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# Rule of Law - South East Europe

## Press Review October 2020

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# Regional

## **Albania, North Macedonia 'Should Start EU Accession Talks This Year'**

[https://balkaninsight.com/2020/10/06/albania-north-macedonia-should-start-eu-accession-talks-this-year/?utm\\_source=Balkan+Insight+Newsletters&utm\\_campaign=2992731535-BI\\_DAILY&utm\\_medium=email&utm\\_term=0\\_4027db42dc-2992731535-319834862](https://balkaninsight.com/2020/10/06/albania-north-macedonia-should-start-eu-accession-talks-this-year/?utm_source=Balkan+Insight+Newsletters&utm_campaign=2992731535-BI_DAILY&utm_medium=email&utm_term=0_4027db42dc-2992731535-319834862)

October 6, 2020 – BIRN, BIRN

The European Union's enlargement commissioner said he is "very hopeful" that Albania and North Macedonia will start accession talks in 2020 - but other Balkan states received more critical appraisals in the EU's annual progress reports.



*EU's Enlargement Commissioner Oliver Varhelyi. Archive photo: EPA-EFE/OLIVIER HOSLET*

EU Enlargement Commissioner Oliver Varhelyi said that he expects Albania and Macedonia to formally start their EU accession talks before the end of the year as he presented the bloc's annual progress reports at European Parliament.

Albania and North Macedonia got a green light earlier this year to start their EU accession talks, and Varhelyi said that he is "very hopeful" that the first inter-governmental conferences, which would mark the start of the talks, could be convened within the framework of the current German EU presidency, meaning before the end of this year. While encouraging Albania and North Macedonia, the 2020 progress reports are cautious about the situation in Montenegro amid its current political transition, and critical about Serbia's lack of progress in its EU accession process.

The reports note positive signs towards addressing the need for reforms in Bosnia and Herzegovina, but warn that Kosovo's volatile political situation has caused an adverse

effect on its progress. Turkey, meanwhile, is assessed as moving yet further away from EU values.

### **Albania shows 'determination'**

The progress report says that Albania has pursued reforms "with determination", while the authorities continued to demonstrate their commitment to advance on their EU path.

"The country has made decisive progress and is close to meeting all conditions to be fulfilled prior to the first inter-governmental conference," the report states.

It says that Albania has made commendable progress on electoral reform and that the implementation of necessary justice reforms has also continued.

Albania's fight against corruption and organised crime is assessed in the same positive tone, after this was mentioned in previous progress reports as one of the country's main weaknesses. The report notes good progress in the law enforcement area as well, commending Albania for the recent large-scale successful police operations.

The report further notes that the country's Special Prosecution, as well as other corruption-fighting bodies, are now fully operational.

"The temporary re-evaluation of all judges and prosecutors (vetting process) has advanced steadily, continuing to produce tangible results, hence meeting the condition for the first Inter-governmental conference," the report says.

Albania also received overall positive remarks about strengthening freedom of expression, improving its capacity on border management and asylum, maintaining good neighbourly relations and on aligning its legislation to EU requirements.

### **North Macedonia 'must keep up momentum'**

The report says that North Macedonia has maintained a steady pace of progress and that it has continued delivering on reforms in the area of the rule of law, including the judiciary, the fight against corruption and organised crime.

"North Macedonia needs to keep up this momentum," Varhelyi said, adding that he is encouraged by the commitment of the new government that has just taken office after elections in July.

The report says that North Macedonia "continued to implement EU-related reforms throughout the reporting period". "Efforts continued to strengthen democracy and the rule of law, including by activating existing checks and balances and through discussions and debates in key policy and legislative issues," it adds.

It says North Macedonia is "moderately prepared" to reform its public administration and its judicial system, while its legal framework on the protection of fundamental rights is largely in line with European standards. The country has made limited progress on freedom of expression, it adds.

North Macedonia is also commended for maintaining good neighbourly relations.

## **Montenegro faces fragile transition**

For Montenegro, the report comes in the middle of a fragile post-election transition period after the fall of the government led by the Democratic Party of Socialists, while had been in power for decades, and the process of forming a new government.

The EU enlargement commissioner said that the report will help the incoming government “with a clear view how to advance the EU accession path and how to deepen and speed up reforms, particularly in the area of rule of law”.

Meeting interim benchmarks on chapter 23 of the EU’s body of legislation, which focuses on the judiciary and fundamental rights, and chapter 24, which focuses on justice, freedom and security, “will be the most important priorities for the forthcoming months”, he said.

The progress report sounds alarm bells over “ethnically and religiously motivated attacks in the context of the August 2020 elections.” “Further efforts are needed to integrate human rights into all areas of work, public policy and sectors,” it adds.

It says that there was progress in media legislation, but that this was overshadowed by arrests and legal proceedings against website editors and members of the public for content posted or shared online during 2020. The report warns that important cases of attacks on media and journalist also remain unsolved.

The report says that limited progress has been made in the judiciary, stressing there are challenges in terms of independence, professionalism, efficiency and accountability.

## **Serbia urged to tackle shortcomings**

The progress report on Serbia notes that it has made no progress when it comes to the judiciary.

“The constitutional reform on the judiciary was put on hold until after the 2020 parliamentary elections. This delay has repercussions on the adoption of related judicial legislation that is needed to increase safeguards for judicial independence. The scope for continued political influence over the judiciary under the current legislation is a serious concern,” the report says.

In the fight against corruption and organised crime Serbia has only achieved “limited progress”, the report says.

It urged the Serbian authorities to “address long-standing electoral shortcomings through a transparent and inclusive dialogue with political parties and other relevant stakeholders well ahead of the next elections”.

Sustainable reforms will require genuine political dialogue across the political spectrum, Varhelyi noted.

“The report encouraged Serbian leaders to urgently accelerate and deepen reforms in particular on the political criteria and rule of law. This will pave the way for Serbia to open further chapters in EU accession negotiations,” he said.

According to the report, Serbia made good progress in economic areas such as company law, intellectual property law, competition and financial services. However, limited progress was made on public procurement.

### **Bosnia and Herzegovina shows positive signs**

In the past few months Bosnia has seen some first positive developments in addressing its key reform priorities, the EU commissioner said.

The report marks as positives the breakthrough on holding elections in the town of Mostar, as well as the adoption of the national war crimes strategy. More efforts are needed to address all key priorities, in particular the rule of law, to restore people's trust in the judicial system, the report states.

The integrity of the judiciary and migration management "require urgent action", the EU commissioner said.

The report notes that the country can advance towards EU candidate status only by delivering substantially on these and other required reforms.

### **Kosovo suffers from 'volatile political context'**

"The political context over the past year has been volatile and not favourable for the European reform agenda," the EU commissioner Varhelyi said when talking about Kosovo – a reference to two changes of government during this period and many political stalemates since the October 2019 elections.

The lifting of the 100 per cent tariff on Serbia imports this year was a crucial decision, the report says.

Varhelyi said that the European Commission is committed to achieving visa liberalisation for Kosovo citizens, and that Kosovo fulfils all the criteria for this.

There is some level of preparation for public administration reform, the report states, but Kosovo's judicial system is at an early stage of preparation.

"Some progress was achieved with the partial implementation of rule of law related legislation including the law on the disciplinary liability of judges and prosecutors and the law on mediation, and with the advancement of the roll out of an electronic case management system and central criminal record registry. The judiciary is still vulnerable to undue political influence," the report says. Kosovo is also "at an early stage" of preparedness when it comes to its fight against corruption and organised crime, the report adds.

While Kosovo's legal framework broadly guarantees the protection of human and fundamental rights in line with European standards, the implementation of human rights legislation and strategies is often undermined by inadequate financial and other resources, particularly at local level, limited political prioritisation and lack of coordination, the report concludes.

## **Civil Society Filled a Void in the Balkan Pandemic**

<https://balkaninsight.com/2020/10/13/civil-society-has-found-its-voice-in-the-balkan-pandemic/>

October 13, 2020 – Sofija Todorovic, Belgrade, BIRN

Governments in South-east Europe have ‘quarantined’ human rights in the pandemic – but civil society groups and activists are pushing back, protesting about backsliding and filling the void.

An online discussion, Feeling Ill: Human Rights in the Balkans During Covid-19, organised by Balkan Investigative Reporting Network, the social listening agency Bakamo, and Arizona State University’s McCain Institute, has shed new light on threats to human rights and freedoms amid the current health crisis.

At times, government restrictions have been justified, such as limiting people’s movement, to hinder the spread of the disease. But at other times, restrictions have been unnecessary, excessive, and without a legal basis, and have had a damaging impact on a range of fundamental rights.

Associate director for programs at Human Rights Watch, Fred Abrahams, says the pandemic has affected human rights in two ways. One is direct with the introduction of extraordinary measures that go beyond legal norms and unjustifiably restrict freedom of movement and expression.

The other more indirect effect of the pandemic, Abrahams says, has been to expose pre-existing patterns of discrimination that especially impact vulnerable groups, such as minorities, LGBT+ communities, refugees, migrants and older people.

“COVID-19 doesn’t affect all people equally. It has a disproportionate impact on people who are more vulnerable, poor people, older people and people who have less abilities to access services they need,” Abrahams points out.

Speaking about her own experience as a member of the LGBT+ community in Albania, Xheni Karaj, Executive Director of Aleanca LGBTI, said the pandemic had made many LGBTI people “go back to the closet”, making them feel even more isolated.

“Social distancing was particularly difficult for LGBTI people who are not accepted or out to their families and, due to COVID-19, they have been forced to live with the families at all times,” says Karaj.

She backs this up by pointing to a survey that her organisation conducted in recent months, which showed that 25.4 per cent of respondents among the LGBT+ community in Albania had been forced to live with their families during the pandemic, which had further undermined their mental health, especially if they were young.

The same survey showed domestic violence against LGBT+ people had also increased, as had insults and threats. Violence had also increased online, manifesting itself in hate speech and offensive language – used not only by regular citizens but also by politicians and religious leaders who, on occasions, blamed LGBT+ people for the COVID-19 pandemic.



Xheni underlined that the health situation had also led to the scrapping of Pride marches across the region, almost unique events at which LGBT+ rights are celebrated and endorsed.

No LGBT+ Pride march took place this year in Serbia either, the country that saw the toughest freedom of movement restrictions in the region.

This especially affected older people who for months were allowed out of their homes only to visit doctors, recalled Milena Vasic, a lawyer at the YUCOM Lawyers' Committee for Human Rights.

"We find this discriminatory, and it also caused other human rights violations, especially the right to labour, health care and others," Vasic said. The same downward trend in rights was noticeable in Bosnia and Herzegovina and in Croatia, experts said.

The pandemic at the same time saw an exponential rise in executive powers, jeopardizing people's access to justice and the right to a fair trial. This was an especially worrying development in Serbia, where trials are often seen as politically influenced.

There was also a rise of cases of disinformation, panic and causing disorder, but without clear rules around making arrests or pressing charges. Vasic said authorities in Serbia sometimes imposed draconian sentences of up to three years in prison for what appeared to be minor violations.

Across the region, the responses of governments to the challenges raised by the pandemic appeared unplanned, sporadic and often improvised, as well as lacking independent oversight, said Ivan Novosel, Director of Programs at Human Rights House in Zagreb, Croatia.

He said this approach was especially visible in education, exposing big inequalities in education after schooling moved online, when continued access to education depended on technology that only certain groups or individuals had access to, or that parents could provide to children – the so-called "digital divide."

"This trend [towards inequality] was most visible in elementary schools and with parents who had limited capacities to provide enough, or any, computers," Novosel explained.

Danilo Curcic, from the Belgrade-based A11 Initiative, a non-government organisation that promotes the rights of marginalised communities, said the consequences of the COVID-19 pandemic would be visible mostly in the realm of economic and social rights.

"This goes from education to access to welfare, to housing, etc," he said. "In our context it will be important to start thinking about the ways we can challenge these policies, from the perspective of the intersectionality of economic and social and civil and political rights," he underlined.

Refugees and migrants across the Balkans were particularly deprived of rights, especially in Serbia, Croatia and Bosnia and Herzegovina, where accommodation centres were transformed into detention centres.

