and implement long-term actions to prevent hate speech.

A big role in reducing this phenomenon should be carried out by media, she said.

“This pandemic has brought to attention the ease with which hate speech is used by both public actors and citizens, without taking into account the fact that it directly or indirectly affects all citizens in the country,” she concluded.

# Montenegro

## Montenegro Govt Accused of Flouting Constitution Amid Crisis

<https://balkaninsight.com/2020/03/31/montenegro-govt-accused-of-flouting-constitution-amid-crisis/>

March 31, 2020 Samir Kajosevic

The Montenegrin opposition accused the government of ignoring constitutional procedures and leaving parliament out of vital decision-making processes amid the coronavirus crisis.

After government bodies took decisions without consulting parliament, and with more such moves planned, the opposition Democratic Front alliance accused the government of abusing the coronavirus situation to act without democratic checks and balances.

Democratic Front MP Branka Bosnjak warned that, in a situation in which Montenegro has not declared a state of emergency, parliament must decide on all government measures.

“The government is abusing the situation with the novel coronavirus to violate the constitution. Obviously they don’t want parliament sessions so the government can work without control,” said Bosnjak told BIRN.

The Democratic Front raised its concerns after the government on Monday announced that a special working group will prepare new set of economic measures for companies and citizens during the pandemic.

The opposition called on Prime Minister Dusko Markovic to propose any crisis-related economic measures to parliament.

On March 13, the national coordination body for infectious diseases banned all public gathering in Montenegro due to the COVID-19 outbreak. Since then there have been no parliamentary sessions.

On March 19, the government also made a number of economic decisions without consulting parliament, despite provisions in the constitution that specify that such decisions can only be taken by the government under a state of emergency.

“Since nobody has declared a state of emergency, we need a more active role for parliament. No country in the region has suspended parliament except Montenegro,” Bosnjak said.

On Friday 27, Deputy Prime Minister Milutin Simovic met political party representatives in parliament and warned them that government must make decisions without delay “as public health is more important”.

Montenegrin media reported that head of parliament, Ivan Brajovic, has also called on the government not to ignore the legislature and to propose all measures to parliament.

So far there are 91 cases of COVID-19 infection in Montenegro, and 6,262 people are being monitored.



## Montenegro Medic Arrested for Publishing List of Coronavirus Patients

<https://balkaninsight.com/2020/04/08/montenegro-medic-arrested-for-publishing-list-of-coronavirus-patients/>

April 8, 2020 Samir Kajosevic



*Montenegrin policemen on the streets in Podgorica. Photo: BIRN/Samir Kajosevic*

Montenegro's Prosecutor's Office said the medical staffer in the Health Centre in the capital Podgorica, known only by the initials M.R., had been arrested by police for the crime of unauthorized collection and use of personal information.

"As an official, he is in charge of publishing information on COVID-19 patients through the IDO system, which he forwarded via Viber to other persons who, although his colleagues, are not authorized to dispose of this information," the Prosecution said in a press release.

After the list of names of infected people and their ID numbers was published on Friday, the Montenegrin government demanded an investigation, which the Prosecutor's Office led.

Civil society organizations and opposition parties also agreed that publishing the names of infected patients on social media violated their basic human rights and could lead to serious consequences. "We have to respect people's privacy and stop the stigmatization of infected citizens," the Civic Alliance, an NGO, said.

That was not the first time patients' rights in Montenegro were violated in this way.

On March 18, the identities of coronavirus patients were published by social media users and the photos of one patient and her family were also posted online.

On March 22, the government itself published the names of people who had been ordered to self-isolate, arguing that some of them had not respected the order. The government said it had received the consent of the Agency for Personal Data Protection for this, and had decided that the lives and health of Montenegrin citizens came first. Despite concerns voiced by opposition parties and civil society groups, the government has continued to publish such lists.

There have been 248 confirmed novel coronavirus cases in the country of some 630,000 people so far, two of whom have died.

## Montenegro Detains Opposition Activist Over Fake News About President

<https://balkaninsight.com/2020/04/10/montenegro-detains-opposition-activist-over-fake-news-about-president/>

April 10, 2020 Samir Kajosevic

Opposition and civic society groups have condemned the arrest and detention of a Democratic Front activist for posting fake news that President Milo Djukanovic was infected with COVID-19, saying 'fake news cannot be fought with arrests'.

Civic society groups in Montenegro have criticized the arrest on Thursday of an opposition Democratic Front activist for posting fake news about the President's health.

On Thursday, authorities put Radovan Rakocevic from the town of Bijelo Polje in custody for 72 hours for the offence of spreading panic. Rakocevic had shared an article on Facebook from a Belgrade tabloid, Alo, which claimed that Montenegrin President Milo Djukanovic had been infected with the coronavirus.

"The prosecutor believes that Rakocevic would be able to repeat the criminal offence if he was released and would continue to publish statements that would cause panic among citizens. So he was ordered into detention," the prosecutor's decision said.

While the Democratic Front called on the authorities to release Rakocevic, the head of the Civic Alliance, Boris Raonic, warned that the government cannot fight fake news with arrests. He said the authorities should be more transparent and inform the public about everything related to COVID-19.

He said a guest on the national public broadcaster had also "presented a conspiracy theory that could cause panic, but there was no reaction either from the prosecution or the [broadcasting] management. That gives us a new element to this story – selective justice," Raonic told the daily newspaper Vijesti.

He was referring to a guest speaker on the public service prime time show "Corona stay home" who presented a theory that COVID-19 was a biological weapon. Economic analyst Predrag Drecun, considered to be close to ruling DPS party, has claimed the coronavirus was produced in the US by the Defence Ministry.

Even before the COVID-19 outbreak became more severe in Montenegro, there had been arrests for spreading panic about it. On March 13, the Basic Court ordered 30 days in custody for Milivoje Brkovic for posting a message on Facebook that said state officials were hiding the real number of people suffering from the coronavirus in Montenegro. The country confirmed its first two cases on March 17.

On March 23, a Russian citizen was put in custody for posting on Instagram that more than a thousand people had caught COVID-19 in Montenegro. To date, Montenegro has confirmed 252 coronavirus infections, two of whom have died.



## Montenegro Loosens Rules on National Flags, but Debate Still Rages

<https://balkaninsight.com/2020/04/13/montenegro-loosens-rules-on-national-flags-but-debate-still-rages/>

April 13, 2020 Samir Kajosevic

Montenegro has loosened rules on the flying of flags of other nations but some say the changes do not go far enough on an issue that continues to cause controversy in the Balkan country and other former Yugoslav republics.

In December last year, lawmakers in the country of 630,000 people changed the law to allow the display of flags belonging to recognised ethnic minorities in municipalities where they account for more than five per cent of the population.

In effect, this means Albanians, Bosniaks and Croats, since Serbs, who make up some 29 per cent of the population, refuse to declare themselves a minority.

The law left in place a rule that flags of any other nation can only be displayed alongside the Montenegrin national flag, resulting in a 300-euro fine for a Turkish citizen in mid-March for displaying a Turkish flag without permission on a construction site in the coastal resort of Budva and a similar fine in late February for a man in north-eastern Bijelo Polje who displayed a Serbian flag on his car.

The pro-Serbian opposition Democratic Front says the law remains discriminatory. "For decades the government is trying to assimilate the Serbian people in Montenegro," said Democratic Front MP Jovan Vucurovic. "They are trying to declare Serbs a minority and undo the tradition of Montenegro."

### **'Room for improvement'**

Montenegro is a multi-ethnic state unusual for the fact no one community makes up over half of its population: some 45 per cent of people identify as Montenegrins, about 29 per cent as Serbs, about 11 per cent as Bosniaks or Muslims and five per cent as Albanians.

Bosniak Party MP Ervin Ibrahimovic said the amendments to the law did not go far enough. "In the law there are still penalties for displaying flags of other countries," he told BIRN. "I think there is room for further improvement in line with European Union standards but also with the fact that Montenegro is a multiethnic state."

The flag issue had become a regular source of tension between authorities and minority communities.

In November last year, police fined and expelled an Albanian national for displaying the Albanian national flag at a festival in the Ulcinj municipality near the border with Albania.

In August, Montenegro's Ministry of Culture announced charges against the organisers of a concert near the predominantly Albanian-populated town of Tuzi over the use of the Albanian national flag.

Also last year, a group of Albanian tourists was fined 230 Euros for waving an Albanian flag in Budva.

Genci Nimanbegu, a lawmaker of the Albanian Coalition and deputy speaker of Montenegro's parliament, also said the changes could have gone further.

"I think we should have abolished the penalties for flying the flag of another country," he told BIRN, "but unfortunately there was no parliamentary majority for such a solution."

### **Albanian Flag Day, in Serbia**

In most other Balkan countries it is illegal to display the flags of other nations.

In September last year, the Italian flag appeared on the Governor's Palace in the Croatian port city of Rijeka on the centenary of the city's short-lived occupation by the Italian ultranationalist soldier-poet Gabriele D'Annunzio. Croatian police took it down.

Earlier, in July, a man in Croatia was fined for displaying the flag of Yugoslav Croatia at his home.

In Serbia, the law allows members of national minorities to use national symbols as long as they are not identical to the symbols of another country.

This is a regular source of tension with the country's ethnic Albanian minority in the south, where Albanians fly the flag of Albania every November 28 to mark Albanian Flag Day.

