

# Rule of Law - South East Europe

## Press Review December 2020

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# Regional

## **Southeast Europe is Pioneering a Global 'Whistleblower Revolution'**

<https://balkaninsight.com/2020/12/10/southeast-europe-is-pioneering-a-global-whistleblower-revolution/>

December 10, 2020 - Mark Worth and Arjan Dyrnishi, BIRN

Across the Western Balkans, a new willingness to report crime and corruption is helping to create a new climate of accountability, redefining people's expectations of government transparency.

We have had whistleblowers since the beginning of civilization. History books are full of remarkable figures who have called out corruption, oppression and hypocrisy. Deservedly, they are held up as heroes who risked their safety and sometimes their lives to act upon a duty larger, more important than their own wellbeing. Their duty was to the rest of us – and we have benefitted from their commitment and courage.

Over the past 60 years, whistleblowers have begun to write a new history. They have taken a legitimate and prominent place in our folklore. The scandals they exposed have shocked us, and they have inspired us to work harder toward a better and safer world. Frank Serpico in the 1960s, Daniel Ellsberg in the 1970s, Mordechai Vanunu in the 1980s, Jeffrey Wigand in the 1990s – this modern wave of citizen activists has established whistleblowing as a necessary component of free speech, accountability and democracy.

For the current generation, Edward Snowden, Julian Assange and Chelsea Manning have lifted whistleblowing to an even higher level of necessity and urgency. They are respected even by those who question their methods and motives.

They have redefined our understanding of how individual citizens can contribute to society, recalibrated our expectations of government transparency, and re-energized journalism and activism everywhere.

## Western Balkans is setting an example



*Interior view of Agora building of the Council of Europe in Strasbourg, Bas-Rhin, France. Photo: Wikimedia commons/Adrian Grycuk*

By far the greatest beneficiary of the whistleblower revolution is the Western Balkans. This region, where budding democracies are struggling to succeed in the wake of the Communist era, may seem an unlikely place for whistleblower rights to be advancing. It is actually because of this struggle that these rights are being strengthened more than in any other region in the world.

Every Western Balkan country now has in place a whistleblower protection law that meets most European and international standards. All of these laws have been passed since 2013, thanks to the hard work of activists, journalists and elected officials, and with support from the EU, the Council of Europe and the UN. This wave of new laws began in Bosnia and Herzegovina in December 2013 – six months after Snowden went public with details of mass surveillance by US spy agencies.

With these laws now in place, every country in the region has set up an official system to receive, investigate and act on whistleblower reports and retaliation complaints. Most of these systems are overseen by anti-corruption agencies and ombudsman offices, which already have experience investigating crimes and protecting civil rights. Most of the agencies have whistleblower hotlines, specially trained staff and designated budgets.

We are pleased to report that in Albania, Bosnia, Montenegro, North Macedonia and Serbia, these systems are starting to function rather well. In all of these countries, employees who reported crime or corruption have been protected from retaliation, in one fashion or another. Officials have developed a high level of expertise in whistleblower protection concepts and procedures, and are working on behalf of citizens.



These new laws and systems are not perfect. Some gaps and shortcomings are limiting the ability of officials to investigate cases and grant stronger protections. But the initial results are very positive. This is particularly true in light of the fact that with the exception of South Korea, the US and a very few other countries, well-functioning systems are largely absent.

Out of a justified concern for the whistleblowers, and to protect their identity and all of their identifying information, we are not at liberty to release any details of these recent cases. In the future we hope to report some details in order to highlight these important successes, while preserving confidentiality of the citizens.

### **Number of homegrown heroes is growing**



*Aleksandar Obradovic, whistleblower from Serbia. Photo: N1*

Many Western Balkan whistleblowers already are very well known. In their countries, cities and communities, they are just as recognizable as the likes of Snowden and Assange are worldwide.

In Bosnia, Smail and Zlatan Velagić of the family-run mining company Tuzla Kvarc exposed a bribery scheme that cost them their business but won them their dignity and national respect. Gjorgji Lazarevski and Zvonko Kostovski exposed a massive wiretapping scandal that toppled Macedonian Prime Minister Nikola Gruevski.

Kosovo's "super-whistleblower" Murat Mehmeti has withstood years of threats and backlash while exposing tax evasion scams orchestrated by shell companies and allegedly condoned by a high-ranking public official. In Serbia, homemade banners hanging outside people's homes praise Aleksandar Obradović, who exposed a state-owned weapons company's involvement in exporting munitions that Islamic State fighters in Yemen then reportedly obtained.