“Even when lockdown measures ended in many of these countries, NGOs and civil society organisations were banned from providing any assistance to asylum centres,” Jelena Sesar, Balkans researcher at Amnesty International, said.

Freedom of movement restrictions on migrants were particularly severe in the Una Sana canton of northwest Bosnia, where people for a period were not allowed to use public transport.

Sesar said many migrants who were staying outside the authorised reception centres were exposed to forced eviction, after which the authorities did not provide them any alternative accommodation, and in some cases moved people into improvised camps that did not meet minimum standards. They were also not given sufficient food or medical support.

“The COVID-19 crisis was only a pretext for the authorities in Bosnia and Herzegovina to engage in a proper crackdown on this population, causing a humanitarian problem,” Sesar asserted.

The pandemic also showed the need for grassroot organisations and movements to play a bigger role in providing basic services to vulnerable communities, pushing for access to justice, health care and digital rights protection.

In many cases, states failed to provide assistance and even increased their powers over society. This assistance void was often filled by civil society organisations, despite their limited capacities and resources.

Regional governments’ feeble response to COVID-19 has further eroded people’s trust in already fragile institutions and, at the same time, encouraged voices who are calling for democratic reform.

## **How the EU candidate countries in the Western Balkans stand with fight against corruption?**

<https://europeanwesternbalkans.com/2020/10/20/how-the-eu-candidate-countries-in-the-western-balkans-stand-with-fight-against-corruption/>

October 20, 2020 – Nikola Cuckić

The overall pace of fighting corruption has slowed down and the track record in most countries is far from meeting the requirements for membership – this is one of the conclusions made by European Commission (EC) in the recently published enlargement package for Western Balkans.

The area of fight against corruption shows mixed results among the four EU candidate countries in the Western Balkans – Montenegro, Serbia, North Macedonia and Albania. While the countries in the earlier stages of the EU accession process seem to be speeding up or continuing to conduct reforms in the area of rule of law (Albania and North Macedonia), the frontrunners (Montenegro and Serbia) are slowing down. Although the reform processes in these four countries are on different stages, what is common for them is that all need to step-up the efforts and produce results in the fight against corruption (*track record*), especially high-level corruption.

As the EU officials started emphasising that the economic assistance will be linked to the achieved reforms in key areas and the new enlargement methodology envisages more rigorous conditionality, improvement of results in areas of fight against corruption and rule of law will be needed more than ever if these countries intend to become EU members in the foreseeable future.

This article shows that the successful implementation of the vetting process in Albania will be the key for the fight against corruption while the trial of the perpetrators in the wiretapping cases will be the most important challenge in North Macedonia in the period to come. In Montenegro there is a new hope for acceleration of the EU accession process with the opposition winning the parliamentary election, while Serbian ruling elite will have to work to make the environment suitable for political pluralism and change the policy of inactivity when it comes to high-level corruption.

### **The compromise in the Montenegrin Parliament is needed for reforms to kick-in**

Montenegro received the European Commission Report amid its political transition, as the Democratic Party of Socialists (DPS) lost majority after the August parliamentary election for the first time after 30 years, and the negotiations for establishment of the new Government are ongoing. According to the preliminary agreement of the new parliamentary majority, de-politicization of institutions and fight against corruption and organized crime will be the priority on the new Government's Agenda.

This year's EC report states that Montenegro achieved *limited progress* in the fight against corruption and points out many deficiencies in the area of rule of law.

The progress of Montenegro in the EU accession process is “one step forward, two steps back”, based on the overall score in the report (3,18 out of 5), which is slightly better than last year, but identical to the year 2016, said Ana Đurnić, Public Policy Researcher from Institute Alternative (IA) from Podgorica.

“The area of fight against corruption is not the exception, on the contrary, it dictates the progress in negotiations, which reflects on the average score”, Đurnić said.

In her opinion, once the new majority is formed it needs to profit on the reforms stemming from the accession negotiations process, which the people voted for on the elections in August, and not on the methods of the previous Government.

“There is a need to solve, and not deepen the cross-cutting issues such as politicization of institutions, party employment, independence of the judiciary and other institutions (Agency for Prevention of Corruption, Agency for Protection of Personal Data etc.)”, Đurnić explained and added that the involvement of the Minister of Justice in the work of Judicial Council is something that the new majority needs to abolish, as it was pointed out by the European Commission.

Commenting on how the European Commission saw the work of the Agency for Prevention of Corruption, she said that EC noted that the work of this institution is problematic in terms of independence, setting of priorities, selectivity and quality of decisions.

“Agency is the institution that in the past was used for political battles, something that needs to stop happening”, Đurnić pointed out.

There is also much space remains for improvement in the area of free access to information, where inadequate legal solutions prevent citizens to fully exercise their right to access the information of public importance.

“The intention of the outgoing government was to adopt a new law that would further cause backsliding in this area, which was prevented by the COVID-19 pandemic, so this may be one of the first points that the new government definitely must address. The inadequate formulation in the Law on Free Access to Information from 2017, which exploits the business and tax secrets as reasons for hiding of information and endless rejections of requests, has not brought anything good in this area, so new and more advanced legal solutions are necessary”, Đurnić said.

The commitment to the EU integration process needs to be demonstrated by the new parliamentary majority, but also by the opposition.

“There is no fight against corruption with good results without an efficient judiciary. If the government and the opposition do not make good and quality compromises regarding these solutions, I am completely sure that the assessments in the next report of the European Commission will be similar to this year’s, only names will be different”, Đurnić concluded.

## Number of finalized high-level corruption free falling in Serbia

Serbia was faced with the most critical European Commission Report so far, especially regarding the political criteria for membership and rule of law, where the new assessment grade was added – *very limited progress*.

The overall bitter taste of the report is softened by the solid progress in the economic criteria, which did not prevent the civil society experts to conclude that the country might be facing suspension of negotiation with the EU if something fundamentally does not change.

However, the most powerful political figures, President and the Prime minister, tried to discredit the report as “politically biased” and “unfounded” in some parts, while praising its assessment accuracy in economic achievements.

Regarding the fight against corruption as one of the key aspects of the rule law, Serbia has had *limited progress* for two years in a row.

The fact that corruption is still widespread in Serbian society and is a “matter of concern”, has been noted not only by the EC report but also by President Vučić for the *Kleine Zeitung*.

This kind of statement from the President can rarely be heard in the government-controlled media in the country, where every corruption allegation is treated as the political attack on the President.

“The evidence that the corruption is a very significant problem lays in the fact that it has been mentioned in the report as part of every condition for EU integration – political criteria, rule of law, economic development, public administration”, Transparency Serbia said in the statement commenting the new EC Report.

Transparency Serbia also mentioned that this year’s report points out the inadmissible practice of public procurement and public-private partnerships being contracted based on the inter-governmental agreements and special procedures, instead on public procurement law.

Regarding the new Law on Prevention of Corruption, Report noted that the law entered into force and the Agency for Prevention of Corruption’s capacity building for its implementation has been ongoing.

What causes serious concern is that the problem with the track-record in finalization of the high-level corruption cases has been repeating over the years, as the number of finalized cases dropped in comparison to the two previous years.

According to the EU Commission, every third case ended with the plea agreement and every tenth with the confiscation of assets.

The poor performance in the free access of information has also been noted by EC, as the public authorities in most cases did not comply with the obligation to provide data to the Commissioner for Information of Public Importance.

There is also need for whistle-blower protection to be ensured and whistle-blower reports investigated in accordance to the law, and the Report explicitly mentioned the

case of *Krušik* when the whistle-blower was detained and is still suspended for alarming the public about the corruption in the state-owned arms company.

The Government has to establish systematic cooperation and consultation on draft laws with the Anti-Corruption Council that is active in exposing and analysing systematic corruption, Report mentioned.

The relations between the Government and the Council have been very tense lately, as the Council made allegations in public about the possible corruption and lack of transparency in the ongoing railway projects and contracts of the state-owned company Telekom.

### **Wiretap cases continue to be the big test for North Macedonia's judiciary**

Although corruption is prevalent and remains an issue of concern, similar to the other candidate countries in the Western Balkans, North Macedonia made *good progress* in the fight against corruption in the previous period and since 2017 seems to be on the steady path of rule of law reform process.

The EC noticed that there is a progress in investigating, prosecuting and trying of the corruption cases, including those on the high level, and the State Commission for Prevention of Corruption (SCPC), strengthened in terms of competences and professionalization, has been praised for its “proactivity” in opening new cases.

For Snežana Kamilovska-Trpovska, Project Officer at the Macedonian Centre for International Cooperation (MCMS) from Skopje, the most notable example of dealing with the high-level corruption cases is the verdict to the former Chief Special Prosecutor, Katica Janeva.

“The former Chief Special Prosecutor was convicted for 7 years in June 2020 in the first instance verdict in the so-called ‘racket case’ concerning alleged extortion and abuse of office concerning a case of the Special Prosecutor’s Office”, said Kamilovska-Trpovska for European Western Balkans.

Regarding the work of the State Commission for Prevention of Corruption (SCPC), she said that this body was very active in opening a high number of cases for corruption and conflict of interest and that it has been very transparent and cooperative with other stakeholders.

„However, what we can note is that there is a lack of collaboration from the other state institutions with SCPC. Also, SCPC is facing lack of financial and human resources that make it difficult to fulfil all of their authorities on time. There is no proactive approach from all actors to bring us to the full commitment for a real fight against corruption“, she pointed out.

Political commitment from the government to fight corruption can be observed from the fact that the new Government has established the position of the Vice President for Fighting Corruption and Crime, Sustainable Development and Human Resources, which for Kamilovska-Trpovska means the „readiness to put issue even higher on the agenda“.

Establishing the responsibilities for crimes stemming from the massive illegal wiretapping conducted during the regime of conservative VMRO-DPMNE will continue to be the great challenge for North Macedonia, after the mandate of the Special Prosecutor's Office expired and the cases transferred to the State Public Prosecutor.

„North Macedonia is facing regulation of the status of wiretaps so that accountability for the crimes can be established. The implementation of the new law will show how this process will continue and what will happen with all the prerogatives of the former Special Prosecutor's Office“, Kamilovska-Trpovska said.

She also explained that North Macedonia faces challenges regarding two applications in front of the European Court of Human Rights in Strasbourg brought against the State, concerning wiretapped conversation cases. The processes are in an early stage and it is yet to be seen what the outcome will be.

### **Good progress in justice reforms, but the judiciary in Albania is still paralyzed**

Despite the political polarization and complicated ongoing negotiations on the electoral reform, Albania managed to achieve *good progress* when it comes to both fight against corruption and the reform in the judiciary, according to the European Commission Report.

The re-evaluation of judges and prosecutors (known as the vetting process), that started in 2014 as the biggest judicial reform in Albania since the fall of communism to bring independence, effectiveness and restore public trust in the judiciary, seems to be on the right path.

In that regard, European Commission noted that the vetting process „has continued to render concrete and tangible results, under the thorough supervision of the International Monitoring Operation (IMO)“ but in the opinion of Rovena Sulstarova, Governance Programme Manager at Institute for Development and Mediation (IDM) from Tirana, the situation in the judiciary reform is not so bright.

“The process is slow and the links between criminal structures and the judiciary seem to be stronger than expected“, she said and added that the judicial system is still paralyzed, and the cases have been piling up, which cast a doubt that the process can restore trust in the judiciary and make it more just and efficient.

“There are problems in terms of access to justice for the citizens and the juridical efficiency especially in the functioning of the Constitutional Court and the Supreme Court. At the moment, the Constitutional Court is composed of four members that have already passed the vetting process, but it is not functioning because of the lack of the quorum, which should be nine in total“, she explained.

In the reference to the Supreme Court, Sulstarova pointed out that this judicial institution works with only three out of nineteen judges and that the promotion of judges to this institution is also closely linked with the vetting process.



“Currently, a small number of judges have successfully passed the vetting process and meet the legal criteria for promotion in the Supreme Court – a minimum of thirteen years of professional experience. This means that the group of potential candidates for appointment to the Supreme Court is limited”, Sulstarova explained.