The rules in North Macedonia are more liberal, allowing the uninhibited private use of flags of any nationality at private or public events.

In terms of official use, all municipalities where a certain ethnicity forms up to 50 per cent of the total population can display the flag of that minority alongside the flag of North Macedonia on municipal buildings. Albanian, Turkish and Roma populations often exercise this right.

## **Montenegro Warned about Poor Conditions in Remand Prisons**

<https://balkaninsight.com/2020/04/14/montenegro-warned-about-poor-conditions-in-remand-prisons/>

April 14, 2020 Samir Kajosevic

Conditions in Montenegro's remand prisons are poor and they lack the ability to properly protect detainees' health amid the coronavirus outbreak, civic activists told the authorities.



*Police patrol during the curfew in Podgorica, Montenegro.*

Remand prisons in the Montenegrin capital Podgorica and in the city of Cetinje lack water and clean mattresses, and prisoners are sharing beds and blankets, Alekandar Zekovic, the head of the Council for Police Control NGO, said on Tuesday.

"In the remand prison in Podgorica, there were not enough blankets and no soap in the men's toilet. The council also registered the fact that two detainees shared one bed in a detention room," said Zekovic.

He called on Supreme State Prosecutor Ivica Stankovic to issue custody remands only in special cases to avoid prison overcrowding and limit the risk of the coronavirus spreading.

"Prosecutors should bear in mind the limited capacities of detention facilities, as well as the fact that it is not possible to implement all the preventive and hygienic recommendations for preventing the spread of COVID-19," said Zekovic.

On Sunday, Montenegrin media reported that police have been keeping detainees together in cells despite the authorities' orders for social distancing.

The police directorate has insisted however that it is respecting all the orders handed down by the Institute for Public Health.

It told daily newspaper *Vijesti* that only one person is kept in a small cell, while three or five are kept in larger cells. "If the existing capacities are not sufficient, the police may hold detained persons in other premises," the police directorate said.

The police directorate said on Sunday that 806 people have been arrested since the government's coronavirus restrictions came into effect. According to police, most of them violated the curfew.

Due to the COVID-19 outbreak, bans have been imposed on public gatherings and intercity traffic, while shops, malls, restaurants, hotels, fitness centers and casinos have been closed.

On weekdays, people cannot leave their houses from 7pm to 5am, while on Saturday and Sunday, the curfew runs from 1pm and 11am.

According to Montenegrin criminal law, people can be fined or sent to jail for one month to 12 years for violating measures against the spread of infectious diseases.

BIRN asked the Montenegrin prosecution for the precise financial penalties for violating such measures, but it did not respond. Recent examples suggest that the fines range from 400 to several thousand Euros.

On April 11, the state prosecution announced that 36 people had concluded plea agreements after violating the emergency measures. According to the prosecution, they paid 15,000 Euros in total in fines or donations to humanitarian organisations.

Eight people from Podgorica were sentenced to 30 days in prison for gathering in a house in the village of Kucka Korita, while a Serbian Orthodox Church priest from Ulcinj was fined 4,500 Euros for driving his car to Podgorica without permission.

In the coastal town of Budva, several offenders were fined 4,500 or 3,000 Euros for playing cards in the Pozzo hotel.

There are 278 coronavirus infections in Montenegro so far, and four people have died.

## **Serbian Bishop Grilled in Montenegro Over Illicit Funeral**

<https://balkaninsight.com/2020/04/29/serbian-bishop-grilled-in-montenegro-over-illicit-funeral/>

April 29, 2020 Samir Kajosevic

Prosecutor says Metropolitan Amfilohije violated the government ban on public gatherings when leading a funeral service – while the bishop insists he respected the government’s health measures.



*Serbian Orthodox Church Metropolitan bishop of Montenegro, Metropolitan Amfilohije (Radovic) leads a protest rally in Podgorica, Montenegro.*

The Serbian Orthodox Church’s top bishop in Montenegro, Metropolitan Amfilohije, has been grilled in the state prosecutor’s office for violating prevention measures against the novel coronavirus, state prosecutor Dusko Milanovic said on Wednesday, adding that his office will continue to work on the case.

“Metropolitan Amfilohije denied that he violated the ban by the national coordination body for infectious diseases on public gatherings,” Milanovic told the daily newspaper Pobjeda.

On April 23, the bishop and an opposition Democratic Front MP, Andrija Milosevic, were both summoned for hearings in the state prosecutor’s office for attending a funeral in defiance of government bans on public gatherings. They were attending the historian Vlado Jovicevic’s funeral, while Amfilohije led the service. Media reported that the Serbian ambassador, Vladimir Bozovic, was also brought before the prosecutor’s office for attending the same funeral.

On Tuesday Amfilohije insisted that all government health measures were respected at the funeral. Only the historian’s family, “some monks, Mandic, me and the Serbian ambassador were at the funeral, all keeping our social distance”, Amfilohije told the daily newspaper Vijesti.

Earlier, on April 12, Amfilohije was questioned by police for holding a prayer service at the Zlatica monastery in the capital, Podgorica, allegedly breaking the same bans on gatherings. The police directorate said he was questioned alongside other priests and believers for violating the ban on holding religious ceremonies during the COVID-19 pandemic. Church authorities called it an attack on the Orthodox faith.

Due to the coronavirus, Montenegro has prohibited all public gatherings, including religious ones, and only priests and a small circle of close family members and friends can attend funerals. They must also observe social distancing measures. All religious communities in the multi-faith country temporarily stopped holding services in places of worship on March 13.

The Serbian Orthodox Church, the main faith community in the country, has also temporarily halted its protest marches, held since January, against the new Freedom of Religion law, which it claims could result in the seizure of church property by the state.

# North Macedonia

## North Macedonia Sends Election-Riggers to Jail

<https://balkaninsight.com/2020/03/31/north-macedonia-sends-election-riggers-to-jail/>

March 31, 2020 Sinisa Jakov Marusic

A court in Skopje sentenced two officials of the junior party in the ruling coalition, the Democratic Union for Integration, to three-and-a half years in jail each for falsifying voting records at the 2013 local elections.



*The court complex in Central Skopje. Photo: sud.mk*

Skopje Criminal Court on Tuesday sentenced Democratic Union for Integration, DUI party officials Ejup Alimi and Ismet Guri to three-and-a-half years in jail each for the “destruction of electoral materials” in Skopje’s municipality of Cair during the 2013 local polls.

The first-instance verdict said that the men, who were members of the Cair local electoral committee at the time, altered official records of the voting process by adding votes for the DUI mayoral candidate and removing votes from his adversaries.

During the reading of the verdict, Judge Marija Kletnicka said that Guri threatened the head of the electoral commission in Cair and forced him to sign the falsified records. Based on the falsified documents, the State Electoral Commission partially scrapped the voting in the municipality, giving the DUI candidate a fresh chance at victory. According to the verdict, the defendants managed to forge a total of 12 electoral voting records.

The charges in the court case, which was codenamed ‘Titanic 3’, were filed by the Special Prosecution, which before practically dissolving late last year was tasked with investigating allegations of various high-level crimes revealed in wiretapped telephone conversations from 2015.

The wiretapped conversations were published by the then opposition Social Democrats, who now lead the ruling coalition, and caused a deep political crisis and the eventual ousting of the VMRO DPMNE-led government under Prime Minister Nikola Gruevski, in which the DUI was the junior ruling partner, as it is now.

Due to its focus on electoral irregularities, the ‘Titanic 3’ case is loosely linked to the cases codenamed ‘Titanic’ and ‘Titanic 2’, which mostly involve high-ranking former VMRO DPMNE officials and their associates who have been accused of electoral irregularities during past

electoral cycles, but on a much larger scale. The court last year issued verdicts against some of them.

Tuesday's verdict can be appealed.



## **Authorities in the Balkan country say they will use “all tools and possibilities” to fight the spread of the novel coronavirus**

<https://balkaninsight.com/2020/04/16/north-macedonia-leads-region-in-covid-19-tracing-app/>

April 16, 2020 Bojan Stojkovski

North Macedonia has become the first country in the Western Balkans to launch a contact-tracing app to tackle the spread of COVID-19, with the government at pains to stress user data will be protected.

StopKorona! went live on April 13 as a Bluetooth-based Smartphone app that warns users if they have come into contact with someone who has tested positive for the novel coronavirus, based on the distance between their mobile devices.

The app, downloaded more than 5,000 times on its first day, was developed and donated to the Macedonian authorities by Skopje-based software company Nextsense.

States are increasingly looking at digital solutions to control the spread of COVID-19 as they move to open up their economies while limiting the burden on their health services.

The European Union and data protection campaigners, however, have voiced concern over the threat such technology poses to individual privacy.

Presenting the app, Health Minister Venko Filipce said North Macedonia was looking to use “all tools and possibilities” to combat a disease that, as of April 15, had killed 44 people.

Information Society Minister Damjan Manchevski said all data would be securely stored. “This data is recorded on a secure server of the Ministry of Health,” Manchevski said at the launch. “And no other user has access to mobile numbers, nor is there any data stored about the owner of the number.”

If a person tests positive for COVID-19, they can “voluntarily” submit their data to the Ministry of Health, Manchevski said, enabling the app to warn other users if they come into contact with that person.