Right now activists and organizations throughout the region are working to promote whistleblowing and support citizen crime-fighters. Members of the Southeast Europe Coalition for Whistleblower Protection have set up confidential whistleblower hotlines, hired attorneys to assist whistleblowers, worked with journalists to publicize cases, and successfully investigated whistleblower disclosure.

The Regional Anti-Corruption Initiative, an intergovernmental organization based in Sarajevo, is heading an EU-supported effort to strengthen whistleblower protections, support NGOs, and improve public perceptions of whistleblowing across the region.

At the same time, a new collaboration by the National Whistleblower Center, Whistleblowing International, and the law firm Kohn, Kohn & Colapinto is working to ensure all European countries – including EU candidate countries – fully comply with the new EU Directive on whistleblowing.

The whistleblower revolution is now in full bloom in Southeast Europe. It is now up to citizens, activists, journalists and officials to ensure no person suffers for doing the right thing – and that all evidence revealed by whistleblowers leads to investigations and prosecutions. Corruption cannot be ended in the Western Balkans without ending secret crimes and cover-ups.

## **EP Endorses New Mechanism for Member States Breaching Rule of Law**

<https://www.novinite.com/articles/207106/EP+Endorses+New+Mechanism+for+Member+States+Breaching+Rule+of+Law>

December 16, 2020



*pexels.com*

The European Parliament has approved a new mechanism to protect the EU budget and taxpayers' money. The Parliament's Rapporteur, Finnish EPP Group MEP Petri Sarvamaa, endorses the decision that should cut EU funding for those Member States who risk principles of sound financial management by violating the rule of law.

"We have to defend our common European values. Respecting the rule of law is a fundamental prerequisite for democracy, stability, prosperity and mutual trust. Without the rule of law, the European Union loses its credibility in the eyes of the citizens and in the eyes of the world", said Sarvamaa.

He underlined that the legislation gives a completely new set of tools to protect the EU budget. It is not targeted at final beneficiaries of EU funds or at any specific Member State.

"Taxpayers' money has to be respected and spent according to the same rules and principles in all Member States. We never know in which Member State the rule of law will be questioned next", Sarvamaa recalled.

With this Regulation, the European Commission and the Council will take appropriate measures where a generalised deficiency as regards the rule of law in a Member State affects or risks affecting the principles of sound financial management or the protection of the financial interests of the Union.



## **Transparency International: Ineffective judiciary helps to maintain state capture in the Western Balkans**

<https://europeanwesternbalkans.com/2020/12/24/transparency-international-ineffective-judiciary-helps-to-maintain-state-capture-in-the-western-balkans/>

December 24, 2020



*Corruption; Photo: Wikimedia Commons / Ashwath Hegde*

The capture of the state in the Western Balkans leads to the eroding public trust in government institutions and is enriching politicians at the severe cost of ordinary citizens, are some of the main conclusions of the Transparency International's publication entitled "Examining state capture: Undue Influence on Law-Making and the Judiciary in the Western Balkans and Turkey".

Transparency International published a report examining two key enabling factors of state capture in the Western Balkans and Turkey: impunity for high-level corruption and tailor-made laws. The report also argues that the judiciary does not handle corruption-related problems effectively, and concludes with a list of recommendations against state capture. "Based on data on high-level corruption cases and tailor-made laws collected by our chapters and partners in the countries, our report identifies shortcomings both in the judiciary and in law-making that reflect the characteristics of state capture in the region", reads the report.

When it comes to high-level corruption cases, the report demonstrates that the power of political parties and the loyalty they command are key ingredients in the success of patronage and clientele networks. The prosecution of such cases often depends on the influence of the ruling parties over the judiciary, and results in biased judges and prosecutors and weak investigations, and tailor-made laws which serve only the interests of a particular group.

"The report identifies three types of tailor-made laws based on their purpose: laws to control part of a sector or industry, laws to reduce the capacity of institutions to exercise

checks and balances, and laws to ensure that positions in public office and justice systems are held by people who enable corruption”, states the publication.

According to the report, the key enablers of state capture are impunity for grand corruption and the legalisation of the capture. Political control of the judiciary is instrumental for the first enabler, while the creation of tailor-made laws is crucial for the second one. The first obstacle to the proper prosecution of corruption involving high-level public officials is said to be the way the crime is recognised, or not, in the criminal code and relevant legislation.