The whole process left some of the judicial institutions without the judges, for example, the Court of Administrative Appeals and the Courts of Appeal of Shkodra, Korça, Gjirokastra, she said and raised concerns whether the vetting process will be finished in 2021 as planned, having in mind the current slow pace.

It is important to note that the re-evaluation is not only happening in the judiciary, but also in the law enforcement for around 12 000 police officers total, including high-ranking officials, which already brought results in the fight against corruption, according to EC report.

Sulstarova told *EWB* that the most serious challenge in the period to come will be the implementation of the justice reform – the finalization of the vetting process and strengthening the fight against corruption, where the effectiveness of the newly established Special Anti-Corruption Structure (SPAK) will have an indisputable role.

“Essential to the fight against corruption is the seizure of assets from criminal sources, to restore public confidence in the justice system. The establishment and functioning of the National Bureau for Investigation (NBI) as part of SPAK, responsible for the investigation of criminal offences, is very important in this regard”, she pointed out.



# Albania

## **Albania Parliament Forces Through 'Unilateral' Electoral Code Changes**

[https://balkaninsight.com/2020/10/05/albania-parliament-approves-pm-ramas-requested-changes-in-the-electoral-code/?utm\\_source=Balkan+Insight+Newsletters&utm\\_campaign=0d6d2c7238-BI\\_DAILY&utm\\_medium=email&utm\\_term=0\\_4027db42dc-0d6d2c7238-319834862](https://balkaninsight.com/2020/10/05/albania-parliament-approves-pm-ramas-requested-changes-in-the-electoral-code/?utm_source=Balkan+Insight+Newsletters&utm_campaign=0d6d2c7238-BI_DAILY&utm_medium=email&utm_term=0_4027db42dc-0d6d2c7238-319834862)

October 5, 2020 - Gjergj Erebara, Tirana, BIRN

At the behest of the ruling Socialists, parliament in Tirana has pushed through important changes to the election code – without first seeking a cross-party consensus, as was the case before.



*Albanian Prime Minister Edi Rama on 5 October 2020. Photo: LSA*

Albania's parliament on Monday approved major changes to the electoral system requested by the ruling Socialists under Prime Minister Edi Rama – the first such changes in more than two decades that has been pushed through without any prior compromise between the main parties.

The measure was supported by Socialist Party MPs and by several MPs from the so-called "new" or "parliamentary opposition".

However, the main opposition Democratic Party and the Socialist Movement for Integration, SMI, denounced the move, calling it unilateral and contrary to the country's EU integration processes.

Previous changes to the country's electoral system were done as a result of political consensus in 2003 and 2008, making the new changes the first to be achieved without such a consensus.

The most important change removes the possibility of opposition parties running together in elections in composite coalitions, which boost their chances of success.

If the parties compete separately, as will now be the case, their votes will likely convert into a smaller total number of MPs. This is because Albania in elections uses the so-called D'Hondt formula, which grants an advantage to larger parties compared with smaller ones.

Oerd Bylykbashi, from the centre-right Democratic Party, said the real reason for the move was "to allow Rama to reduce his losses in the next parliamentary elections" while expressing confidence that the opposition would still win, despite the change.

Petrit Vasili from the SMI added that the change would also likely cause problems with the country's EU integration, as one of the conditions that Albania must fulfil is to have meaningful political dialogue.

The EU ambassador to Tirana, Luigi Soreca, and the US ambassador, Yuri Kim, both urged Rama last week to continue dialogue with the opposition – but have refrained from commenting on the changes since the vote.

However, Michael Gahler, a Member of the European Parliament for the centre-right European People's Party, commented after the vote that the move would probably hinder Albania's EU Integration.

## **Concern in Albania over String of Secretive COVID-19 Tenders**

[https://balkaninsight.com/2020/10/07/concern-in-albania-over-string-of-secretive-covid-19-tenders/?utm\\_source=Balkan+Insight+Newsletters&utm\\_campaign=cf07237c2c-BI\\_PREMIUM&utm\\_medium=email&utm\\_term=0\\_4027db42dc-cf07237c2c-319834862](https://balkaninsight.com/2020/10/07/concern-in-albania-over-string-of-secretive-covid-19-tenders/?utm_source=Balkan+Insight+Newsletters&utm_campaign=cf07237c2c-BI_PREMIUM&utm_medium=email&utm_term=0_4027db42dc-cf07237c2c-319834862)

October 7, 2020 - Fjori Sinoruka, Tirana, BIRN

Questions are being asked of the Albanian government's decision to conceal the details of more than a dozen COVID-related public tenders worth millions of euros. More than a dozen tenders for the purchase of protective equipment, medical supplies and other health equipment in Albania worth hundreds of thousands of euros between March and May this year remain shrouded in mystery, triggering warnings about the possible misuse of state funds.

The details of the tenders have still to be made public despite the efforts of opposition lawmakers, experts and journalists who argue that a government decision to suspend regular procurement procedures and keep the process under wraps is a recipe for corruption. Public procurement procedures were weakened even before the arrival of COVID-19.

In February, Albania's government suspended the application of the procurement law "in cases when their implementation requires special security measures, in accordance with the laws and law regulations in force, or in case such an act is dictated by the essential interests of the state." The government went further in March, declaring that all tenders during the pandemic would be conducted in line with the clause on "essential interests of the state." The government's use of the amended law "paves the way and protects acts such as favouritism, suspected corruption and violation of public interests," said Zef Preci, head of the Albanian Centre for Economic Research.

Economic expert Pano Soko told BIRN: "It seems obvious that the emergency situation is being used as an excuse not to be transparent with the public, to keep things hidden, or to use abusive procedures with tax-payers' money."

### **Limited information**



*A person walks through a sanitizing tunnel at a local market in Tirana, Albania, during the coronavirus disease pandemic. Photo: EPA-EFE/MALTON DIBRA*

A BIRN review of public records found that between March and May this year, at least 15 public tenders were launched – one by the Ministry of Justice on April 18 and the remaining 14 by the Ministry of Health and Social Protection on March 21 and April 18.

The tenders were concluded without any prior public notification, so it is not known how many companies participated, under which conditions or which criteria were applied when awarding the tender.

General information about some of these tenders appeared in the Official Gazette but was limited to the name of the company which won the contract, the date, the object and the value of the contract and the contracting authority. Contracts signed between the authorities and companies are also not publicly available.

Procurement experts have repeatedly voiced concerns that contracts concluded during this period violated the most basic principles of transparency. “The secret classification due to the essential interests of the state of these contracts contradicts the Normative Act of the Government on the Declaration of the State of Natural Disaster, an act in which there is no provision for restrictions of the Constitutional Right to Information (Article 23 Constitution),” Albania’s Institute of Science said in a statement on April 14.

Prime Minister Edi Rama dismissed the concerns, saying in late April: “The tendering procedures used for COVID-19 are approved legal procedures for concluding contracts that are dictated by the essential interests of the state.”

### **‘Legal obligation’**



*Zef Preci, head of the Albanian Centre for Economic Research. Photo: BIRN/Fjori Sinoruka*



The public procurement website contains no information about the tenders in question.

One, signed on March 21 and published in the Official Gazette, was for the purchase of COVID-19 personal protection equipment worth some 2.8 million euros, concluded between the Ministry of Health and two private companies – Farma Net Albania and Euromed.

Nothing more is known about the tender, the contract or how the companies were selected.

Based on Albania's Law on Freedom of Information, in July BIRN submitted a request to the ministries of justice and health for access to all 15 contracts concluded between March and April.

The Ministry of Health has yet to respond. The Ministry of Justice responded on July 22, saying it did not consider the contracts "classified" but that the technical specifications of such contracts are not made public. It cited the provision concerning contracts "in the essential interest of the state."

On July 24, BIRN appealed to the Office of the Commissioner for the Right of Information and Personal Data Protection. The Commissioner gave the Ministry of Justice until August 12 to respond. The ministry has yet to do so.

Concerning the Ministry of Health, the Commissioner told BIRN on July 27 that the contracts in question were undergoing "a process of verification" by Albania's newly-established special anti-corruption and organised crime office, SPAK, and the Audit Office.

SPAK head Arben Kraja told BIRN that his office was looking into the issue but as yet no criminal investigation had been launched.

The Audit Office has already expressed concern about the tenders conducted during the pandemic, warning in late April about the risk of "misuse of public funds".

It tasked a working group to look into the issue. Asked about its progress, the office told BIRN on August 5 that it had no comment to make at this time.

Elvin Luku, a lecturer at the University of Tirana and the executive director of the organisation 'Media Look', said:

"The lack of transparency raises reasonable suspicion of abuse of these contracts. Their publication is not a matter of the goodwill of a government, individual or ministry. It is a legal obligation."

# Bosnia and Herzegovina

## **EC report on BiH: Huge number of challenges for a small country**

<https://europeanwesternbalkans.com/2020/10/13/ec-report-on-bih-huge-number-of-challenges-for-a-small-country/>

October 13, 2020 – Marika Djolai



The new European Commission report on Bosnia and Herzegovina (BiH) 2020, published last week, can be summarized as “no progress has been made” since the last report in March 2019, a good year and a half.

Certain areas assessed in the report are awarded the “little/some progress” mark, giving the country a miserable D, scraping a pass in what feels like an act of goodwill and encouragement for a very poor student. The report is comprehensive in its 114 pages, based on a thorough data collection, and yet it doesn’t provide much in terms of analysis with a view of offering a useful or structured way forward.

Precise recommendations and guidance on the next steps are offered in a separate document, the 2020 Communication on EU enlargement policy, but offer little beyond rather generalized statements without a concrete “how”.

For example, “The country needs to ensure a professional and depoliticized civil service and a coordinated countrywide approach to policymaking.” This is near impossible to achieve in the current political climate, and the EU knows that very well.

Given the EU’s extensive engagement in BiH, the lack of progress in most areas that are being supported is also an indicator of the Union’s own failure. First, an interesting point

arises from the analysis of those few areas where limited progress has been made, because they are rather counterintuitive.

Corruption has long been – and remains – one of the most pertinent challenges for BiH, with a suffocating effect on all spheres of governance and reform.

Despite the grim lack of progress, the report notes that the anti-corruption office of the Sarajevo Canton, the most populous in BiH, has made good progress and processed 372 reports of corruption in 2019.

However, a recent corruption scandal in the “Respirators” case that was publicly exposed and resulted in US expert Eric Larson joining the Sarajevo Canton Anti-Corruption Office, or the case involving the high-ranking SDA official Asim Sarajlic, are not mentioned in the report.

Overall, the report continues to name corruption as one of the key challenges in the country. Despite many efforts, not just in the past 18 months, relations between the majority and minority communities remain a hugely sensitive issue in many spheres of life.

It is good to read that there has been some progress in recognizing the name of the Bosnian language in schools in the Republika Srpska entity.

In December 2019, the entity’s Supreme Court recognised the discrimination and violation of the right to education for Bosniak pupils and ordered the Vrbanjci (Kotor Varoš) branch school to introduce subjects from the Bosnian curriculum for them.

I conducted research for my PhD in the town back in 2012, and this issue was already present and seriously burdening relationships between local communities, so this decision is an immensely important one, despite not having been implemented just yet, because it is a flagship case with a potential positive snowballing effect.

Equally important is the political agreement from June 2020, which allows Mostar to hold local elections this year for the first time since 2008. More positive developments are noted, such as all levels of government adopting the strategic framework on public administration reform in July this year, contributing to key priority 14 of the key priorities from the Opinion, as well as BiH adopting the revised National War Crimes Strategy in September 2020, contributing to key priority 5. The latter will be a very important step, for BiH and regional stability, if it is effectively implemented in the coming years.

Nevertheless, the report concludes that little action has been taken by political actors to address the 14 key priorities of the Commission’s May 2019 Opinion, highlighting the painstakingly slow progress towards the EU accession. In short, BiH is facing a huge number of challenges for a small country, and the report does well in documenting them.

However, prioritising them in proposing the way forward, alongside giving more analytical weight to understanding the background to the positive developments, would make it much more useful for the country and the EU’s engagement. Otherwise, it will fall flat yet again.