### **Data privacy concerns linger**

China, Singapore, Israel and Russia are among a number of countries that have developed their own coronavirus mobile tracking apps, mainly using Bluetooth, GPS, cellular location tracking and QR codes. The Chinese government app colour codes citizens according to risk level.

The technology, however, has set alarm bells ringing among data protection campaigners and rights organisations concerned about the threat posed by mass surveillance and loosening of data protection laws.

Nextsense director Vasko Kronevski, however, said his firm’s StopKorona! App adhered to all legal requirements. “This is a mobile app made by following best practices around the world in dealing with the coronavirus,” he said. “It guarantees the complete protection of users’ privacy.”

“The success will depend on the mass use of the application. It is important to emphasise that we used global experiences from different countries.”

One of those examples is Singapore's TraceTogether app, which helped the Asian country successfully contain the COVID-19 outbreak within its borders while, unlike most countries, keeping businesses and schools open.

According to data privacy experts, the decentralized design of North Macedonia's app guarantees that data will only be stored on those devices that run it, unless they voluntarily submit it to the ministry.

"The key part is that the citizen maintains full control over their data until the moment they decide to send it to the Ministry after being diagnosed," said Danilo Krivokapic, director of the Serbia-based digital rights watchdog SHARE Foundation.

"Additionally, all data stored on the phone is being deleted after 14 days," he told BIRN. "In that context, the app is in line with the legislation that covers Data Protection."

Krivokapic stressed that once data is shared with the authorities, the Ministry and all data users are obliged to respect the legal framework regarding privacy and data protection.  
[...]

## **Court to Check North Macedonia's Flood of Govt Decrees**

<https://balkaninsight.com/2020/04/22/court-to-check-north-macedonias-flood-of-govt-decrees/>

April 22, 2020 Vasko Magleshev

With parliament out of action in the pandemic, it is up to the Constitutional Court to hold the government to account over its rule by decree – and decide whether its abusing its power.

In a situation when parliament is dissolved, freedom has been limited in the state of emergency, and the government effectively rules by decree, North Macedonia's Constitutional Court remains the only body exercising control over the constitutionality and legality of these regulations.

Three decrees, against which appeals have been submitted, are currently under the scrutiny of the nine judges.

The court has also decided, and not only because of the submitted appeals, to check whether some of these decrees really relate to the state of emergency.

Former constitutional judge Trendafil Ivanovski told BIRN that, although this situation was without precedent, the Constitutional Court would have to adjust to it. "The Constitutional Court must adapt itself to these conditions as well. Concerning any regulation that someone deems unconstitutional, it can take the initiative," he said.

Denis Preshova, assistant constitutional law professor at Sts Cyril and Methodius University in Skopje, agreed. "The government has full legislative activity in a state of emergency, and only the Constitutional Court can have direct control over it," he said.

### **Judges now sitting in masks and gloves:**

Eight of the nine judges on the court gathered for the second time last Wednesday to debate an appeal submitted by former MP and right-wing activist Todor Petrov against the decision to dissolve parliament ahead of now postponed elections, which were to be held on April 12.

The appeal did not succeed. One judge was absent from the session that BIRN observed. In an unusual manner, dressed in face masks, the judges started their session at 8.30 am.

The absent judge was Vladimir Stojanoski whose nine-year term expired on April 14, when he was due to return to the Supreme Court. Under the state of emergency, the terms of judges, the state President and members of the Judicial Council are extended, however.

Although the session was public, BIRN was not allowed to take photos of the judges, which is normally routine practice.

Security told BIRN that the court had banned mobile phones from being brought in because some journalists had recorded judges' public discussions and broadcasted them – and because the judges were now in masks.

During the state of emergency, the judges have held one session in two parts and two working meetings. Court president Sali Murati told BIRN that matters were otherwise running smoothly.

Asked if the court might work online in the current situation, Murati did not exclude this, but said more analysis would have to be done “to take into account the existing technical capabilities and experiences of other constitutional courts”.

**Message needs to be sent to the government:**

At the court session at which the initiative to dissolve parliament was discussed, Judge Darko Kostadinovski argued that the court must focus on “problematic provisions that have the strength of the law” that the government had recently adopted.

For the Constitutional Court, it is a new situation. It has never before been faced with the challenge of controlling the government, which currently cannot be done by parliament.

Kostadinovski argued that the court must be quick in deciding on several recent problematic decisions, including decisions on paying bonuses to the Special Prosecution, SJO, staff, changing the country’s banknotes in line with the historic 2018 agreement with Greece, as well as decisions on elections and university funding.

He also said the court could intervene if necessary using temporary measures, so sending a signal to the government that the court is a controller of legality and constitutionality.

In the one-hour-long discussion, President Murati said the overproduction of such acts was problematic, and he was not sure the Constitutional Court could check all the contested regulations.

But what was stressed at the session was that the government should only adopt decrees that refer directly to the state of emergency in relation to the coronavirus.

“Decrees of a legislative nature must not be passed beyond the reasons for introducing the state of emergency,” Murati insisted, stressing that both the regulations and accompanying restrictions of freedoms and rights were all up for discussion.

**Plethora of decrees passed within a month:**

The government passed almost 90 decrees with the strength of law within a month of the state of emergency due to the coronavirus being declared.

By the time of the government session held on April 14, “a total of 87 decrees with the strength of law have been adopted. Of these, 65 were adopted in April and 22 adopted in March”, the government itself said.

BIRN checked the official gazettes over this period. The largest batch of decrees, 14 in all, was adopted at the session on April 4.

If all decrees adopted and amended decrees are taken into account, the total number exceeds 100. Court President Murati does not dispute that the government can pass such decrees in an emergency.

But he added: “The principle of constitutionality and legality should be respected during a military or state of emergency, especially in terms of respect for freedoms and rights, i.e., their restriction.”

[...]

## North Macedonia's State of Emergency Weakens Institutions' Transparency

<https://balkaninsight.com/2020/04/24/north-macedonias-state-of-emergency-weakens-institutions-transparency/>

April 24, 2020 Goce Trpkovski

The government insists that its pandemic measures won't affect the public's right to information – but in practice institutions are becoming less responsive to FOI requests.

Citing health crises and states of emergency, some Balkan countries have used the situation to restrict the right to information and media freedom.

While authorities in North Macedonia have imposed no such curbs, some restrictions in access to information have still appeared by themselves.

This is mainly because many public-sector workers now work at home, while those who remain in offices cannot always respond to information requests in the timeframe prescribed by law.

Some public institutions also say that, owing to staff shortages, they simply cannot obtain the information that citizens, journalists, NGOs and others want. [...]

### **Delays instead of rejections:**

North Macedonia passed a new FOIA act in 2019, which cut the deadlines for institutions to provide access to information from 30 to 20 days.

The law came into full force at the start of this year, once the team at the Agency for Protection of the Right of Information, which is responsible for complaints when institutions fail to do their duties, was fully formed.

The government insists that although it has a right under the state of emergency to pass decrees with the force of a law, it has no plan to restrict access to information.

"We won't make changes. Transparency and access to public information are particularly important in this state of emergency," Justice Minister Renata Deskoska told BIRN.

Despite that, institutions offer plentiful reasons why they can't provide answers on time.

These range from claims that the staff responsible for the information are working from home, are at home parenting a small child or are taking days off.

The Center for Civil Communication, CCC, an NGO, is preparing its index on transparency of institutions at the zenith of the pandemic.

CCA head German Filkov told BIRN that although it sent FOIA requests to all ministries and municipalities asking them to provide the number of their employees, just before the deadline to answer expired, it received such data from only 29 per cent of them. All the others said they would be late. [...]

**Deadlines in courts are postponed:**

But if something goes wrong and an institution refuses to answer a FOIA request, and again rejects the complaint, there will be a problem. This is because the deadlines in courts have been put on hold.

In normal circumstances, the person or body that requested the information could submit a complaint to the administrative court.

Now, however, courts, including the administrative court, won't start procedures until the state of emergency ends. Under the government provision, they are instructed to act only on high priority cases.

In reality, this tool has not been particularly useful to complainants, even in normal times, as the procedures in these cases often lasted years.

For the media and journalists, the work of the Agency for Protection of the Right of Information is more crucial, and this agency says that it is still working without delays, and has not seen any increase in the volume of complaints.

"There is no significant difference. The law envisages that institutions can request postponement of deadlines from 20 to 30 days if they need to provide more cumbersome information that takes time to collect. But the law does not envisage how to act in a state of emergency," the head of the Agency, Plamenka Bojceva, said.

[...]

# Romania

## **Over 9,100 contraventional sanctions issued to people not observing movement restrictions**

<https://www.nineoclock.ro/2020/04/03/over-9100-contraventional-sanctions-issued-to-people-not-observing-movement-restrictions/>

April 03, 2020 by Nine O'Clock

The police have issued, in the last 24 hours, over 9,100 contravention sanctions, in the amount of 11,090,347 lei, to the people who did not observe the provisions regarding the restriction of movement.

"In the last 24 hours, 777 vehicles (with 2,271 people) were taken from the border areas and another 22 vehicles with medical equipment were escorted. As many as 244 cars were checked on the illegal transportation of persons and another 83,110 persons against whom the isolation or quarantine was ordered, 31,409 quarantine or isolation locations having been checked," informs the Press Office of the General Inspectorate of the Romanian Police (IGPR).

The actions resulted in the drawing up of 12 criminal cases, under Art. 352 Criminal Code, on hindering disease combat.