“For example, in Serbia, mixing criminal offences that may be committed in connection to the corruption with various types of economic crime offences, makes it difficult to monitor achievements in the prosecution of corruption and might result in the inconsistent treatment of corruption offences. In Serbia, it is not possible at the moment to prosecute certain persons, such as someone who bribes an MP to vote for a certain proposal”, reads the report.

On the other hand, in certain countries, legal limitations come from the lack of harmonisation between criminal legislation in different jurisdictions, which leads to the problems with inconsistency, duplication and double standards. “This is the case in Bosnia and Herzegovina, where, despite recommendations from the Organisation for Security and Co-operation in Europe (OSCE) to harmonise the relevant procedural criminal legislation across all levels of government in the country the executive and legislative authorities have demonstrated no willingness to do so”, the authors argue.

Political influence on the judiciary, obstacles associated with the prosecutor and lengthy court proceedings are considered to be some of the most common problems in the Western Balkans. Lack of or weak regulation on lobbying are listed as another common issue concerning state capture and across the region. “The general purpose of laws on lobbying is to provide transparency and protect the public interest. The countries in the study that have laws on lobbying are Serbia (in effect since August 2019), North Macedonia (since 2011) and Montenegro (since 2014). The absence of lobbying regulations in countries such as Bosnia and Herzegovina, Albania, Kosovo and Turkey implies that MPs have no obligation to report contacts with people lobbying for the adoption of a particular law or regulation”, reads the report.

According to the authors of the report, the Western Balkan countries and Turkey must develop and implement new priorities for reform, which should focus on both the technical shortcomings and the political dynamics that enable them, in order to address state capture. The report includes a list of recommendations addressed to EU and national decision-makers and local officials and citizens to tackle state capture, political parties, the performance of the judiciary and law-making and the performance of the parliament.

“Recommendations against state capture are to introduce indicators to increase understanding of political practices and structures that undermine independent and accountable judiciaries and parliaments, to link EU membership conditionality to the reform process itself, to incentivise the adoption of mechanisms for implementing anti-corruption and anti-undue influence legislation”, reads the report.

# Albania

## **Venice Commission Slates Albania's 'Extremely Hasty' Constitutional Changes**

[https://balkaninsight.com/2020/12/03/venice-commission-slaps-ramas-socialists-over-unilateral-constitutional-changes/?utm\\_source=Balkan+Insight+Newsletters&utm\\_campaign=77b2832873-BI\\_DAILY&utm\\_medium=email&utm\\_term=0\\_4027db42dc-77b2832873-319834862](https://balkaninsight.com/2020/12/03/venice-commission-slaps-ramas-socialists-over-unilateral-constitutional-changes/?utm_source=Balkan+Insight+Newsletters&utm_campaign=77b2832873-BI_DAILY&utm_medium=email&utm_term=0_4027db42dc-77b2832873-319834862)

December 3, 2020 - Gjergj Erebara, Tirana, BIRN

Advisory body to Council of Europe says the proposed changes to the Albanian constitution and electoral code have been rushed through parliament – warning that it is “crucial to ensure trust in the electoral process.”



*Albania PM Edi Rama voting in the village of Surel near Tirana in the 2017 elections. Photo: LSA*

The Venice Commission, an advisory board to the Council of Europe, has sharply criticized the ruling Socialists in Albania and their parliamentary allies for hurrying through legal changes that critics say are designed to benefit them in the next parliamentary elections, due in April 2021.

President Ilir Meta, who has called the changes unconstitutional, asked the Venice Commission for an opinion on the matter last October.

The changes remove the rights of political parties to create pre-electoral coalitions to maximize their electoral result in parliament and introduces a national threshold to enter parliament of 1 per cent. This is comparatively higher than the previous regional threshold of 3 per cent.

“The procedure for the adoption of the amendments to the Constitution and as well to Law No. 118 [the electoral code] was extremely hasty,” the opinion reads.

The Commission underlines that best practice suggests that countries should not change their electoral framework in less than 12 months before new elections, and adds that it is “crucial to ensure trust in the electoral process”.

It also criticized a lack of proper consultations on the matter and was not convinced by the argument provided by the Prime Minister, Edi Rama, that the coronavirus pandemic made that hard to do.

Last October, while the Socialist-controlled parliament was deliberating over President Meta’s veto on the law, the European Commission urged it to postpone a vote on the President’s veto and wait for the Venice Commission to give its opinion.

The call made by the Enlargement Commissioner, Oliver Varhely, was publicly spurned by PM Rama, however, while his MPs duly voted down Meta’s veto.