## **As Bosnia Election Looms, Fears of Fraud in Votes Cast Abroad**

<https://balkaninsight.com/2020/10/16/as-bosnia-election-looms-fears-of-fraud-in-votes-cast-abroad/>

October 16, 2020 – Danijel Kovacevic, Banja Luka, BIRN

A surge in the number of voters registering to cast their ballots abroad is raising fears of fraud in Bosnia's upcoming local elections. A record number of applications have been rejected, and some say their personal data has been abused.

Ognjen Maric is a 47-year-old graphic designer from the Bosnian city of Banja Luka. He was born in the city, grew up there and has never lived anywhere else. Yet for Bosnia and Herzegovina's upcoming local elections, Maric is listed as voting abroad, in the city of Novi Sad in neighbouring Serbia.

"I don't understand how this happened," he said. "I don't even remember the last time I was in Serbia."

"Where did someone get my data, my unique ID number and who lives at that address in Novi Sad where I'm allegedly registered?"

Whatever the answer, Maric finds himself among 130,000 Bosnian citizens registered to vote outside the country for the November election, and one of an increasing number who had no idea.

The number of voters registered to cast ballots abroad has almost doubled since the last election two years ago, prompting the Central Election Commission, CIK, to review the applications and dismiss almost 28,000. Cases like Maric's are fuelling fears of vote-fixing.

"We live in a country where everything is being abused," said Vehid Sehic, a political analyst and former CIK president. "The institute of voting abroad is good but it is being abused and this is proof of that."

### **Alarm among electoral authorities**

CIK told BIRN that the number of voters registered abroad was a record, as was the number of rejected applications.

Of the 28,000 rejected, 3,500 have been appealed, CIK said.

Of the 101,000 voters confirmed by CIK to cast ballots abroad, some 27,500 are in Serbia, 19,100 in Croatia, 17,700 in Germany and 9,600 in Austria.

Some politicians have been as surprised as Maric: two candidates for the city assembly in Banja Luka were also wrongly registered to vote in Novi Sad, while the leader of the Social Democratic Party of Bosnia and Herzegovina, SDP, Nermin Niksic, told reporters in early October that his daughter, who lives in Germany, was registered to vote in Germany, Switzerland and the Bosnian town of Konjic.

SPD deputy leader Vojin Mijatovic claimed to have information that the Serbian and Croatian intelligence services were involved. "This is a clear blow to the integrity and constitutional order of Bosnia," he said. "The question is whether we will remain silent."



Sehic said Bosnian security agencies should investigate.

“It is the criminal act of identity theft and it cannot be done without certain institutions, mostly local administrations, which have the personal data of citizens,” he said.

CIK official Ahmed Santic told media in early October that CIK had requested a meeting with the state prosecutor’s office to discuss possible vote manipulation but that it had not received a reply.

### **Big parties benefitting**

In the last election two years ago, most votes cast abroad went to the major ruling parties that have dominated since the end of the 1992-95 war – the Croatian Democratic Union, HDZ, the Alliance of Independent Social Democrats, SNSD, and the Party of Democratic Action, SDA.

In the race for the Croatian post on the tripartite Bosnian presidency, HDZ’s Dragan Covic won almost four times as many votes from abroad as Democratic Front contender Zeljko Komsic, though Komsic won the overall vote to become president.

The SNSD’s Milorad Dodik also took almost twice as many votes abroad as his nearest challenger for the Serbian post on the presidency, Mladen Ivanic. And in the race for the Bosnian parliament, the SNSD won twice as many votes cast abroad as all the opposition parties in the Republika Srpska entity of Bosnia combined.

Sehic said that in the run up to the November local elections, “transparent election theft” had begun.

“This situation will continue as long as the political subjects are not sanctioned for it,” he said.

## **Bosnia Urged to Reduce Length of War Crimes Trial**

<https://balkaninsight.com/2020/10/21/bosnia-urged-to-reduce-length-of-war-crimes-trials/>

October 21, 2020 – Mladen Obrenovic, Sarajevo, BIRN

Some war crimes trials in Bosnia and Herzegovina can last for five years or more, delaying justice even longer for victims of a conflict that ended more than two decades ago.

The report by Korner, a former senior prosecutor at the International Criminal Tribunal for the Former Yugoslavia, was commissioned by the OSCE's mission to Bosnia and Herzegovina and listed several cases that have dragged on for around five years.

It cited a trial for crimes committed in Stolac in 1993 at which the state court recently handed down a first-instance verdict after four years and three months; a trial for crimes in the Zavidovici area at which closing arguments are soon to be presented, four years and seven months after it started, and a Srebrenica genocide case that ended in acquittal after a five-year trial.

Korner also mentioned two upcoming cases, noting that in one of them the prosecution intends to call 447 witnesses, and in the other 214 witnesses, suggesting that the trial is likely to also continue for years.

From a defence perspective, lawyers cite numerous reasons for over-long proceedings. Lawyer Vlado Adamovic singled out “too many pieces of evidence, which could be reduced for the sake of the efficacy of the proceedings”. He also mentioned the complexity of cases and the capacity of the courts.

“When all those things are combined in one case, and they frequently are, as a result you have trials lasting five years or more,” Adamovic said.

Lawyer Asim Crnalic accused the prosecutors of bearing the most responsibility for long-running trials.

“It is unacceptable to present ten witnesses to speak about the same incident or propose hundreds of pieces of material evidence, which are often unclear to the prosecutors, defence and court,” Crnalic said.

Judge Minka Kreho, who chairs the standing committee for assessing the complexity of war crime cases at the Bosnian state court, said that the length of war crimes proceedings is “dictated by the complexity of indictments, the number of counts with which defendants are charged, the number of witnesses and pieces of material evidence, as well as the availability of witnesses”.

Kreho noted that many witnesses now live abroad, as do international experts, so it takes longer to arrange for them to come to Sarajevo to testify in court.

Another issue is that some defendants are in poor health – 25 years after the war ended, many are now elderly – as well as the coronavirus pandemic, which has meant that trials involving a bigger number of defendants are being postponed indefinitely.

Lawyer Nina Kistic, who has experience in cases at the International Criminal Tribunal for the Former Yugoslavia, ICTY, argued that the lack of planning over evidence presentation and the number of witnesses has a significant impact on the length of proceedings. She also cited postponements caused by health problems, holidays and the lack of space in courtrooms.

“The ICTY had an efficient method for minimising these problems, as trial chambers would establish so-called rules of procedure at the very beginning of trials, defining deadlines for responses and disclosures, the announcement of witnesses and time allocated to parties for presentation of evidence,” Kistic recalled.

To ease the situation, judge Korner recommended that witness statements should be given to judges ahead of trials, that pre-trial hearings should be held, that the number of witnesses and the duration of their appearances should be reduced, that prosecutors should share evidence with the defence in good time so it can be properly considered, and that facts that have already been established by previous verdicts should be accepted as such without attempts to prove them again.

Lawyer Ifet Feraget agreed that repeating previously adjudicated facts during a trial meant a “loss of time, while the outcome is the same”.

He also said that Korner was right when talking about the number of witnesses, because “the question is, what are you proving by examining 450 witnesses, when 350 of them say the same thing?”

As for pre-trial hearings, he argued that “this is already being done, but the question is how efficiently” – although he pointed out that the situation was difficult in cases involving allegations that suspects were involved in a joint criminal enterprise “because this envisages conducting investigations in complete secrecy”.

### **More Bosnians appeal to the European court**



*The European Court of Human Rights in Strasbourg. Photo: Wikimedia Commons/CherryX.*

Testifying before a parliamentary commission that is looking at problems within the judiciary, Faris Vehabovic, a judge at the European Court of Human Rights, warned that an increasing number of cases have been reaching in Strasbourg from Bosnia and Herzegovina.

According to Vehabovic, there are at least 1,800 cases against Bosnia and Herzegovina at the Strasbourg court now, an increase of 1,000 cases from the previous year.

“Most of those cases refer to the non-execution of court verdicts, but in the last six months, cases related to the length of proceedings have begun to arrive,” Vehabovic said.

Lawyer Kistic said she has also filed several appeals with to European Court of Human Rights. But she said that “the Bosnian Constitutional Court is really an excellent filter”, and usually deals with any violations that might otherwise end up going to Strasbourg.

Lawyer Crnalic warned meanwhile that “quick trials in criminal matters bear a risk of unfair court decisions being made”. He pointed out that “the defence is interested in the facts being established in line with the highest standards and laws applied in criminal matters” – which takes time.

Adamovic also noted that Bosnian judiciary “is overburdened with a large number of cases”. The state prosecution currently has more than 500 open war crimes cases, and there are believed to be tens of thousands of other unsolved cases.

“I always say: if our courts locked their doors and didn’t receive a single new piece of paper, they would still have work to do for the next three years with no holidays,” Adamovic said.

### **The right to a trial within a reasonable time**



*A courtroom at the Bosnian state court. Photo: Bosnian state court.*

Both Bosnia's political entities, the Bosniak- and Croat-dominated Federation and the Serb-dominated Republika Srpska, are preparing laws on protection of the right to a trial within a reasonable time.

Adamovic said that such legislative solutions "may contribute to the improvement of the situation, the acceleration or more efficient conducting of proceedings" – but he also warns that this could turn out to be "a double-edged sword".

"Entity judges will hurry up to complete the proceedings, which could lead to mistakes," he said.

Experts' opinion is divided on whether the country's recently-adopted revised national strategy for processing war crimes cases, which envisages that all cases should be completed by 2023, will contribute to shortening trials.

Kreho noted that the strategy "does not refer to the length of proceedings, but to the referral of less complex war crime cases to entity courts", while Crnalic said that it "does not deal with the issues of criminal procedure, for which reason it cannot affect the length of criminal proceedings in a specific case".

However, Arben Murtezic, director of the Centre for the Education of Judges and Prosecutors in the Federation entity, said he thinks that the main purpose of adoption of the revised strategy "is to reduce the length of proceedings, so one should expect that purpose to be achieved".

Adamovic also expressed more optimism, saying he thinks that "the revised strategy can definitely accelerate overlong court proceedings if its provisions are strictly applied".

## **Bosnian Tax Authority Demotes Whistleblower Who Reported Corruption**

<https://balkaninsight.com/2020/10/22/bosnian-whistleblower-sanctioned-after-talking-to-birn/>

October 22, 2020 - Haris Rovcanin, Sarajevo, BIRN

The Bosnian tax authority has fined the employee who blew the whistle raising concerns about millions going to private companies.

The Bosnian Indirect Taxation Authority, ITA, has punished and demoted a whistleblower, Emir Mesic, who spoke to BIRN about his suspicions of corruption, accusing him “professional misconduct”. The ITA decision, revealed on Thursday, said Mesic would now hold a lower position in the tax authority for the next 12 months.

The disciplinary commission accused him of “presenting in public untrue statements, inappropriate and generalized comments, based exclusively on his own perception and understanding of positive regulations, as well as unchecked information about the work and management of the ITA”.

Mesic told BIRN in June this year that he had complained to the state prosecution about suspected irregularities in the collection of parking fees at customs terminals, which the ITA manages. Mesic was not interviewed by the prosecution more than a year after filling his complaint.

But, shortly after the publication of a BIRN article that month, on how more than a half of the 330 million marks (about 150 million euros), collected in parking fees at customs terminals over ten years ended up in private companies’ accounts, ITA initiated a disciplinary procedure.

It did so even though the Agency for the Prevention of Corruption and Coordination of the Fight against Corruption, APIK, had previously given Mesic the official status of “whistle-blower”, or “protected corruption denouncer”.

Mesic’s lawyer, Edin Hodzic, confirmed that, if need be, he would seek court protection for his client. Hodzic said it was absurd that those who pointed out irregularities and corruption risked punishment.

“Launching a disciplinary procedure against a person having the status of a whistleblower is not only against the Law on Protection of Whistle-Blowers, but also sends a completely different message to people who decide to report irregularities,” Hodzic said.

The decision against Mesic says that he “misled the interested public and caused damage to ITA’s reputation as the most important financial institution in Bosnia and Herzegovina”. ITA spokesman Ratko Kovacevic complained that the BIRN article “only conveyed Mesic’s standpoints”.