The police also verified the observance of the prohibitions imposed on the persons in isolation or quarantine and those imposed, during the state of emergency, to commercial units, also carrying out controls for combating economic crime.

In their missions, the police were supported by 4,296 local police staff, with gendarmes and Army personnel also joining the integrated system activities.

## **Bribe is holding on tight in Romania despite the COVID-19 pandemic**

<https://www.romaniajournal.ro/society-people/bribe-is-holding-on-tight-in-romania-despite-the-covid-19-pandemic/>

April 09, 2020 by Alina Grigoras

Two men in Suceava have accused that some employees at the morgue of the Suceava hospital had asked them bribe to take their dead relatives out of the morgue, Adevarul daily reported. The money had to be put in a shoe box, probably.... to prevent the coronavirus transmission.

The relatives of those who died of coronavirus at Suceava hospital say that they faced problems when they wanted to take the bodies or even when they wanted to recover their relatives' personal objects, such as mobile phones, ID papers or jewellery.

Vasile Costeniuc, a former policeman in Suceava, went to take the body of his dead father from the county hospital on April 4. He was in shock when a employee of the hospital's morgue has asked him for money.

*"While I was there, I was with the driver from the funeral home. The nurse from the morgue asked me what's going on, aren't we going to pay? I asked the driver and he told me I had to pay RON 100. I thought the money was for washing the dead body. She took a black box and I put RON 100 in it",* the former policeman recounted, adding that the nurse took the money from the box.

He also accused he could not recover his father's mobile phone.

Another local, Lucian Ciobanu, told a similar story after his mother had died of coronavirus at the county hospital.

*"They told us it's a regular thing to give money. We could not oppose it under the circumstances. But we had an argument after the hospital staff had refused to give us back my mother's phone, wallet and earrings. We only got them following repeated insistence".*

Another man, MirceaBunescu has also confirmed he had been asked to *"give something for the morgue staff"*.

### **The' vigilant' mayor from Tulcea**

The case emerged several days after a mayor of a village in Tulcea county has been caught while he was going to cash in the bribe himself, equipped with a protective facemask and gloves.

The mayor of Crisan village in Tulcea, in the Danube Delta area, Ilie Munteanu was caught in the act while taking RON 10,000 bribe from the representative of a construction company.

Anti-corruption prosecutors have filmed him and the footage shows that the mayor was taking all precautionary measures to prevent the infection with coronavirus, so he was wearing protective gloves and a facemask. The mayor is filmed in the car while taking the money in an envelope.

The sum was in fact the second tranche of the entire sum the mayor had asked as bribe, RON 20,000, from a construction company in order to facilitate it with a public works contract. The



mayor is member of the Social Democrat Party (PSD), and, ironically, he used to be a cop in the past.

## **Crime rate during the Coronavirus lockdown: Felonies down, domestic violence and abuse up**

<https://www.romaniajournal.ro/society-people/law-crime/crime-rate-during-the-coronavirus-lockdown-felonies-down-domestic-violence-and-abuse-up/>

April 14, 2020 by Diana Salceanu

The lockdown prompted by the Coronavirus pandemic has boosted the domestic violence and abuse cases in Romania as well.

The Romanian Police statistics show that in March the crime rate had declined with the exceptions: on domestic violence (with more complaints being reported than on the same period in 2019) and assaults (where twice more cases have been reported).

Statistics revealed that in March this year the number of crimes has been 14.6% lower than on the same period last year.

There have been less thefts and robberies this year (almost 20% less).

Violent crimes have been also down, 9% less hitting, 27% less street crimes, while the murder attempts have been down by one third as against March 2019.

The most significant decline has been on car accidents- 31% down.

Domestic violence offenses however have been the only ones on an upward trend.

2.3% more complaints have been filed by women who reported they had been attacked by their partners or that they had abused their children.

Provisional restriction orders have been on the rise last month, but way too less cases have got into courts.

## The Convict and Coronavirus: Romania's Million-Mask Mess

<https://www.occrp.org/en/coronavirus/convict-and-coronavirus-romaniias-million-mask-mess>

April 15, 2020 by Ana Poenariu (RISE Romania)

In late March, a shipment arrived in Romania of a million medical masks — desperately needed goods for a country facing the rapidly spreading COVID-19 pandemic. But relief soon turned to disappointment for medical staff on the front line.

The three-ply polyester masks were “crap,” recalled a health worker who declined to be named for fear of losing his job. “We had to throw half of them away. The elastic would break when we tried to put them on.”

Ion Radu Budae, the manager of Hunedoara Municipal Hospital, around 400 kilometres northwest of Romania’s capital, Bucharest, was more circumspect. “The only problem is that they have no nose reinforcement and keep rising [up the face],” he said of the new masks.



*A box of masks sent to Romanian hospitals in March from a shipment facilitated by B.S.G. Business Select. Credit: RISE Romania*

But the shipment had one obvious beneficiary: a middleman company controlled by a convicted organized crime associate and ex-employee of a government ministry once run by Romania’s current Prime Minister, Ludovic Orban. (He told OCCRP he didn’t know her.)

Documents obtained by OCCRP partner RISE Romania show that B.S.G. Business Select SRL secured a no-bid deal worth over 800,000 Euros to supply the masks and nearly 26,000 protective suits to Romania’s strategic state healthcare supplier, Unifarm, which distributed them to health facilities across Romania.

B.S.G. was originally set up to sell alternative health remedies. But in March, a majority stake was purchased by Simona Ciulavu, who worked under Prime Minister Orban when he was the transport minister, and has business ties to another former politician, Robert Constantin Ionescu.

B.S.G. purchased the protective equipment from a Turkish supplier for a total of 614,400 Euros (US\$665,395) on March 18. A day later, it sold them to Unifarm for 865,752 Euros (\$928,963), a quick profit of over 40 percent, according to Unifarm’s own public statements.

The masks were resold at roughly the same amount as the original purchase price. But the suits, which were bought for 7.50 Euros a piece, were sold to the state company for 17.45 each — a

mark-up of over 100 percent. Reporters are unaware of any complaints about the quality of the suits.

Adrian Ionel, the CEO of Unifarm, told OCCRP that B.S.G. Business Select was one of just a few suppliers that had sent a price proposal directly to the state company in early March. He disputed that there were any issues with the quality of the goods delivered. “We’ve been using these masks at Unifarm and none of them broke,” he said. “We wouldn’t put our lives at risk.”

However, epidemiologist Sergiu Tasinschi said that to be effective, medical masks needed to fit tightly to the face — and a wire reinforcement over the nose was critical for that.

More than 900 Romanian health workers have been infected with the coronavirus so far. Doctors treating coronavirus patients should ideally wear respirator-type masks for protection rather than simple surgical masks, anyway, Tasinschi added. “The viral load is much higher in a hospital than in an office building,” he said.

### **A Sleeping Company Awakens**

B.S.G. Business Select claims its offices are located inside this residential building on the outskirts of Bucharest. Reporters who visited the premises could find no signs of business activity.

Corporate records show that Ciulavu acquired a 60 percent stake in B.S.G. Business Select on March 11 — the same day the World Health Organization declared coronavirus a global pandemic.

Before that, the company was wholly owned by an Iranian-born man and had registered no economic activity since 2011. It had originally been set up to practice aromatherapy, crystal therapy, and other alternative health treatments.

A journalist visited its registered offices, on the ground floor of a building in Pantelimon, a neighbourhood on the outskirts of Bucharest, and found no sign of corporate activity. The apartment’s balcony sported laundry hanging on a clothesline, while its street-fronting window was covered by a sheet.

B.S.G. Business Select registered with the Romanian state for VAT purposes just five days after Ciulavu became its majority shareholder. Three days later, it delivered the masks to Unifarm.

Its supplier was an Istanbul-based firm that produces clothes and medical textiles. Co-owner Ulku Farimaz Guler confirmed to OCCRP, through a Romanian-speaking employee, that her company had sold the million masks to B.S.G. through another Turkish exporter linked to her business, after receiving a call from “a lady” in Romania. She declined to elaborate on who this buyer was, or provide other information about the deal.

### **Ciulavu has a colorful background.**

She previously worked at Bucharest City Hall when Orban, who is now prime minister, served as the capital’s deputy mayor. In 2008, the year after Orban became Romania’s transport minister, Ciulavu moved to his ministry, taking a job as a financial specialist in a department that handled European funds.

But she lost that job in 2009 after local media revealed that she had been arrested several years earlier, while working as a government economist, for paying members of a notoriously violent gang known as “the Sportsmen” to push a licensed minibus taxi service out of its commuter route so she could take over.

At Ciulavu’s behest, gang members issued death threats to the taxi operators and even beat a driver so severely that he was hospitalized and needed two weeks of constant medical assistance, according to court documents.

Orban’s successor as transport minister, Radu Berceanu, told local media at the time that Ciulavu had been Orban’s protegee. “Mrs. Ciulavu was a colleague, a good friend and close collaborator of Ludovic Orban in the capital’s City Hall,” he said. “Because of this close relationship and unbreakable friendship, Minister Ludovic Orban took her last year, in May, into the Ministry of Transport.”

Ciulavu’s case spent eight years making its way through Romania’s court system before she was convicted in 2014 for joining an organized criminal group and given a suspended prison sentence.