Following the leak of the draft report in the media, Taulant Balla, head of the Socialist Party parliamentary group, criticized the leak but refused to comment on its content. “We will not make any comment in order to respect the principle of confidentiality,” he wrote in a Facebook post.

## **Albania Govt Moves Again to Toughen Defamation Penalties**

[https://balkaninsight.com/2020/12/04/albania-government-proposes-yet-another-antimedia-law/?utm\\_source=Balkan+Insight+Newsletters&utm\\_campaign=49aa9b8226-BI\\_DAILY&utm\\_medium=email&utm\\_term=0\\_4027db42dc-49aa9b8226-319834862](https://balkaninsight.com/2020/12/04/albania-government-proposes-yet-another-antimedia-law/?utm_source=Balkan+Insight+Newsletters&utm_campaign=49aa9b8226-BI_DAILY&utm_medium=email&utm_term=0_4027db42dc-49aa9b8226-319834862)

December 4, 2020 - Gjergj Erebara, Tirana, BIRN

Albania's Ministry of Justice is planning changes to the penal code that include a sharp rise in fines for defamation cases – and rephrasing the offence to make it easier to reach guilty verdicts.



*Albania Prime Minister Edi Rama. Photo: LSA*

The Ministry of Justice in Albania on Thursday said it is working on changes to the penal code that include upping the fines to 4.5 million leks (36,000 euros) for defamation, and extending responsibility not only to journalists but also to editors and directors of media outlets and others.

The current penal code classes defamation as a misdemeanor punishable by fines of up to 3 million leks. It also obliges the claimant to prove that the defendant intentionally distributed untrue statements while being aware of the true fact.

The new rephrasing proposed by the ministry removes this important criterion while enlarging the scope of the provision to provide protection not only to individuals but also to institutions, while foreseeing heavier fines if the claimant is a state or political official.

"If this penal offence [defamation] is directed against a political body, an administrative or judicial body, or against a person who [is] representative of one of these bodies ... the punishment is increased by 1/2," the proposal reads.

"When this penal offence is committed through the printed press, responsibility is extended to the administrative director or, case by case, to the deputy director, to the publisher and the typographer in case they know about the penal fact."



Speaking to Ora Television on Thursday, Prime Minister Edi Rama explained the rationale thus: "I wouldn't mind if someone calls me a donkey, but if they call me a thief, that is a charge".

Rama is in his eighth year as Prime Minister, and has repeatedly dodged allegations of corruption raised against his government or about the collaboration of his party with organised groups to pressure voters in elections. Claiming he is the victim of lies and fake news, he has attempted several times to create new legal tools against "defamation".

In 2015, he personally proposed changes to the penal code introducing prison sentences for defamation charges against officials, after the opposition accused him of protecting organized crime groups from justice.

In 2016, his government proposed changes to the Electronic Commerce Law that ordered websites to "take down illegal content immediately" when someone claims their reputation has been infringed.

In 2018, his office proposed the creation of an administrative body to supervise the online media with power to order takedowns of news under the threat of hefty fines. According to Rama, the law was needed to "protect businessmen from media attacks".

All these initiatives have failed to get through, however, following strong criticism by local and international rights organizations and institutions.

The latest change is also currently blocked in the parliament after the Venice Commission issued a highly critical report last summer, pointing out that the change could "block any critical remarks against public figures and/or suppress legitimate political debate on matters of public interests".

The Council of Europe advisory body also emphasized that "oligarchs (multi-millionaires or billionaires who create or take over media empires to serve their business and / or political interests)" could make use of it.

## **Albanian Interior Minister under pressure to resign over police shooting**

<https://www.euronews.com/2020/12/09/albanian-interior-minister-under-pressure-to-resign-over-police-shooting>

December 9, 2020 - Matthew Holroyd



*AP Photo/Gregorio Borgia 2019*

Albania's Interior Minister has faced calls to resign after police fatally shot a young man during the country's overnight curfew on Tuesday.

25-year-old Klodian Rasha was shot dead near his home in Tirana after not responding to police calls to stop.

An officer, who was later arrested, has reportedly stated that he opened fire because he believed the man had a weapon in his hands.

Klodian Rasha's sister, Sibora, has told Euronews Albania that her brother did not have a weapon with him and that he had gone out to buy cigarettes.

"I want to find out why my brother was killed. Why did they kill him when he did not have a gun with him?" Sibora Rasha said.

Interior Minister Sander Lleshaj said police were investigating how the incident occurred and has expressed his "deepest condolences for this tragic loss".