The decision further states that Mesic did not act in accordance with ITA rules and staff code of conduct, and neglected an internal act which says that any unauthorized provision of information and data, in any form, represents a violation of professional duty.



# Bulgaria

## **Critical European Parliament Resolution Embarrasses Bulgaria's Leaders**

<https://balkaninsight.com/2020/10/09/critical-european-parliament-resolution-embarrasses-bulgarias-leaders/>

October 9, 2020 - Svetoslav Todorov, Sofia, BIRN

The ruling coalition has reacted with irritation to a sharply worded European Parliament resolution adopted on October 8 that has cheered the street protesters demanding the government's resignation.



*People wave Bulgarian flags during an anti-government protest held in front of the Parliament building in Sofia, Bulgaria, 2020. Photo: EPA-EFE/VASSIL DONEV*

Bulgarian pro-government parliamentarians reacted with annoyance to a highly critical European Parliament resolution adopted on Thursday that took the Balkan country to task on numerous grounds.

The resolution cited high levels of corruption, deterioration in media freedoms and lack of diversity in media ownership, Bulgaria's failure to ratify the so-called Istanbul convention on gender-based violence, or to prevent hate speech on sexual and gender grounds and against Roma people and asylum seekers.

"The European Parliament deeply regrets that the developments in Bulgaria have led to significant deterioration of respect for the principles of rule of law, democracy and fundamental rights, including the independence of the judiciary, separation of powers, the fight against corruption and freedom of the media," the resolution said.

"We're not worse than North Korea. In fact, we're not worse than most European countries," responded Toma Bikov, a parliamentarian from the ruling centre-right GERB

party at a session of parliament on Friday, calling the criticisms expressed by the European Parliament exaggerated.

“The resolution is a political act that has neither legal nor legislative value,” president of parliament Tsveta Karayancheva said during a visit to Veliko Tarnovo on Friday.

She added that the resolution would only benefit the main opposition Bulgarian Socialist Party, BSP. Understandably, the resolution was, in fact, warmly welcomed by both opposition parties and protesters calling for the government’s overthrow.

During the hearing in parliament on Friday, Alexander Sidi, of the far-right government party United Patriots, slated the negative remarks about Bulgaria’s alleged treatment of its minorities.

The resolution was adopted after 358 MEPs voted in favour of it, 277 voted against and 56 abstained.

Most of the cited issues form part of the ongoing protest wave in the country, which has continuously urged the EU to take up a tougher position on Bulgaria’s troubles. “We stand with the protesters on the streets of Sofia,” [Daniel Freund](#), a Green member of the European Parliament, tweeted after the vote.

Prime Minister Boyko Borissov, who has spent much of the last month meeting potential voters and inspecting construction sites in smaller places and villages, has not yet commented on the resolution.

For 93 days, Bulgarians have been protesting on the streets demanding the resignation of Borissov, his cabinet and the controversial Chief Public Prosecutor, Ivan Geshev, seen by the opposition and activists as a legal shield for the government.

An open letter, so far signed by more than 1,000 writers, directors, actors, activists and journalists, is also demanding that the government quit.

The generally friendly relationship between the ruling coalition and the EU is a much discussed topic among the protesters, who have voiced fears that EU aid funds designed to help Bulgaria deal with the COVID-19 pandemic will be misused.

“If the EU were more aware of what is happening on its Eastern borders, it would be stronger,” an opposition leader and former justice minister, Hristo Ivanov, told BIRN in August. Ivanov hailed the EP resolution as a “victory for democracy”.



## **Bulgarian link in QQAazz multi-million money laundering case**

<https://sofiaglobe.com/2020/10/15/bulgarian-link-in-qqaazz-multi-million-money-laundering-case/>

October 15, 2020 - The Sofia Globe

An unprecedented international law enforcement operation involving 16 countries, among them Bulgaria, has resulted in the arrest of 20 individuals suspected of belonging to the QQAazz criminal network which attempted to launder tens of millions of euro on behalf of the world's foremost cybercriminals, European police co-operation agency Europol said on October 15.

About 40 house searches were carried out in Latvia, Bulgaria, the United Kingdom, Spain and Italy, with criminal proceedings initiated against those arrested by the United States, Portugal, the UK and Spain.

The largest number of searches in the case were carried out in Latvia in operations led by the Latvian State Police.

Bitcoin mining equipment was also seized in Bulgaria, Europol said.

This international sweep follows a complex investigation led by the Portuguese Judicial Police (Polícia Judiciária) together with the United States Attorney Office for the Western District of Pennsylvania and the FBI's Pittsburgh Field Office, alongside the Spanish National Police (Policia Nacional) and the regional Catalan police (Mossos D'esquadra) and law enforcement authorities from the UK, Latvia, Bulgaria, Georgia, Italy, Germany, Switzerland, Poland, Czech Republic, Australia, Sweden, Austria and Belgium with coordination efforts led by Europol.

Criminal indictments returned by federal grand juries in Pittsburgh, US, set forth allegations of how this criminal network operated.

It is estimated that the QQAazz network laundered, or attempted to launder, tens of millions of euro in stolen funds since 2016.

Comprised of several layers of members mainly from Latvia, Georgia, Bulgaria, Romania, and Belgium, the QQAazz network opened and maintained hundreds of corporate and personal bank accounts at financial institutions throughout the world to receive money from cybercriminals who stole it from accounts of victims, Europol said.

The funds were then transferred to other QQAazz-controlled bank accounts and sometimes converted to cryptocurrency using 'tumbling' services designed to hide the original source of the funds.

After taking a fee of up to 50 per cent, QQAazz returned the balance of the stolen funds to their cybercriminal clientele.

The QQAazz members secured these bank accounts by using both legitimate and fraudulent Polish and Bulgarian identification documents to create and register dozens of shell companies which conducted no legitimate business activity, the police agency said.

Using these registration documents, the QQAazz members then opened corporate bank accounts in the names of the shell companies at numerous financial institutions within each country, thereby generating hundreds of QQAazz-controlled bank accounts available to receive stolen funds from cyber thieves.

QQAazz advertised its services as a “global, complicit bank drops service” on Russian-speaking online cybercriminal forums where cybercriminals gather to offer or seek specialised skills or services needed to engage in a variety of cybercriminal activities.

The criminal gangs behind some of the world’s most harmful malware families (for example, Dridex, Trickbot, GozNym) feature among those having benefited from the services provided by QQAazz, Europol said.

## **EC Sent Letter to Bulgaria About the Citizenship by Investment Scheme**

[https://m.novinite.com/view\\_news.php?id=206246](https://m.novinite.com/view_news.php?id=206246)

October 21, 2020 - BNT



The European Commission has sent a letter to Bulgaria expressing its concerns about the acquiring of citizenship by investment regime.

Brussels wants further details from Sofia. The Bulgarian government has one month to respond to the letter requesting additional information, after which the Commission will decide on the next steps.

On October 20, the European Commission took legal actions against Cyprus and Malta in connection with their investor citizenship schemes, also known as "golden passport" schemes.

The Commission considers that the granting of the citizenship of those Member States, and hence of the citizenship of the Union, in return for a predetermined payment or investment and without a real connection with the countries concerned, is incompatible with the principle of loyal cooperation enshrined in Article 4, paragraph 3 of the Treaty on European Union.

This also undermines the integrity of the citizenship status of the Union provided for in Article 20 of the Treaty on the Functioning of the European Union.

Due to the nature of this citizenship, such schemes have implications for the Union as a whole. When a Member State grants citizenship, the person concerned automatically becomes an EU citizen and enjoys all rights related to that status, such as the right to free movement, reside and work within the EU or to vote in municipal elections, and in elections to the European Parliament.

As a result, the effects of acquiring citizenship by investment schemes are neither limited to the Member States that apply them nor neutral to other Member States and the EU as a whole.

The Commission considers that the granting of Union citizenship for predetermined payments or investments without a real link with the Member States concerned undermines the nature of Union citizenship.

The schemes for citizenship by investment allow the person concerned to acquire new citizenship on the basis of payment or investment only.

These schemes differ from the schemes for acquiring the right of residence by investment ("golden visa"), which allow third-country nationals, subject to certain conditions, to obtain a residence permit in an EU country.

The conditions for acquiring and revoking national citizenship are set out in the national law of each Member State, with due regard for EU law.

As the citizenship of a Member State is the only precondition for Union citizenship and access to the rights conferred by the Treaties, the Commission closely monitors the schemes for investors providing citizenship to the Member States.

The Commission has often expressed serious concerns about citizenship by investments schemes and some of the risks inherent in these schemes.

As stated in the Commission's January 2019 report, these risks relate in particular to security, money laundering, tax evasion and corruption, and the Commission is monitoring broader issues related to compliance with EU law, arising from the schemes for granting citizenship and right of residence in exchange of investments.

In April 2020, the Commission sent a letter to the Member States concerned setting out its concerns and requesting further information on the schemes.

In a resolution adopted on 10 July 2020, the European Parliament reiterated its call on the Member States to abolish as soon as possible all existing schemes for citizenship by investment or residence by investment.

As President Von der Leyen said in her speech on the State of the Union on 16 September 2020, "European values are not for sale".

## **Bulgarian Judicial Council Will Discuss Opening of Procedure for Dismissal of Prosecutor General**

[https://m.novinite.com/view\\_news.php?id=206258](https://m.novinite.com/view_news.php?id=206258)

October 22, 2020



*internet*

Today the Supreme Judicial Council (SJC) will discuss whether to start a procedure for preemptive dismissal of Prosecutor General Ivan Geshev. On September 30, the largest judicial organization, the Union of Judges in Bulgaria, sent a letter to the SJC, once again urging the council to analyze the Prosecutor General's conduct and initiate a procedure for his dismissal.

The Union of Judges points out a number of reasons why, in their opinion, the Judicial Council should start a procedure to remove Geshev.

The judges also raise questions, such as whether the image of the judiciary system has been damaged by creating the impression that the prosecution has become a political center of power that does not depend on democratic procedures for seeking and exercising responsibility.

Meanwhile, lawyers from the second largest Bar Council in Bulgaria – Plovdiv sent a written position to the members of the SJC, joining the request of the judges, and according to Plovdiv BAR there are sufficient legal grounds for Geshev's dismissal - a serious violation and systematic failure to perform official duties, as well as actions that damage prestige and public image of the Bulgarian judiciary system.

The discussion of possible disciplinary proceedings or a procedure for dismissal of the Prosecutor General is taking place on the background of a series of protests against Geshev.

# Kosovo

## **Hague Court Document Leak Scares Kosovo War Crimes Witnesses**

[https://balkaninsight.com/2020/10/07/hague-court-document-leak-scares-kosovo-war-crimes-witnesses/?utm\\_source=Balkan+Insight+Newsletters&utm\\_campaign=cf07237c2c-BI PREMIUM&utm\\_medium=email&utm\\_term=0\\_4027db42dc-cf07237c2c-319834862](https://balkaninsight.com/2020/10/07/hague-court-document-leak-scares-kosovo-war-crimes-witnesses/?utm_source=Balkan+Insight+Newsletters&utm_campaign=cf07237c2c-BI PREMIUM&utm_medium=email&utm_term=0_4027db42dc-cf07237c2c-319834862)

October 7, 2020 - Serbeze Haxhijaj, Pristina, BIRN

Ethnic Albanians who agreed to testify as witnesses in cases against Kosovo Liberation Army fighters are frightened that their identities could have been revealed by a leak of documents from The Hague-based war crimes court.

Mehmet lights a cigarette, taking long pauses between words.

"I have spent almost half of my life in fear and in hiding. Once from the Serbs then from those who blamed me as [a member of the] LDK [Democratic League of Kosovo political party], and then from the stigma of being a traitor. Now nothing matters to me," he said.

More than 21 years have passed since Mehmet (not his real name) says he was detained and tortured by Kosovo Albanian guerrillas in a secret prison in the mountains of northern Albania.