*Romanian Prime Minister Ludovic Orban Credit: European People's Party/CC-BY-SA 2.0*

She did not respond to requests for comment. However, Prime Minister Orban told OCCRP that he did not recall Ciulavu and had no relationship with her. The fact that she worked in the same institutions at the same time as him was “a simple coincidence,” he said.

“I have no connection with this person. She did not contact me, I did not have any discussion with her, and once again, the name is not known to me,” he insisted. “Even if it happened that she worked in the institutions where I worked, I had no connection, neither with the employment nor with [the contract].”

Ciulavu’s mask shipment also made headlines in Romania because it was briefly blocked from leaving Turkey due to a new coronavirus-related export ban imposed by Istanbul, requiring Orban to personally call the Turkish vice president to get it released.

He told OCCRP that this intervention, too, was strictly official. “My request was not related to a particular company, but to the unlocking of contracts that had been signed,” he said. “Do you think I could speak to the Turkish vice president to tell him, you know, I have a contract there?”

## Oversharing

On March 19, the same day that B.S.G.'s shipment was delivered to Unifarm, former Bucharest Deputy Mayor Robert Constantin Ionescu took to Facebook to claim credit for the deal — and personally thanked Prime Minister Orban for facilitating it.

Later that night he added more details to his initial post: "Today, I managed to bring from Turkey to Romania (Through BSG Business and Akyle Security), the first shipment of 1,000,000 masks - and suits against Coronavirus!" Ionescu wrote. "Thanks for the absolute support, to the Prime Minister Ludovic Orban and to the General Director of UNIFARM, Adrian Ionel!!!"

The delivery appeared to be a major achievement for Ionescu. But within two days, he had backtracked.

In a subsequent interview with the newspaper Libertatea, Ionescu clarified that his own company, Akyle Security, had nothing to do with the contract for protective equipment, but was merely a "partner" of B.S.G. Business Select. He claimed he was B.S.G.'s lawyer — despite having been suspended by the Bucharest bar in 2016 for non-payment of taxes.

In an interview with the same newspaper, Unifarm chief Ionel said he was "not very sure" of Ionescu's role in the middleman company. Those involved in delivering the masks appeared to "answer to his commands," Ionel was quoted as saying. "We are a little confused by this character," he said.

Orban told OCCRP that he, too, had seen Ionescu's Facebook post, but insisted that he did not know the man personally. "I have never interacted with lawyer Ionescu," he said.

Ionescu has other links to Ciulavu. Corporate filings show his own company, Akyle Security, which has lucrative contracts providing private security services to multiple state companies and public institutions, is co-owned by Ciulavu's sister and the 80-year-old father of Ciulavu's boyfriend.

That boyfriend, Petru "Pepi" Pitcovici, was an official at Romania's Anti-Corruption General Directorate, but lost that job after being accused of corruption himself. He was handed a two-year suspended sentence in 2017 for helping deliver a bribe (three litres of whiskey and a bottle of the local spirit Palinca) to a policeman in return for dropping a criminal case.

He was earlier investigated for allegedly interfering in a drug case, and was probed over the disappearance of roughly six kilograms of cocaine in a separate drug case. On his LinkedIn page, he lists himself as a legal adviser to Akyle Security.

Ionescu told OCCRP that since imports of protective equipment are "the subject of an action plan of Romanian judicial bodies" during the coronavirus pandemic, he was legally unable to comment on his role in the B.S.G. medical mask shipment.

With or without Ionescu, B.S.G. is still trying to make it in the medical supply business.

The company recently spent nearly 1.5 million Euros on another three million masks and 21,540 protective suits from the same Turkish supplier, records show. It is now attempting to sell them through Romania's public procurement system for 0.72 cents per mask, a more than 70 percent mark-up from the purchase price.

*Romana Puiulet (RISE Romania) and Yanina Korniienko (OCCRP) contributed reporting.*

# Serbia

## Serbian Reporter's Arrest Over Pandemic Article Draws PM's Apology

<https://balkaninsight.com/2020/04/02/serbian-reporters-arrest-over-pandemic-article-draws-pms-apology/>

April 2, 2020 - Milica Stojanovic, Belgrade, BIRN

After a journalist was arrested for reporting poor conditions in a hospital, Serbia's Prime Minister has promised to withdraw a new ruling penalizing anyone releasing information about the coronavirus outbreak that is not 'authorized' by her office. Serbian authorities have promised to withdraw a new regulation concerning the information flow about the pandemic after a journalist was arrested for reporting poor conditions in an important hospital.

Ana Lalic, who was released from custody on Thursday, was arrested on Wednesday and placed in 48-hours of police custody following publication of her article about conditions in the Clinical Centre of Vojvodina, Serbia's northern province.

Her media outlet Nova.rs published the text, "KC Vojvodina about to crack: No protection for nurses", on Wednesday. The article claimed the institution lacked basic equipment and had "chaotic working conditions at the time of the pandemic". Lalic claimed she tried to get comments on this from hospital officials and also from the provincial secretariat for health, but none of them responded.

The hospital issued an angry press release following the article, denying her report and announcing that it had informed the prosecutor's office and the police "due to public disturbance and damage to its reputation".

Lalic was detained on the first day of the application of new rule that says all information from local institutions about the pandemic must go to central Crisis Staff in Belgrade, led by Prime Minister Ana Brnabic. This alone can further share information with the public. The government's decision also applies to the work of the media.

"Information on health measures taken and other information related to the treatment of COVID-19 ... given to the public by unauthorized persons, cannot be considered accurate and verified," the measure says, noting "the possibility of applying regulations relating to liability and legal consequences for the spread of misinformation in a state of emergency."

However, on Thursday, Brnabic said the government would withdraw the decision, blaming herself for any confusion caused. "It is my fault that we brought in something like this and it is also my stupidity that when we brought it in, I did not explain it," Brnabic told to Radio Television of Serbia, concerning the regulation.

Only hours after Nova.rs published Lalic's article, police came to her home in Novi Sad. Her lawyer, Srdjan Kovacevic, said she was ordered to stay in Novi Sad police station for 48 hours "on suspicion that she could repeat the crime, publishing texts that cause panic and disorder". "They searched her apartment and kept a laptop and two mobile phones – official and private.



They then brought her to the police station”, Kovacevic told to Nova.rs. He then said Lalic would stay in custody until her hearing.

## Serbian electoral reform: Improved national minority representation or tactical move against boycott?

<https://europeanwesternbalkans.com/2020/04/13/serbian-electoral-reform-improved-national-minority-representation-or-tactical-move-against-boycott/>

April 13, 2020 by Nikola Burazer

When the Law on the Election of Members of Parliament in Serbia was amended on 8 February 2020, almost all public attention was drawn to the issue of electoral threshold, which was reduced from 5% to 3% of the total number of voters. Almost unnoticed, however, was the fact that the provisions of the law on the representation of national minorities in the National Assembly of the Republic of Serbia were also amended. As the Law on Local Elections was almost identically amended, the changes will have an effect on the representation of minorities in municipal assemblies as well.

Parliamentary representation of national minorities is of great importance for Serbia because of the European integration process. On the one hand, there are obligations arising from the Negotiating Chapter 23, within which the rights of national minorities are an important area. On the other hand, there are bilateral disputes concerning the rights of national minorities that Serbia has with its neighbouring EU member states, which can block Serbia's European path at any point.

In order to open Chapter 23, in 2016 Serbia had to adopt, in addition to the Action Plan for this Chapter, a special Action Plan for the Realization of Rights of National Minorities. Its goal was to address the problems identified in the third Opinion of the Council of Europe Advisory Committee on the implementation of the Framework Convention for the Protection of National Minorities.

The seventh chapter of the Action Plan for the Realization of Rights of National Minorities concerns the democratic participation, that is, the political representation of national minorities in the legislative bodies. "It is necessary to review the existing provisions regarding the election of representatives in order to avoid abuses against national minority parties, and to ensure more effective participation of less numerous national minorities in electoral bodies at all levels," this section of the Action Plan states.

### **Do the amendments to the law address the most pressing problems?**

At first glance, changes to the law seem to be heading in the right direction when it comes to representation of national minorities, as they address two of the biggest problems that the Council of Europe has recognized in this area: the representation of less numerous national minorities and the possibility of abusing the minority status.

Political parties and coalitions of national minorities have so far won seats in the National Assembly owing to the provision that they the 5% threshold does not apply to them in contrast to the other lists, and they need to cross the "natural threshold", i. e. win around 0,4% of the citizens' votes.

Amendments to the laws of 8 February stipulate that minority lists now receive additional 35% to the votes won, that is to the quotients when applying the D'Hondt system, making it easier for minority parties and coalitions to cross the natural threshold, but also to win more seats in the National Assembly than was the case previously.

Given the fact that, until now it has taken about 15,000 votes to pass the natural threshold and win a single seat in the National Assembly, it is expected that after these changes, the natural threshold would be around 11,000 votes at the usual turnout rate.

So far, only parties of the Hungarian, Bosniak, Albanian and Roma national minorities have managed to cross the “natural threshold” on their own and win seats in the National Assembly. The only exceptions are the two parties that managed to win seats without a clear minority profile.

The second amended provision concerns the process of determining which political parties and coalitions represent national minorities, which in previous versions of the law was left to the Republic Electoral Commission, provided that the parties are registered in the register of political parties as minority ones. It is now envisaged that the Republic Electoral Commission may also consult the relevant National Council of the national minority when making its decision.