"I express my full confidence that responsible legal bodies will quickly, accurately and directly finalise investigations into the murder of Klodian Rasha," Lleshaj said on Facebook.

Albanian state police have also described the incident as "tragic" and say they are also "intensively analysing" what caused the shooting.

"We express our sincere condolences to family, friends, relatives, and citizens affected by this act," the authority said in a statement on Facebook.

"The State Police guarantees the citizens that it remains committed and engaged in its duty to increase public safety, to protect the life and rights of every citizen."

Albania's President, Ilir Meta, added that the incident had "deeply shaken" everyone in the country, and blamed officials for increasing police violence.

"In the last two years ... acts of extreme and inappropriate violence by certain State Police have escalated," Meta said in a Facebook post.

"This is the direct responsibility of senior officials and State Police leaders, as well as the Minister of Interior, who have not so far held clear public positions for zero tolerance for such acts."

"I urge law enforcement agencies and other state authorities to respond immediately to the good need for justice society through a quick, thorough, independent, objective, and transparent investigation into the serious incident of Klodian Rasha's murder."

Hundreds of protestors gathered at the interior ministry building on Wednesday, with some throwing objects at police officers.

Euronews Albania has reported that at least one police officer, a protester, and a journalist were injured in sporadic clashes while people tried to enter the ministry.

Demonstrators also gathered along the street of the prime minister's office, defying COVID-19 restrictions which limit public gatherings to ten people.

Albanian authorities have imposed several lockdown measures including mandatory facemasks and an overnight curfew to try to prevent a surge of new cases.

Protesters said the rally was not political, although some opposition supporters were seen among the crowds.

Albania is due to hold parliamentary elections in April next year.

## **Albania Street Clashes Continue Despite Interior Minister's Resignation**

[https://balkaninsight.com/2020/12/11/albania-police-clashes-with-protesters-as-minister-of-interiors-resigns/?utm\\_source=Balkan+Insight+Newsletters&utm\\_campaign=40492a886e-BI\\_DAILY&utm\\_medium=email&utm\\_term=0\\_4027db42dc-40492a886e-319834862](https://balkaninsight.com/2020/12/11/albania-police-clashes-with-protesters-as-minister-of-interiors-resigns/?utm_source=Balkan+Insight+Newsletters&utm_campaign=40492a886e-BI_DAILY&utm_medium=email&utm_term=0_4027db42dc-40492a886e-319834862)

December 11, 2020 - Gjergj Erebara, Tirana, BIRN

Violent youngsters roamed Tirana centre on Thursday night, building barricades and clashing with riot police - unappeased by the resignation of the Interior Minister following the fatal shooting by police of an unarmed 25-year-old.



*Albania protester threw a stone against police in this photo of 10 December 2020 in Tirana. Photo: LSA*

Protesters clashed again with police in the capital Tirana on Thursday night despite the resignation of the Interior Minister over the police shooting of a 25-year-old man.

Prime Minister Edi Rama dismissed suggestions that the fatal shooting of the unarmed citizen was a result of a police culture of violence and called the event “an isolated one” – while announcing that Interior Minister Sander Lleshaj had offered his resignation.

Despite the concession, outside Rama’s office on Heroes of the Nation Boulevard, anti-riot police battled young protesters, some of whom responded violently with stones and fireworks.

Lleshaj said he was offering to resign to set a new standard in the country, recalling that current opposition leader Lulzim Basha didn’t resign in 2011 when National Guard officers killed four bystanders at a protest.



Lleshaj took office after his predecessor, Fatmir Xhafaj, resigned after it was discovered that his brother had been sentenced on drug charges in Italy and was avoiding serving jail time by living in Albania. Lleshaj appeared in several television studios during the night defending his record against critiques that police had used violence for political purposes during his time in office.

Tirana city centre was meanwhile transformed into an urban guerrilla battlefield. BIRN saw several cases of protesters demolishing whatever they could and blocking roads, while other citizens were walking their dogs or minding their own businesses.

Police patrolled the main boulevard with water cannon and protected the Municipality of Tirana, the Ministry of Interior and the office of the Prime Minister from the rage of the protesters. Large clouds of tear gas arose over the conflict zones.

Politically motivated violence is not new in Albania. But some observers said the Thursday night rioters weren't party organised groups but teenagers eager to clash with police, raising concerns about deeper animosities existing in the country that the death of Rasha just sparked.