A Kosovo Albanian, Mehmet's sin had apparently been to support the guerrillas' political rivals, the LDK, during the turbulent years of 1998-99 when Kosovo Albanians took up arms to resist Slobodan Milosevic's regime in their quest for independence.

BIRN cannot describe Mehmet's appearance or reveal his whereabouts for the sake of his security.

He has already been interviewed twice by The Hague-based Kosovo Specialist Prosecutor's Office about his torturers, who he says were members of Kosovo Liberation Army, KLA, whose armed struggle for freedom succeeded when it got decisive military backing from NATO forces in 1999.

He also agreed to testify as a protected witness in court at the Kosovo Specialist Chambers in The Hague, which was set up to try former KLA fighters for wartime and post-war crimes committed from 1998 to 2000, but he didn't want to be relocated outside Kosovo for his safety.

But since the KLA War Veterans' Organisation announced that it had got hold of more than 4,000 case documents from The Hague prosecutors, including a list of witnesses, which it said were delivered anonymously to its offices in Pristina, Mehmet has been worried.

"I explained to the investigators what has happened to me and others. It has been hell, and now, for the sake of my family, I don't want to be mentioned and have any further trouble. But I am afraid they know my name now," he said.

Mehmet's case epitomises the challenge of protecting witnesses in Kosovo, a small, close-knit country where identities are hard to keep secret and the ties of family and home are strong.

Witness protection has been one of the key issues facing the Kosovo Specialist Chambers after witnesses were intimidated in previous Kosovo war-related trials at the International Criminal Tribunal for the Former Yugoslavia and at domestic courts in the country.

The Specialist Chambers reacted quickly after the documents were leaked. EU security police arrested the leaders of the KLA War Veterans' Organisation, Hysni Gucati and Nasim Haradinaj, and transferred them to The Hague to face charges.

Gucati and Haradinaj had called on Kosovo media to publish the leaked war crimes case documents. They claimed that the documents prove that The Hague court is anti-Kosovo Albanian.

The court is legally part of Kosovo's justice system even though it is located in the Netherlands, but it is resented by many Kosovo Albanians who see it as an insult to the KLA's war for liberation from Slobodan Milosevic's repression. It was only established under pressure from Kosovo's Western allies.

But no Kosovo media outlet has answered the veterans' call to publish the documents, although Albanian TV station Top Channel did publish what it claimed were extracts from the war crimes case against Kosovo President Hashim Thaci.

### **'This leak has shaken witnesses' trust'**



*The Kosovo Specialist Chambers building in The Hague. Photo: EPA-EFE/Phil Njehuis.*

Frank Höpfel, a professor at the University of Vienna who also worked at the UN tribunal in The Hague, said that the Kosovo Specialist Chambers should now take additional measures to protect witnesses.



“What happened to the Kosovo Specialist Chambers is a disaster and lawyers are not supposed to leak such an amount of files,” Höpfel told BIRN.

He said the court’s Victims and Witnesses Unit needs to “work out measures to prepare witnesses psychologically and make understandable what the offence team knows”.

Protected witnesses should also be well-informed about the procedures that lie ahead when cases come to trial, Höpfel added.

“It is important to make it clear to them in advance they usually will be in the same room as the accused, and that also a closed session only prevents the public from seeing them. I experienced witnesses who were surprised by that fact and would react completely devastated,” he explained.

The Kosovo Specialist Prosecutor’s Office said it will take action against all those involved in leaking the documents.

“The SPO [Specialist Prosecutor’s Office] is committed to vigorously investigating and prosecuting individuals who commit any such crimes, including the disclosure of the identity of individuals who may be called before the court or any information that could lead to their identification,” spokesperson Angela Griep told BIRN.

Griep said that witness protection is of the highest priority for the Kosovo Specialist Chambers.

“A specialised unit is dealing with witness protection and support. Violations and breaches of court-ordered protective measures and other offences against the administration of justice are severely punished under provisions of the Kosovo Criminal Code applicable before the KSC,” she added.

Due to the time that has elapsed since the crimes and the paucity of material evidence, prosecutors will rely heavily on eyewitnesses at upcoming trials. Many are believed to have already been relocated outside of Kosovo and some will have been given new identities.

Bekim Blakaj, head of the Pristina-based Humanitarian Law Centre NGO, which monitors war crimes cases, pointed out that strict security measures should be imposed to protect witnesses from threats and prevent cases from collapsing.

“In [past] war crimes trials, especially in two cases against [KLA fighters turned politicians] Ramush Haradinaj and Fatmir Limaj at the International Criminal Tribunal Penal for the Former Yugoslavia [ICTY], the weakest point was the protection of witnesses,” Blakaj told BIRN.

“This speaks about the widespread practice of influencing witnesses. As a result, the epilogue of many war crimes trials was the release of the accused,” he added.

Blakaj said that prosecutors face big challenges in getting testimonies from witnesses. Very often, witnesses have changed or withdrawn their initial testimonies during subsequent phases of war crimes investigations.

“Since the [Kosovo Specialist Chambers] was established, it has created a perception that the court is paying much attention to the protection of witnesses and it has learned



from previous failures by the ICTY and local courts. However, it didn't last long. This [document leak] has shaken the trust of witnesses on this court," he pointed out.

### **'I hope the witnesses have pseudonyms'**



*Kosovo Albanians hold a ceremony to mark the 22nd anniversary of KLA commander Adem Jashari's death. EPA-EFE/VALDRIN XHEMAJ.*

David Tolbert, the director of the International Center for Transitional Justice, who was deputy chief prosecutor at the ICTY from 2004 to 2008, said that the leak was a brazen attempt to undermine legitimate investigations into very serious crimes and to influence witnesses.

"This attempt may be a setback for the Specialist Prosecutor's Office in the short term, but the more pernicious element of this deed is that it may retraumatise victims/witnesses," Tolbert told BIRN.

"This theft of confidential documents is a very serious matter, as it violates legal norms and laws and has the potential to hamper the important investigations and prosecutions that were agreed to by the Kosovo authorities and thus potentially undermining the rule of law that the people of Kosovo have so desperately called for," he added.

Following the leak, an atmosphere of fear now prevails in Kosovo, where it has been alleged in the past that witnesses to war crimes have been threatened and intimidated into changing their initial testimonies, or even killed.

"Now it is a real possibility that the Specialist Prosecutor's Office will fail to prove the guilt of the accused," Blakaj warned.

Craig Lang, a former US diplomat and who is now a visiting fellow on transitional justice at Franklin & Marshall College in the US and has worked on rule-of-law issues in Kosovo since 2002 said that leaking of the documents is another attempt to undermine the validity of the Specialist Chambers – and that it “threatens the lives of those trying to do the right thing”.

Countries that support the court must now help to enhance its witness protection programme, Lang urged.

“Despite what Kosovars may think of the Specialist Chambers, there is no room in a country governed by the law for any intimidation or murder of any witness,” he said.

The legacy of previous failures to secure convictions in Kosovo war crimes cases that were plagued by problems of intimidation looms over the Kosovo Specials Chambers.

The Specialist Chambers and Specialist Prosecutor’s Office have said however that judges can order a variety of additional protective measures for witnesses, such using voice or face distortion or assigning pseudonyms.

Höpfel expressed hope that these had not already been compromised: “I hope the witnesses have pseudonyms which are not included in the leaked documents,” he said.

# Moldova

## **Noncommercial organizations will be able to provide services for money to electoral contenders**

[https://www.ipn.md/en/noncommercial-organizations-will-be-able-to-provide-services-for-money-7967\\_1076711.html](https://www.ipn.md/en/noncommercial-organizations-will-be-able-to-provide-services-for-money-7967_1076711.html)

October 08, 2020



The ban on providing services for money by non-commercial organizations to electoral competitors during the election campaign was declared unconstitutional. The Constitutional Court pronounced after MP Sergiu Litvinenco challenged provisions of the law on non-commercial organizations that ban non-commercial organizations from providing paid services to political parties during elections.

## **BIRN Fact-check: What Progress Has Moldova Made in Justice Reform?**

[https://balkaninsight.com/2020/10/16/birn-fact-check-what-progress-has-moldova-made-in-justice-reform/?utm\\_source=Balkan+Insight+Newsletters&utm\\_campaign=c360519f67-BI\\_PREMIUM&utm\\_medium=email&utm\\_term=0\\_4027db42dc-c360519f67-319834862](https://balkaninsight.com/2020/10/16/birn-fact-check-what-progress-has-moldova-made-in-justice-reform/?utm_source=Balkan+Insight+Newsletters&utm_campaign=c360519f67-BI_PREMIUM&utm_medium=email&utm_term=0_4027db42dc-c360519f67-319834862)

October 16, 2020 - Madalin Necsutu, Chisinau, BIRN

Moldova claims to have made big strides in cleaning up its justice system, as the EU wants – but a new report by the Council of Europe's anti-corruption body, GRECO, deems its advances 'unsatisfactory'.

The newest report by the Council of Europe's anti-corruption body GRECO lists Moldova among those states with a poor level of implementing its recommendations on dealing with corruption among parliamentarians, judges and prosecutors.

The report says the country has made almost zero progress since 2018 in implementing its advice on dealing with suspected corruption among parliamentarians, especially.

"The level of compliance has barely changed since 2018. Of the 14 pending recommendations, only one which was considered not implemented in 2018's compliance report is now considered partially implemented," an accompanying GRECO press release says.

"Nine recommendations remain now only partially implemented and another four, not yet implemented," it adds.

### **A process more mimicked than followed**

At a meeting with GRECO officials on November 26, 2019, in Strasbourg, Moldova's Justice Minister, Fadei Nagacevski, restated the Chisinau government's commitment to meeting its anti-corruption pledges.

He reportedly "gave assurances regarding the firm commitment of the Justice Ministry in stepping up efforts to implement the [GRECO] recommendations at the national level, especially in terms of adjusting the legal framework and promoting policies to prevent corruption among magistrates and prosecutors."

But, by the end of 2019, Moldovan authorities had still fully implemented only four of the 18 GRECO recommendations, equal to 22 per cent of them. It had partially implemented another nine, or 50 per cent. It had not implemented five, or 28 per cent.

Moldova pledged to undertake serious reforms to its much-criticised justice system on signing an Association Agreement with the EU in 2014, the first step towards eventual membership. Six years on, it is still deemed one of the most corrupt countries in Europe, with especially serious deficiencies in the courts.

Galina Bostan, executive director of the Moldova-based Center for the Analysis and Prevention of Corruption, CAPC, told BIRN that the GRECO report should be a wake-up call to the Moldovan authorities.

“This is a clear signal to them that they should accelerate in the field of justice reform, with an emphasis on anti-corruption,” she said.

“The GRECO mechanism is a very effective mechanism for implementing recommendations. We just hope that the recommendations are implemented,” she added.

Bostan added that, till now, Moldova had been mimicking rather than actually enacting justice reforms.

“There is no other description for it,” she said. “Reform of the justice sector has been due to politicians who did it out of conviction, or because they were asked to from outside. But these reforms have never been mastered and actually started by the judges,” she noted.

“Judges have participated in reforming the judiciary to the extent that they were able to increase their salaries. These are more caste interests on their part rather than a real desire to reform the sector,” she added.

BIRN has fact-checked what the country has said – and done – on some of the main GRECO recommendations.

### **Effective asset transparency – Not implemented**

GRECO recommended giving Moldova’s National Integrity Agency, ANI, more independent and more effective control of checking the compliance of parliamentarians, judges and prosecutors with the rules on conflicts of interest, incompatibilities, statements of personal interests and income statements and property.



*Justice Minister, Fadei Nagacevschi, at a round table regarding judiciary issues in Moldova. Photo: Moldovan Justice Ministry Facebook page*



The ANI is tasked to examine, verify and send to prosecutors any cases it detects of breaking the law on integrity and wealth statements.

In practice, its action has been negligible. Not one Moldovan deputy, judge or prosecutor has yet been dismissed for conflicts of interests, or for failing to reveal data about their wealth or assets.

In 2019, the ANI merely issued fines to some judges and prosecutors – usually only after media reports that revealed assets they had not declared in their mandatory annual asset and income statements.