However, experts speaking for EWB express doubt that these changes to the law will be able to adequately address the problem of representation of the minorities in the National Assembly.

According to Ksenija Marković, Research Associate at the Institute of Social Sciences in Belgrade, the biggest obstacle to minority representation remains the need for 10,000 signatures to be submitted, which has not been removed by these amendments.

“This was a requirement in the previous three election cycles and this was the biggest obstacle for the minorities to collect the required number of signatures and run in the elections, not the structure of the electoral system itself,” Marković said.

She recalls that a proportional electoral system is generally considered to favour the political representation of national minorities, as it allows a better reflection of social pluralism in the legislature. However, the experience of other countries with a first-past-the-post electoral system shows that if constituencies are designed to respect the ethnic structure of the population, more minority representatives are elected.

“The current obstacle in the form of collecting 10,000 signatures is not a matter of the election formula or structure of the electoral system, but of the electoral rules prescribed by law, and these rules are much easier to change than the provisions concerning the electoral system,” Marković said.

She does not expect that the adopted amendments will result in a significantly better representation of national minorities in the highest legislative body.

“The outcome can only be speculated about, but given the previous experience, there will be no significant changes, but we will only know this for sure after the elections,” Marković tells EWB.

Jelena Perković, an Associate of the Center for Regionalism, agrees, citing the necessary number of signatures for minority lists as the biggest obstacle to political representation of national minorities in the National Assembly.

“The stumbling block for national minority parties in several election cycles, the signature of 10,000 citizens to register their electoral rolls, remains the barrier to the election race of the

most of the national minorities. Namely, the long-standing request to reduce the number of 10,000 signatures for the submission of minority lists has not been accepted”, Perković reminds.

She also questions the solution by which the Republic Electoral Commission determines whether a party is indeed a national minority party and whether its primary objective is to represent the interests of the national minority in question.

“I believe that the Republic Electoral Commission can determine the respect for the prescribed election procedures, but to give it the power to determine the representativeness of minority parties or coalitions is to limit the right to political action for all participants in the electoral process,” says Perković.

In her view, the provision that the REC can consult the relevant National council for this purpose is even more controversial.

“Even stranger is the need for National councils, the powers of which are regulated by law, not to mention limited, in four areas where minority rights are exercised. The introduction of the mechanism of arbitrariness by non-competent “structures” into basic human rights is an obvious threat to that right”, concludes Perković.

### **Contribution to the resolution of bilateral disputes?**

The issue of representation of national minorities in the National Assembly is an important issue for Serbia’s European integration, also because of the bilateral agreements on the protection of national minorities that Serbia has with neighbouring EU Member States, Croatia, Romania and Hungary. All these countries are interested in the issue of representing “their” minorities in Serbia and are able to put obstacles on Serbia’s progress towards the EU.

Particularly important is the bilateral dispute that Serbia has with Croatia regarding the protection of the rights of national minorities, which in part relates to the representation of the Croatian minority in Serbian legislative bodies. The Agreement on the Protection of the Rights of the Serb and Montenegrin Minorities in the Republic of Croatia and the Croatian Minorities in Serbia and Montenegro obliges both parties to “ensure” the representation of national minorities in representative bodies at all levels, which Croatia interprets as an obligation to guarantee parliamentary seats.

This dispute already had negative consequences, as it represented one of the reasons Croatia blocked the opening of Chapters 23 and 24 with Serbia in 2016. As Member States have a mechanism at any time to block negotiations over bilateral disputes, this issue may become relevant in the future.

Former President of the National Council of the Croatian national minority in Serbia Slaven Bačić tells EWB that Croatia insists on implementing a bilateral agreement that clearly defines the issue and believes that Croatia’s position remains unchanged.

“Croatia wants the full implementation of the agreement, that is, the word “secure” in Article 9 of the agreement does not mean the abolition of the census, the natural threshold, the increase of the electoral quotient and the like, but guaranteed seats in representative bodies of all levels, as implemented in Croatia. Although Croatia has been persisting on this issue, the authorities in Serbia have so far not shown their willingness to implement this part of the agreement”, Bačić said.

Jelena Perković agrees with this assessment, believing that, while Croatia still had no official statements, it can be assumed that it will continue to insist on the implementation of Article 9 of the bilateral agreement related to this issue.

“Countries in the region with which bilateral agreements on the protection of the rights of national minorities have been signed, Croatia, Hungary and Romania, have already expressed dissatisfaction at the meetings of the Intergovernmental joint commission when it comes to the political representation of their minorities at all three levels of government,” says Perković. She reminds that members of the Hungarian minority in Serbia do not have a problem with political representation in the parliamentary life of Serbia, but that the Croatian community constantly expresses its dissatisfaction with political participation, as it is the fourth largest in Serbia, but with marked territorial dispersion, forced to enter electoral coalitions with other parties.

“All three countries in their parliaments have a model of ‘guaranteed mandates’ for members of national minorities, and accordingly, there is an expectation that Serbia incorporates such a model of political representation into its political practice, which, in the opinion of experts, requires far-reaching changes in Serbia’s political structure and, above all, the Constitution”, Perković said.

Ksenija Marković also does not expect that these changes will satisfy those countries that have a dispute with Serbia regarding the representation of national minorities, and especially not Croatia as a country with which this issue is particularly sensitive.

“Croatia was clear: they want a reserved seat in the parliament for their minority, and this is not that measure. Representatives of the Croatian minority are still in the National Assembly – Tomislav Žigmanov (Democratic Alliance of Croats in Vojvodina) has joined a coalition with the majority party, as he did before. Despite that, they explicitly demanded this measure again”, Marković recalls.

### **A well thought out strategy or response to the boycott?**

The fact that the law on the election of deputies was passed without a public debate just two months before the regular parliamentary elections raises the question of how well those changes concerning national minorities are well thought out, and how much the attempt is made to exercise the direct interests of the authorities in anticipating the boycott of the elections by the majority of the opposition.

Through the Action Plan for the Exercise of National Minority Rights, Serbia has committed itself to conducting a comparative legal analysis of practices in the EU, identifying the best models for Serbia and then putting them in place. Based on the latest available report on the implementation of the Action Plan of December 2019, none of these activities has been fully implemented, giving the impression that the latest changes were introduced outside the agenda established by the Action Plan.

According to Jelena Perković, the changes to the law were made because of the threat of boycott, and the speed with which they were approached will be proportionate to the dissatisfaction that would accompany its implementation by both majority and minority parties.

“The expressed political will to amend the law is guided by months of announcements of the boycott of the elections and seeking a way out of the possible illegitimacy of the future election result. Therefore, it is not surprising that there is no broader political debate about the underlying mechanisms that determine election results”, Perković said.

Ksenija Marković also does not believe that changes to the provisions of the law regarding national minorities represent any well-thought-out strategy and reminds that lowering the census from 5% to 3% was a response to the boycott.

“I don’t know if there were any agreements, but I know that there was no public debate and there was no public debate about this,” Marković says.

Slaven Bačić shares a similar position, seeing a connection between this change and the announced boycott of the opposition.

“It seems to me that this was just a piece of the pre-election strategy of preventing the boycott of elections and securing the formal legitimacy of the new parliament, which in this case concerns national minorities”, Bačić concludes.

As the holding of the elections scheduled for April 26 is postponed due to the introduction of the state of emergency on March 15, we will likely see the implementation of new measures in practice in the second half of the year.

It remains to be seen whether the opposition’s decision to boycott parliamentary and local elections will remain in force, and whether one of the effects of the legislative changes will be a greater representation of national minorities in the National Assembly of Serbia and in municipal assemblies. This could benefit the minorities themselves and the European integration process, but also help the Serbian authorities in the short term by reducing the boycott effect.

## Human rights in Serbia at the time of the pandemic: Violation or justified limitation?

<https://europeanwesternbalkans.com/2020/04/16/human-rights-in-serbia-at-the-time-of-the-pandemic-violation-or-justified-limitation/>

April 16, 2020 by Sandra Maksimović

Serbia is one of the countries with the most rigorous measures taken due to the COVID-19 pandemic, introduced after a state of emergency was declared exactly a month ago. With the introduction of state of emergency, the authorities are also able to limit certain human rights, such as protection of personal data, right to information, but also freedom of movement and assembly – which makes it necessary to establish a clear boundary between limitations and violations of human rights in a state of emergency, according to the experts EWB talked with.

Lawyer and Executive Director of the Open Society Foundation Serbia, Milan Antonijević, says that when looking at the introduced measures from a human rights perspective – there are challenges, and that any restriction, such as freedom of movement, is something that must always be commensurate with the goal that wants to be achieved.

“Proportionality must be taken into account when it comes to all measures implemented during this period. Therefore, it would be good, as there is confidence in the medical profession and their advice from those who are working on ensuring that human rights are respected, to also have the confidence of doctors in fact that without full respect for human rights, none of the measures will produce good results. This means that trust should be two-way. With all the restrictions that the Constitution allows, even in the most severe cases such as during the war, the legal system is still maintained, and all human rights restrictions must be based on the Constitution. If it is something that can cover a situation such as a state of war, it can certainly also cover the situation we are in today, which is a state of emergency due to COVID-19,” Antonijević points out, adding that he hopes that there will be much more understanding for the profession.

He states that in the past few days, unfortunately, we have seen doctors say that during the pandemic there are no rights, that everything can be done. “It is rather irresponsible and shows a truly basic misunderstanding of the legal order, institutions and everything that must now be in much more perfect shape than ever before and must function not only at the central level, but also at the local level,” stressed Antonijević.

### **“You cannot choose which part of the legal system you want to respect”**

The Director of the Lawyers’ Committee for Human Rights (YUCOM) based in Belgrade, Katarina Golubović, explains that the restriction of movement is not in itself unconstitutional, but that it can become if it is assessed that it was imposed in such a way that it threatens the so-called absolute rights.

“If a restraining order threatens life in real terms – it’s unconstitutional. If the ban on movement transforms into torture – it’s unconstitutional. It seems to me that we are sliding along the border line, with the great possibility of stepping into the field of prohibition for certain categories of population,” says Golubović.

For certain category of the population the right to a fair trial is also jeopardized – experts EWB talked to pointed out that this right is currently one of the most endangered

ones. Golubović explains that if we already have a state of emergency we can have a restriction of human rights, but what is not allowed is a violation of the right to life, the right to physical and psychological integrity and the right to a fair trial.

“There are more rights that cannot be restricted, but I particularly emphasize these rights as they are currently particularly at risk. It is clear that the right to a fair trial has been violated with persons convicted via Skype, on the recommendation of the Ministry of Justice. It is clear that the right to a fair trial has also been violated by the court, which justifies its conviction in violation of the President’s appeal, because it lacks the characteristic of independence. It will be determined whether the mental and physical integrity of the detainees was impaired, since it is not known whether their health status was taken into account,” Golubović said.

Antonijević agrees that matters of the right to a fair trial and the extent of restrictions on freedom of movement can “be questioned whether and to what extent they were and are justified.” He stresses that one should always be careful and take care of the entire legal system, because it is not possible to choose which part of the legal system you want to respect.

“If you start to violate rights, it is something that can very easily be extended to the entire legal system and give the opportunity at both local and other levels to violate citizens’ rights. It is good that colleagues are monitoring the situation and responding to it, given that you have several initiatives to review constitutionality,” Antonijević says.

Namely, the Belgrade Center for Human Rights (BHCR) filled an initiative with the Constitutional Court of Serbia to review the constitutionality and conformity with the European Convention on Human Rights of the Order Restricting and Prohibiting Movement of Individuals in the Territory of the Republic of Serbia enacted by the Ministry of the Interior during the state of emergency, it is stated in a press release.

“The initiative deals with the foreseen possibility of double punishment, criminal and misdemeanour, of persons who break the prohibition. Although the minister’s order stipulates that non-compliance with the imposed bans will be punished as a criminal offense – in accordance with the Criminal Code and as a misdemeanour – in accordance with the said regulation, there is no justification for citizens who violate these bans to be punished twice,” BHRC stated, reminding that the Serbian Constitution (Article 34) and Protocol 7 together with the European Convention on Human Rights (Article 4) guarantee the principle of ne bis in idem, i.e. that no legal action can be instituted twice for the same cause of action, a principle which cannot be waived even during a state of emergency.

“I would not say whether they are or are not violations, I think this argumentation is good enough, but I would appeal to the Constitutional Court to take it seriously and to make quality and well-founded decisions as soon as possible. Because now, in fact, it is the first real response to a pandemic, but also the real answer to what Serbian society will look like after the state of emergency is over and whether we will have institutions and preserved systems in place that will protect citizens,” Antonijević points out, adding that this is especially important because after the pandemic is over, much more attention will have to be directed towards the economic and social rights that will be threatened by the economic crisis.

### **There are responses to certain violations**

Certainly, Antonijević points out that there are violations, but that it has been responded to them, as was the case with the already repealed order from Bor, which instructed all civil society organizations in Bor to make all human resources available to the Crisis response team.



“It represents the misunderstanding of rights, of the Constitution, it is something that resembles forced labour and it is good that something like that has been abolished. That is why it is good to monitor the situation at every level – both at the Government and local level, because different interpretations of measures are noticeable at a local level,” says Antonijević, adding that the second case was an attempt to violate media freedoms by the Government’s Conclusion on informing the population about the condition and consequences of the infectious disease, which centralizes information and gives the right to publish information related to COVID-19 only to the Crisis response team. However, the conclusion was withdrawn in the short term and Antonijević cites that as a positive example of listening to the profession.

“Still, the profession is not widely trusted, the authorities act reactively. It can be seen that some decisions that are made both locally and at the national level do not pass the filter of human rights and in general, justification, at all. I do not know what should be forgiven because of the tempo in which things are developing, but not much, and especially not now after many weeks passed since the crisis began. Human rights are not something we can scorn in this period, and there is no need for it. Within truly broad constitutional permissions and capabilities during the state of emergency, everything can be regulated legally,” emphasizes Antonijević.

Golubović adds that the right to information can be restricted, but it is certainly not desirable. “The consequence of arrest of Ana Lalić was precisely preservation of right to criticize. In its instruction, the Council of Europe called on countries to preserve this right, as a very important right in this period,” says Golubović.

A journalist of Serbian Nova.rs portal Ana Lalić was arrested on April 1 because of her article about lack of adequate protective equipment for medical workers in the Clinical Centre of Vojvodina (KCV), which has denied the allegations and pressed charges of “causing panic and unrest”. Lalić was released the next day, but nevertheless, her laptop and mobile phones have been kept by the police, which has raised public concerns that the police want to find out who were journalist’s sources from the KCV.

However, the arrest of the journalist was not the only arrest that provoked public reaction. Artist Jovana Popović from Kikinda, who became known to the public as the author of the anti-regime song “Scum”, was arrested 10 days after she came from Montenegro on March 14, one day before the introduction of state of emergency, for allegedly violating a measure of mandatory home isolation. However, she claims that neither at the border nor after returning to Kikinda, no one has informed her that she must be in isolation. Popović was only released from custody on April 13, although numerous civil society organizations and parties demanded her release, reminding that the provisions and laws could not be retroactively applied.

The Council of Europe has issued a toolkit for all 47 member states, i.e. Information Documents on respecting democracy, rule of law and human rights in the framework of the COVID-19 sanitary crisis, in which it is stated that any derogation must have a clear basis in domestic law in order to protect against arbitrariness and must be strictly necessary to fighting against the public emergency. States must bear in mind that any measures taken should seek to protect the democratic order from the threats to it, and every effort should be made to safeguard the values of a democratic society, such as pluralism, tolerance and broadmindedness.

### **Executive branch without National Assembly’s control function**

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It is necessary to emphasize that not only declaring a state of emergency is the basis for limiting human rights – declaring a pandemic and emergency situation is sufficient to allow for the possibility of restricting some human rights, including movement.

“It is true that there are two legal ways of introducing a state of emergency, where the regular way is the proclamation by the National Assembly. It seems to me that we are slipping on the border of separation between what is allowed and what is not allowed the whole time. The Constitution says that the measures are valid and that the Assembly approves them when they meet. What is much more of a problem than the way it is proclaimed is the fact that the Assembly has not exercised its control function for a month,” highlights Golubović.

Antonijević agrees and adds that the control function that the National Assembly has is to be used as much as possible in a state of emergency, and therefore emphasizes that he does not see why the Parliament would not be able to make decisions on a digital platform and thus include a third branch of government, given that in some other areas such as the judiciary, we have quickly adapted and switched to digital, such as the government making decisions via online platforms or courts working through Skype.

“I consider this to be the first message that should be sent, as this is not something that will last for a short period of time, challenges will continue to occur. You have also seen for yourself that life brings about some issues that we have not thought about in the past. Starting with what will happen to children whose parents are infected and placed in hospitals. These are all key issues for which it is good to have a legal basis,” Antonijević points out.

The consequences of the actions of those responsible during state of emergency will not disappear after it has been abolished. The question is at what pace the reduced level of human rights will be restored. Antonijević concludes that everyone should ask themselves what rights they are interested in, which ones of his/her rights have been violated at this moment, and “understand that if one right is violated it will be very easy to violate all others”.

## MEPs warn Várhelyi of serious situation in Serbia in regard to human rights

<https://europeanwesternbalkans.com/2020/04/16/meps-warn-varhelyi-of-serious-situation-in-serbia-in-regard-to-human-rights/>

April 16, 2020 by EWB

STRASBOURG – A group of 21 MEPs sent a letter to European Commissioner for Neighbourhood and Enlargement Olivér Várhelyi in which they point out to “extremely serious” situation in Serbia in regard to constitutional and human rights, N1 reports.

MEPs wrote that the open-ended state of emergency imposed by President Aleksandar Vučić to tackle the coronavirus pandemic is a “severe and disproportionate” measure which restricts human rights, apparently not in order to prevent the spread of COVID-19, but to impede freedom of expression and free movement.

“The result of it is that several citizens have been detained for violating strict curfew provisions, while the real reason behind their arrests was criticism of government policy”, it is stated in the letter, with MEPs recalling that the Serbian government “wanted full control over the press, in order to broadcast only filtered, mostly fake information and defamation against the European Union” but following protest revoked the decree “which was used as pretext to arrest journalists”.

The MEPs also recall Aleksandar Vučić’s statement that “European solidarity does not exist” and that it is “just a fairy tale”, adding that cooperation with Moscow and Beijing continues.