In detail, as the ANI activity report for 2019 says, it examined 453 complaints and notifications, studied 1,390 requests for integrity certificates and verified 2,764 declarations of assets and interests.

On this basis, it initiated 133 contravention files, including 16 MPs, nine prosecutors and eight judges or former judges, imposing fines of 174,250 Moldovan lei in total, equal to 9,000 euros.

### **More transparency on legislation – Partially implemented.**

The country has partly implanted GRECO recommendations on legislative transparency.

These called for the prompt publication of all draft legislation, legal amendments and all supporting documents, with adequate timeframes to allow for meaningful public consultation and parliamentary debate. Emergency procedure is to be applied only in exceptional and duly justified circumstances.

Justice Minister Nagacevschi wrote on Facebook on October 13, in connection with this and in response to the report, that in 2020, up till now, the ministry had held 100 public consultation meetings with the participation of civil society.

“Even while going through a severe pandemic, we have taken care to do our job. To diversify public information, we have also used the justicemoldova.md platform,” the minister said, referencing a website containing judicial developments.

Even in an election atmosphere, he continued, referencing November 1 presidential elections, “I expect politicians to acknowledge that we have acted transparently and organised public consultations.”

### **Transparency on gifts – Not implemented**

In March 2017, Moldova’s parliament gave deputies five days to declare any symbolic or other “gifts” presented to them to the office of the Secretary of Parliament.



People take part in a protest march in the Great National Assembly Square in Chisinau, Moldova, April 7, 2019. Photo: EPA/Doru Dumitru

The value of such gifts should also not exceed 1,000 Moldovan lei, or 50 euros. If their value exceeds 1,000 lei, the beneficiary can only redeem it by paying for its value him or herself, within 30 calendar days.

No progress appears to have made in enforcing this measure on Moldovan parliamentarians.

So far, not one deputy or any of their advisors has declared receiving any gifts or other interests from third parties.

### **Reforming appointments of magistrates - Not implemented**

GRECO recommended taking new measures to bolster judicial independence and prevent appointments and promotions of candidates to judicial positions of people with integrity risks. It also urged the abolition of the five-year probation period for judges.

No change has been made to the five-year probation for judges and, during 2020, new scandals emerged in the media about appointments to key positions in justice.

One concerned Vladislav Clima who was elected on July 20 as president of the Chisinau Court of Appeal. Media reports detailed suspicions about his alleged wealth growth over the last ten years, despite drawing a modest judge's salary. They also referenced some contentious verdicts he had issued as a judge during the reign of the now-ousted oligarch Vlad Plahotniuc.

On September 22, the Moldovan Constitutional Court rejected a draft amendment to the constitution proposed by the government, which the Venice Commission had approved, making several amendments to the procedure for appointing judges and to

the activity of the Superior Council of Magistracy, all in line with GRECO recommendations.

Despite this, the court expressed reservations with provisions of the amendment and said the draft did not comply with the conditions for revising the constitution and could not, therefore, be submitted to parliament.

Among its main provisions was the annulment of the appointment of judges for an initial term of five years and the exclusion of parliament from the process of appointing Supreme Court judges.

It included the exclusion of the Justice Minister and Prosecutor-General from the Superior Council of Magistracy and changing the structure of the Superior Council of Magistracy, six of whose 12 members are judges and six are representatives of civil society.

Justice Minister Nagacevschi said on September 30 that he would advise the government to resubmit the draft amendment rejected by the Constitutional Court.

“Following the agreements reached with the Council of Europe ... I will request the re-approval of the draft amendment to the constitution, with some adjustments to respect the solution handed down by the Constitutional Court,” he said.



## **SCM reinstates five judges**

[https://www.ipn.md/en/scm-reinstates-five-judges-7967\\_1077129.html](https://www.ipn.md/en/scm-reinstates-five-judges-7967_1077129.html)

October 27, 2020



The Superior Council of Magistracy (SCM) on October 27 reinstated in their posts five judges who were suspended following their investigation in the case of Laundromat. Later the charges against them were dropped, IPN reports.

These are: Sergiu Lebediuc of the Military Court, Sergey Gubenco of the Comrat Appeals Court, Sergiu Popovici of the Comrat Court, Iurie Hîrbu of the Telenești Court and Garri Bivol of the Centru branch of the Chisinau City Court. Besides being reinstated, the judges will receive salaries for the period during which they were suspended.

Several days ago, the press reported that the Anticorruption Prosecutor's Office decided to drop the charges against the judges investigated for collusion in the Laundromat case. The ordinances were made in September, but the prosecution bodies didn't make the decisions public.

# Montenegro

## **The Constitutional Court to decide about the prime ministers and other ministers**

<https://m.cdm.me/english/the-constitutional-court-to-decide-about-the-prime-ministers-and-other-ministers/>

October 23, 2020



*Jelena Perović*

The outgoing prime minister, Mr Duško Marković, remains at the same time head of the government in technical term of office and member of the state parliament, and that's the case with several other ministers from the Democratic Party of Socialists.

In accordance with the Law on Prevention of Corruption, Mr Marković and ministers had a 30-day deadline to resign from some of the functions, but they didn't do that. Instead, they informed the parliament and Agency for the prevention of corruption that the Government had to work until the new one was formed. Prime minister's cabinet has asked the Agency to express its view on this matter.

Director of the Agency, Ms Jelena Perović, said last night that the Agency would not be dealing with the allegations of the cabinet.

"Those issues don't fall within the competence of the Agency, as the Agency shall not decide upon constitutionality. That's the matter of the Constitutional Court or somebody else", Ms Perović said.

This practically means that DPS functionaries will remain ministers and MPs until decision of the Constitutional court is reached.

Apart from Marković, members of the Government and MPs at the same time will still be Mr Milutin Simović, Mr Predrag Bošković, Mr Mevludin Nuhodžić, Ms Suzana Pribilović, Ms Dragica Sekulić and Mr Nikola Janović.

Outgoing prime minister has informed the Parliament and Agency for the Prevention of Corruption that other members of the Government and himself would not be taking part in the activities of the parliament.

### **Resignations are legal obligation**

In accordance with the legislation which regulates prevention of the conflict of interests, parliamentarians who perform double functions have a 30-day deadline to resign from one of the functions and decide which function they want to maintain.

This norm has been designed to prevent conflict of interests and disable incompatibility of functions.

# North Macedonia

## **North Macedonia Ex-Minister Charged over Politically-Motivated Lustration**

<https://balkaninsight.com/2020/10/09/north-macedonia-ex-minister-charged-over-politically-motivated-lustration/>

October 9, 2020 - Sinisa Jakov Marusic, Skopje, BIRN

Opposition VMRO DPMNE party MP and former Foreign Minister Antonijo Milososki, alongside members of the country's now-defunct Lustration Commission, face trial over the politically-motivated lustration of a judge, among other charges.



*VMRO DPMNE legislator Antonijo Milososki. Archive photo: VMRO DPMNE.*

Former Foreign Minister Antonijo Milososki and ten members of North Macedonia's former Lustration Commission are set to face trial after Skopje Criminal Court approved the charges on Thursday.

Milososki has been charged with embezzlement and misuse of office. Milososki's father has also been charged, as well as the former mayor of the rural municipality of Makedonski Brod, Milosim Vojneski.

Ten other people have been charged for misuse in office, including the former head of the now defunct Lustration Commission, Tome Adziev.

The commission, which was set up under the authoritarian government led by the right-wing VMRO DPMNE, was tasked with rooting out former Yugoslav communist secret service collaborators and informants. But it attracted accusations that it was being misused to target government critics.

The VMRO DPMNE was ousted in 2017 after a prolonged political crisis.

## **Illegal property sale to minister's father**

According to the charges, the case revolves around an unlawful sale of real-estate to Milososki's father in 2011, a building in the village of Izista which was property of the Makedonski Brod municipality but at that time was used by the nearby municipality of Plasnica.

The charges allege that Milososki's father and the then Makedonski Brod mayor Milosim Vojneski falsely told municipal councillors that the property was not in use, and caused it to be sold below the market price and without a proper tendering procedure.

The cost to the state and to the municipality is estimated at some 50,000 euros.

Milososki stepped in later when the mayor of Plasnica alerted the VMRO DPMNE government about the dubious sell-off and insisted on investigating the case.

The charges claim that Milososki misused his office to exert "continuous pressure" on various institutions to drop the case, to help his father.

Among other things, Milososki allegedly commissioned a lustration procedure against one local judge who was involved in reviewing the property sale. Milososki allegedly believed the judge was close to the mayor of Plasnica and could have ruled against his father's interests.

The judge was subsequently deemed a collaborator and was removed from office.

## **Wiretaps revealed lustration meddling**

This case first hit the public spotlight in 2015 when the then opposition Social Democrats, who are now in power, started presenting leaked batches of illegally wiretapped telephone conversations of top officials, accusing then Prime Minister Nikola Gruevski of masterminding a large-scale surveillance operation in the country, which he denied.

In April that year, some of the tapes suggested that Milososki had meddled in the lustration process.

On one tape, what appeared to be the voice of Milososki could be heard calling the then head of the Lustration Commission, Tome Adziev asking him to name one judge, Dragi Dineski from the town of Kicevo, as a Communist informant, which would render him unfit to work as a judge or in any state institution.

"He is making a lot of trouble for us. Do it as soon as possible," the voice alleged to be that of Milososki was heard saying, to which Adziev replied: "We will process him."

The two were also allegedly heard discussing how Milososki found a person to file a lustration request against the judge, in order to obtain the legal prerequisite for launching the procedure.

These tapes, along with thousands of others, were later handed to the Special Prosecution, which was established in 2015 under an internationally-brokered crisis agreement between the then government and the opposition.



The Special Prosecution was dissolved earlier this year amid a series of controversies, but the cases it launched that resulted from the tapes, including the Milososki case, were handed on to the regular prosecution.

So far, Milososki, who is still a VMRO DPMNE legislator, has remained silent about the case against him. But his party insists that it is politically motivated.

“Antonijo Milososki is a target for prosecution by [Prime Minister Zoran] Zaev and the Social Democrats solely because he is a VMRO DPMNE legislator who openly speaks about Zaev’s crimes and his bond with the prosecution and judiciary,” the VMRO DPMNE party said.

It added that “the goal is to scare the people and to influence MPs”.

## **North Macedonia's Ex-PM Named in New Money Laundering Probe**

<https://balkaninsight.com/2020/10/19/north-macedonias-ex-pm-named-in-new-money-laundering-probe/>

October 19, 2020- Sinisa Jakov Marusic, Skopje, BIRN

North Macedonia's fugitive ex-Prime Minister Nikola Gruevski has been named the first suspect in a fresh corruption investigation – as part of which his best man, Risto Novacevski, was seized on Monday.



*North Macedonia's Ex-Prime Minister Nikola Gruevski exiting the now defunct Special Prosecution in Skopje. Archive photo: EPA-EFE/GEORGI LICOVSKI*

The Organised Crime Prosecution in North Macedonia on Monday confirmed the arrest of Risto Novacevski – the best man of fugitive ex-prime minister Nikola Gruevski – naming him as one of several suspects in a case of money laundering and the illicit purchase of building lots. They are seeking 30 days of detention.

The prosecution said it had launched an investigation “against six persons” – starting with Gruevski – “for which there is substantiated suspicion that they have committed a criminal act – money laundering” – and through which they illicitly purchased a large piece of land near Skopje’s elite residential area on Mt Vodno.

Gruevski, named in the press release only as former “leader of a political party”, and the first suspect in the case, is accused of using the scam to obtain “at least 1.3 million euros” between 2006 and 2012, when he was prime minister and leader of the then ruling centre-right VMRO DPMNE party.

He is suspected of illegally taking the money either “in person or through the municipal committees” of his party. The money was intended as party donations, and he allegedly failed to report it in the party’s financial reports.



“Between October 2012 and September 2013, he put the sum obtained through a criminal act into circulation by buying building lots in Vodno,” the prosecution recalled.

The transaction was allegedly done through an offshore firm registered in Belize.

“The second suspect, [whom the prosecution did not name] although knowing that the money was obtained through a criminal act, contacted the owner of the offshore firm in Belize and asked for the documentation, stamps and bank account of the firm to be given for his disposal,” the prosecution press release stated.

Gruevski’s best man from his first marriage, Novacevski, named as the third suspect in the case, was manager of the Belize firm’s daughter company through which the transactions passed. The other suspects named in the case are Gruevski’s cousin, the former secret police chief Saso Mijalkov, the businessman Orce Kamcev, Kamcev’s mother, Ratka Kamceva, and one other person, Nenad Josifovic.

Although the prosecution has only just opened an investigation into this case, the affair which has been dubbed “The Vodno Apartments”, dates back to 2015. This was when the opposition Social Democrats, who are now in government, presented covertly recorded tapes that they claimed showed Gruevski was involved in the fraudulent acquisition of lucrative land in Vodno.

In some of the tapes, what appears to be Gruevski’s voice could be heard talking to then Transport Minister Mile Janakieski about changing the urban plan for the area to make the state-owned land that he allegedly intended to buy suitable for building, and so more valuable.

“So this is on the edge of the urban area and no one can build above us, right? In such case we are definitely buying it,” what was allegedly the voice of Gruevski says in one recording. “Fine then. I will give you a definite offer,” the voice said to belong to Janakieski replies.

These, along with thousands of other wiretaps that the Social Democrats claimed were leaked from the secret police, were later handed to the now defunct Special Prosecution. Formed as part of a political crisis agreement in 2015, this body was tasked with investigating the many allegations of wrongdoings arising from the tapes.

All of the Special Prosecution cases and ongoing pre-investigations and investigations are now in the hands of the regular prosecution against organised crime.

Back then, Gruevski and his party claimed that unnamed “foreign secret services” were behind the entire wiretapping scandal in order to harm him. He never confirmed or denied the authenticity of these and other wiretaps, but repeated that the tapes had been doctored.

The authoritarian figure whose party ran the country from 2006 to 2016 fled to Hungary in 2018 to avoid serving a two-year jail sentence in another case in which he was convicted of the illicit purchase of a luxury limousine.

Meanwhile, the Skopje Criminal Court, in a first-instance verdict this September, found Gruevski guilty in another case – of inciting a mob attack on an opposition-run municipality in 2013, for which he received an additional year-and-a-half in jail.

Gruevski remains out of reach in Hungary, however, where he has obtained political asylum.

## **North Macedonia Reinstates Anti-Discrimination Law**

<https://balkaninsight.com/2020/10/28/north-macedonia-reinstates-anti-discrimination-law/>

October 28, 2020 - Sinisa Jakov Marusic, Skopje, BIRN

North Macedonia's parliament readopted the country's previously scrapped Anti-Discrimination Law, which among other things guarantees protection from gender-based discrimination.



*North Macedonian MPs vote during a parliamentary session. Archive photo: EPA-EFE/GEORGI LICOVSKI*

The Anti-Discrimination law passed in parliament close to midnight on Tuesday night with 69 out of 120 MPs supporting it, mainly from the ruling alliance based around the Social Democrats. No MPs voted against it.

This law was originally passed by the Social Democrat-led majority in 2019, marking a big victory for the human rights, as for the first time it included sexual orientation as grounds for discrimination.

The previous governments led by the conservative right-wing VMRO DPMNE from 2006 to 2017 refused to include sexual orientation in the law.

However, the Constitutional Court struck down the law in May this year, to the dismay of LGBT organisations and human rights groups, ruling that it was not passed with a proper quorum in parliament.

This prompted the Social Democrats' leader Zoran Zaev, who at that time had stepped down from the prime ministerial post to allow the formation of a caretaker government to organise elections, to promise that he would reinstate the law as soon as his party won, which it did in July.

But the adoption of the law did not pass off without controversy this time either.

Prior to the vote in parliament, the Network Against Discrimination, which comprises many prominent North Macedonian NGOs, criticised the government's recent decision to dismiss its proposal to add stricter rules for a more transparent and inclusive procedure to elect members of the Anti-Discrimination Commission, which the government said is already part of the law.

The Helsinki Committee for Human Rights on Wednesday greeted the passing of the law but warned that the transparent selection of members of the Anti-Discrimination Commission is essential so that the law can be put into effect properly.

"The next step, which needs to happen as soon as possible, is the launch of the process for the formation of a new, independent, professional, Anti-Discrimination Commission," the Helsinki Committee said.

"So we are urging parliament, after the adoption of the law, to issue a public call for the election of commission members as soon as possible," it added.

# Romania

## **Predoius Pläne zur Novellierung der Justizreform der PSD**

<https://adz.ro/inland/artikel-inland/artikel/predoius-plaene-zur-novellierung-der-justizreform-der-psd>

03.10.2020 – ADZ, Bukarest

Das Justizministerium unter Ressortminister Cătălin Predoiu (PNL) hat die Vorschläge zur Novellierung der hochumstrittenen Justizreform der PSD auf seiner Homepage veröffentlicht – sie stehen damit ab sofort zur öffentlichen Debatte, die ein halbes Jahr bzw. bis Ende März 2021 dauern soll.

Die ersten Novellierungspläne des Justizministeriums betreffen nicht das Strafrecht, sondern die drei wesentlichen Justizgesetze – Richter- und Staatsanwaltschaftsdienstgesetz, Gerichtsverfassung und Justizratsgesetz –, die die PSD radikal geändert hatte, um die Gewaltenteilung nach Strich und Faden auszuhebeln. Predoius Vorschläge sehen u.a. die Auflösung der umstrittenen Sonderermittlungsbehörde für Justizstrafsachen (SIJ) vor, des Weiteren eine von drei auf vier Jahre verlängerte Amtszeit der Chefankläger der drei Staatsanwaltschaften (Generalstaatsanwaltschaft, DNA und DIICOT), sodann ein neues Auswahlverfahren der Mitglieder des Justizrates sowie eine neue Arbeitsweise des CSM (ordentliche und außerordentliche Sitzungen).

Die von der PSD aus der Taufe gehobene Frühverrentung von Richtern und Staatsanwälten (nach kaum 25 Dienstjahren) soll abgeschafft und andererseits das Mindestdienstalter für leitende Staatsanwälte von 15 auf 12 Jahre gesenkt werden, um auch jüngeren Ermittlern den Zugang zu Leitungsposten zu ermöglichen. Die von der PSD erheblich beschnittene Befugnis des Staatsoberhauptes, Vorschläge des Justizministers abzulehnen, soll nun wiederhergestellt werden. Ihrerseits sollen Chefankläger, die abgesetzt werden, künftig die Möglichkeit erhalten, ihre Abberufung vor einem Verwaltungsgericht anfechten zu können – eine direkte Konsequenz des EuGH-Urteils in der Causa Kövesi gegen Rumänien.



## **Romanian NGOs Condemn Threat to Limit Access to Information**

<https://balkaninsight.com/2020/10/16/romanian-ngos-condemn-threat-to-limit-access-to-information/>

October 16, 2020 - Marcel Gascón Barberá and Malina Mindrutescu

Five leading watchdogs have slated legislation tabled in the Romanian parliament this week, saying it would limit citizens' constitutionally guaranteed right to obtain information from the state.



*General view on the Romanian parliament in Bucharest, August 31, 2020. Archive photo: EPA-EFE/ROBERT GHEMENT*

Five leading NGOs in Romania on Friday in an open letter condemned legislation tabled this week in parliament by an opposition Social Democratic Party MP – initially supported by the chief whip of the ruling National Liberal Party – that would reduce the state's obligation to supply public information.

The legal amendment would make those requesting information liable to cover the financial costs of the process of collecting and releasing information, such as scanning and making copies of documents and other operations.

If the legislation is adopted, authorities could deny information requests on the basis of their volume – if the requested information or data exceeds 50 pages – or by invoking the request's allegedly "malicious intent".

The executive director of the Centre for Independent Journalism, CJI, Cristina Lupu, told BIRN that the spirit of the proposed legislation suggested that "the person who requests information is seen as an enemy of the state, not as someone exercising a fundamental right".

The CJI along with other human rights groups such as ActiveWatch and the Centre for Public Innovation has signed the open letter.



Some MPs are already backing away from the law change. Soon after the media raised the alert about on the legislation being tabled, the chief whip of the ruling centre-right National Liberals, Florin Roman, announced on Facebook that he no longer supported the initiative.

"I have made a written request to withdraw my signature for this draft legislation," the MP said. He said he had changed his mind after receiving "signals" from various "people of good faith" who warned him of its potentially "abusive interpretations".

He announced that his party would vote against the legislation in parliament, which substantially diminishes its chances of ever being adopted.

However, although it is in opposition, the Social Democrats still have the largest number of seats in parliament, and could still seek the support of smaller parties to get the amendment adopted.

In their open letter, the five NGOs said the proposed legislation would undermine transparency and curb rights to free speech and free access to information, highlighting that these rights are protected by the Romanian constitution and the European Convention on Human Rights.

Lupu of the CJI warned that trust in the state recently "has diminished, and attempts to limit transparency are further reducing trust".

She recalled that Romania's government had temporarily limited access to information amid the COVID-19 pandemic by concentrating the supply of information in central institutions.

Lupu advocated boosting digitalization of the public administration as a way to optimize resources and overcome the logistical problems officials can face when responding to information requests, instead of refusing to answer them, or charging citizens for exercising their rights.

Romania is not the only country in the region experiencing the same worrying trend observed by Lupu. Activists across Central and Southeast Europe have warned of similar limitations on transparency in their countries, often under the pretext of the COVID-19 pandemic.

## **Florin Iordache ist neuer Chef des Legislativrates**

<https://adz.ro/inland/artikel-inland/artikel/florin-iordache-ist-neuer-chef-des-legislativrates>

22.10.2020 – ADZ, Bukarest

Die Parlamentsmehrheit hat den hochumstrittenen PSD-Abgeordneten und früheren Justizminister Florin Iordache am Dienstag mit 185 Für- zu 43 Gegenstimmen als neuen Chef des Legislativrates bestätigt. Iordache, von der Presse oft als „Schlächter der rumänischen Justiz“ verrissen, war als Justizminister der Regierung Grindeanu Urheber der berüchtigten Eilverordnung 13 zur Verwässerung der Korruptionsbekämpfung gewesen, die bekanntlich zu den größten Massenprotesten der Nachwendezeit geführt hatte.

Iordaches neues Amt wird allgemein als „Trostpflaster“ gewertet, nachdem die PSD-Spitze unter Marcel Ciolacu alle engen Vertrauten des inhaftierten Ex-Parteichefs Liviu Dragnea von der Liste für die diesjährige Parlamentswahl gestrichen hatte. Der neue, gut dotierte Posten dürfte Iordache durchaus freuen, zumal er ihn de facto auf Lebenszeit besetzen wird – der geltende Rechtsrahmen sieht nämlich weder Amtszeiten noch Möglichkeiten der Abberufung des Vorsitzenden vor.

Die PNL hatte den ehemaligen Präsidenten des Verfassungsgerichts, Augustin Zegrean, für das Amt vorgeschlagen, der bei der Abstimmung allerdings auf nur 41 Für-Stimmen kam.

## **Kein faires Verfahren: EGMR verurteilt Rumänien**

<https://adz.ro/inland/artikel-inland/artikel/kein-faires-verfahren-egmr-verurteilt-rumaenien>

22.10.2020 – ADZ, Bukarest

Der Europäische Gerichtshof für Menschenrechte (EGMR) hat am Dienstag bekanntgegeben, dass Rumänien der Richterin Camelia Bogdan das Recht auf ein faires Verfahren nach Artikel 6 der Europäischen Menschenrechtskonvention nicht gewährleistet hat. Bogdan wurde im März 2017 vom Obersten Justizrat (CSM) vom Richteramt suspendiert, der EGMR hat nun beanstandet, dass die Möglichkeit einer wirksamen Anfechtung gegen die Entscheidung in Rumänien nicht gewährleistet wurde. Der Richterin wurde eine moralische Entschädigung von 6000 Euro zugesprochen, anstatt der von Bogdan geforderten 100.000 Euro.

## Sources

*Media sources that are regularly read and used for the compilation of this Press Review include inter alia:*

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