The MEPs believe that the deployment of the military to hospitals is “a measure compatible with a state of war, rather than a pandemic” and expressed concern over the fact that “the declaration of the state of emergency took place in the absence of a sitting parliament”.

That is why a group of 21 MEPs from different parliamentary groups ask the EU Enlargement Commissioner to make a clear statement on the “extremely serious” domestic developments and the statements against the EU, as well as what Brussels can specifically do to deal with the “extreme” measures of the Government of Serbia.

The MEPs are also urging Várhelyi to recommend political steps that the European Commission could make with regard to the EU membership prospects of Serbia in case its government refuses to revoke its repressive policies and to fully honour common European values.

The letter was signed by MEPs coming from various political groups, including those whose duties in the European Parliament are directly related to the Western Balkan countries’ European integration, such as Chair of the European Parliament Delegation to EU-Serbia Stabilisation and Association Parliamentary Committee Tanja

Fajon, Head of the Western Balkans Task Force in the EP's Foreign Policy Committee  
Tonino Picula as well as EP Rapporteur Kosovo Viola von Cramon-Taubadel.

## **New low for parliamentary democracy in Serbia**

<https://europeanwesternbalkans.com/2020/04/24/new-low-for-the-parliamentary-democracy-in-serbia/>

April 24, 2020 by EWB

National Assembly of Serbia is set to meet early next week, more than 40 days since the state of emergency was announced. It is expected to retroactively approve all measures enacted in the meantime, including the introduction of state of emergency itself.

Only a small number of citizens were unnerved by the lack of parliamentary during this period, even though it is assumed that limitations of the constitutionally guaranteed rights and freedoms, as well as the extraordinary spending of huge sums of money, should be debated by MPs who are to, now more than ever, hold the Government to account.

According to our interlocutors, the decision not to hold a parliamentary session so far is a political one, not a legal one, as no adequate explanation for why the National Assembly could not meet has been provided, especially considering that other parliaments on the continent continued their work. And if it can meet, the role of the National Assembly in a state of emergency is clear – vote on its imposition and control the executive.

However, the fact is that nobody was shocked by what has happened in recent weeks points towards the long process of the collapse of parliamentary democracy in Serbia, which is not over.

### **No formal explanation for why the Assembly could not declare the state of emergency in March**

Since the first case of Coronavirus disease (COVID-19) in Serbia was registered on 6 March and a pandemic declared by the World Health Organization (WHO) six days later, the Ministry of Defence submitted the assessment of security risks and threats to the Republic of Serbia and its citizens to the President of the Republic Aleksandar Vučić on 14 March, in accordance with the Article 88 of the Law on Defence of the Republic of Serbia.

“The President received the Ministry of Defence’s assessment tonight, and it is up to him to decide how and will he use his constitutional powers and put into service all the security services in our country to preserve the life and health of all Serbian citizens”, Defence Minister Aleksandar Vulin said at the time.

The next step was for the Prime Minister Ana Brnabić, to whom the Ministry of Defence’s assessment was also addressed, and the President Vučić to jointly submit a proposal for a declaration of a state of emergency to the National Assembly, which has the primary authority to declare a state of emergency, based on Article 105 of the Constitution.

Instead, acting upon the Article 200 of the Constitution, which alternatively allows the President of the Republic, the Speaker of the National Assembly and the Prime Minister to decide on a state of emergency, if the National Assembly is “unable to meet”, a state of emergency is declared in the territory of the Republic of Serbia 15 March.

[...] National Assembly Speaker Maja Gojković said that, given the epidemiological situation and the recommendation not to convene gatherings of more than 50 people, she suggested that the President, Prime Minister and herself should decide to declare a state of emergency.

In the view of Professor Violeta Beširević, PhD, from the Faculty of Law, Union University, in declaring a state of emergency there was a violation of the constitutional principle of the rule of law, because, as she explains, a safe way could have been found to hold the session in the appropriate open space, as the Government of Serbia sessions have been held outdoors in the past. The session could also have been held in the Assembly building itself with all security measures, with the physical separation of MPs, as was done in France, when the French Parliament met only to declare a state of emergency.

“It should be kept in mind that the Decision on the introduction of a state of emergency did not explain why the state of emergency was introduced or why the National Assembly was not able to meet, which undermines the principle of the rule of law in so far as it is exercised by obeying the Constitution and law (Article 3 of the Constitution). Without justification of the Decision on the State of Emergency, it is impossible to determine exactly why the National Assembly was not able to meet”, concludes Prof. Beširević.

[...] Prof. Beširević confirmed for our portal that the Speaker of the National Assembly, following Article 244, paragraph 1, item. 5 of the Rules of Procedure of the Assembly, is authorized to inform the President of the Republic and the Prime Minister that the National Assembly is not able to meet, but it is also of the opinion that a way could have been found for the parliament to confirm this decision.

“If such an assessment is made by the Speaker, the provision of Article 200, paragraph 5 of the Constitution shall apply,” Beširević said, adding that she is of opinion that, with the use of modern technology and communication means, the way to confirm the state of emergency within 48 hours, a preferred deadline in the Constitution could have been found.

### **There have been no legal obstacles for the National Assembly to meet**

[...]What has prevented the National Assembly to meet, confirm or not confirm the decision to declare a state of emergency and derogation from human and minority rights? Judging by the Constitution and the laws – nothing.

Although the National Assembly was dissolved by the decision of the President Vučić after he called the parliamentary election on 4 March, now that a state of emergency has been declared, its full competence has been re-established, lasting until the end of the state of emergency, judging by Article 109 of the Constitution. Also, Article 106 of the Constitution of Serbia stipulates that, in a state of emergency, no one needs to convene a National Assembly because upon a declaration of a state of emergency it meets without a call.

In addition to these legal bases, Prof. Beširević points out that in Article 200, paragraph 3 of the Constitution, which states that “during a state of emergency, the National Assembly meets without a special invitation and cannot be dissolved” means that a certain number of MPs or the Government are not required to request a session of the National Assembly, as in the case of extraordinary sessions, and it can be interpreted that the Speaker of the National Assembly doesn't need to convene a session under Article 104, paragraph 2 of the Constitution.

“The constitution is vague. It is interesting to note that the Rules of Procedure of the National Assembly, in Article 244, provides that in the event of a state of war or emergency, the Speaker of the National Assembly determines the time and place of the National Assembly session, since it is nevertheless necessary for someone to inform the MPs that the session will take place”, Beširević says.

She concludes that, according to the aforementioned constitutional and legal provisions, the Assembly has the full capacity to decide on the state of emergency.

Mandić notes that the Government and all other executive bodies have been able to meet, while this has not been the case with the National Assembly.

“We see that representative bodies across Europe are finding ways to decide in the conditions of a pandemic, and this is extremely important because of the democratic scrutiny of the introduction of restrictions on citizens’ rights, as well as the public debate on these issues”, she concludes.

However, while there are no obstacles to positive law, there are political obstacles, Mandić says. “The National Assembly can still meet and review all decisions of the executive branch – those declaring a state of emergency, as well as all others. The reason for the non-participation of the National Assembly lies, I fear, in the party command, rather than the real inability to meet it”, she says, adding that the executive is obliged to submit its decisions on restricting citizens’ rights to the National Assembly for approval, which is expected to happen only next week, more than a month after the restrictions had begun.

### **[...]More of a rule than an exception**

Renouncement of the control over the executive by the ruling majority in Serbia, nevertheless, is not new. The eleventh parliament since the renewal of multi-party system, elected on 24 April 2016, has established a long trend of playing a supporting role in the power-sharing of Serbia, which is formally divided between three equal branches.

“Parliamentary control over the executive branch in this parliament has been more of a facade than a true opportunity for the public to see how the MPs control the Government. The first three years of this parliament were marked by a sporadic, superficial implementation of the oversight function. The worrying lightness with which the parliament was stepped over in reaching a decision on imposing a state of emergency showcases the low level of its influence, and therefore its ability to control the executive”, the Senior Researcher of the Center for Research, Transparency and Authority (CRTA) Tara Tepavac says for our portal.

Centre for Contemporary Politics has been pointing at the big problems with the functioning of the oversight function of the parliament in its annual publication State of Democracy in Serbia. From November 2017 to October 2018 MPs have asked the Government more than 300 questions, and received an answer to around 10% of them.

[...]In May 2019, European Commission assessed in its Report that the practices of the ruling majority have contributed to the boycott of the opposition, adding that the “oversight function of the parliament is still weak”. Soon afterwards, the Speaker announced a “package of measures” for the improvement of the work of the highest representative body.

### **[...] Will the deterioration of the National Assembly continue?**

Apart from the absence of the National Assembly in declaring a state of emergency, another absence is drawing attention – strong public reaction to the fact that this institution has been skipped.

Among the eight MPs who made the request to convene the session, there belong to “Dostajebilo” (DJB) movement, which continued to hold regular press conferences demanding that the Assembly renews its powers. They also requested the Constitutional Court to suspend the decision on the state of emergency until it was decided on by parliament.

“With the removal of powers from the National Assembly and its de facto suspension, the state in its functioning has gone beyond constitutional framework. DJB is seriously concerned that all control of the state and its resources in a crisis situation of combating Coronavirus is concentrated solely in the hands of the President of the Republic and a small number of people from the Government, which opens opportunities for abuse in the abolition of the constitutionally guaranteed rights and freedoms of citizens during a state of emergency”, reads this request

[...]



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