Xhoi Malesia, a journalist working at Ora News TV, said police used force to stop him while he was on duty on Thursday. He was freed several hours later. The Albania's Professional Journalists Association condemned the event and called on authorities to investigate." Police violence against a journalist who was manifestly presenting himself as journalist is not new and is also not acceptable," the association said in a statement.



*Protesters build a barricade to block a major road in Tirana city center on 10 December 2020. Photo: Gjergj Erebara/BIRN*



## **Albania Let Rights Standards Slip While Chairing OSCE – NGOs**

[https://balkaninsight.com/2020/12/14/albania-owns-human-rights-standards-fell-short-as-the-country-led-osce/?utm\\_source=Balkan+Insight+Newsletters&utm\\_campaign=96e1524c79-BI\\_DAILY&utm\\_medium=email&utm\\_term=0\\_4027db42dc-96e1524c79-319834862](https://balkaninsight.com/2020/12/14/albania-owns-human-rights-standards-fell-short-as-the-country-led-osce/?utm_source=Balkan+Insight+Newsletters&utm_campaign=96e1524c79-BI_DAILY&utm_medium=email&utm_term=0_4027db42dc-96e1524c79-319834862)

December 14, 2020 - Gjergj Erebara, Tirana, BIRN

Six rights organisations say human rights in Albania deteriorated in several fields in 2020 – the first year Albania has held the chair of the Organization for Security and Cooperation in Europe, OSCE.



*Police surround the National Theatre on May 17, which was being demolished while the nation was officially under lockdown. Photo: LSA*

Limited progress on electoral reform, few investigations into corruption and regular attacks against freedom of speech tarnished Albania's year as chair the Organization for Security and Cooperation in Europe, OSCE, six rights organisations stated in a report published on Monday.

The Albanian Helsinki Committee, AHC, Civil Rights Defenders, CRD, the Institute for Political Studies, IPS, BIRN Albania, the Center for Legal Civic Initiatives, CLCI, and the Tirana Legal Aid Society, TLAS, evaluated human rights and the rule of law during Albania's chairmanship in office of the OSCE.

Justice reform, the much heralded revamp of the notoriously slow and corrupt justice system, is still incomplete, the report stated, while the backlog of cases piling up in courts has increased.

The vetting process, an extraordinary check on the wealth, professional credentials and moral standing of the judges and prosecutors, resulted in about half of them being fired while more chose to resign to avoid the process. While the process is considered a step towards ending impunity, fewer judges and prosecutors means higher workloads and longer waiting times for justice.

“The system faces lack of human resources, higher workload and an increase of backlog cases,” Erida Skendaj, from the Albanian Helsinki Committee, said.

Skendaj also noted that the new justice institutions created by the reform process “need to improve their level of transparency”, a view shared by BIRN Albania editor Besar Likmeta.

He said the High Council of Judges has pushed the principle of the protection of personal data to a level of absurdity, keeping secret the names of appointed judges and the courts where they have been appointed, and the names of judges undergoing disciplinary investigations.

Freedom of speech and freedom of the media deteriorated during 2020, Likmeta added, as Albania was tested by a powerful earthquake in late 2019 and by the pandemic.

“We have seen cases where police referred journalists and TV stations for prosecution for ‘spreading panic,’” Likmeta said, underlining that, on a more positive note, prosecutors didn’t follow the police leads.

Prime Minister Edi Rama continued his years-long verbal and legal attacks against the media, including approving a law on regulating online media that fell short of international standards, while the number of defamation lawsuits that bears the hallmarks of SLAPP increased.

Civil Rights Defenders and Tirana Legal Aid Society said basic human rights, such as freedom of information or right to public consultation, were often ignored.

Changes in important laws, such as penal code or the electoral law, won parliamentary approval without due public consultation.

“Another extensively contested decision that was also taken avoiding public consultation was the demolition of the National Theatre. The action, opposed in a two-year protest, was carried out in the early hours of May 17, 2020, while health-related restrictions on movement and rallies were still in force,” the report noted.

Albania will pass the OSCE baton to Sweden this month. The OSCE chair is the Foreign Minister, which in this case, was Prime Minister Rama who is also Albanian Foreign Minister.

# Bosnia and Herzegovina

## **Bosnia Federation PM Novalic Indicted in 'Respirators' Case**

<https://balkaninsight.com/2020/12/04/bosnia-federation-pm-novalic-indicted-in-respirators-case/>

December 4, 2020 - Albina Sorguc, Sarajevo, BIRN

Federation entity Prime Minister Fadil Novalic and other others are accused of conspiring to “abuse office, accept rewards for trading influence, money laundering and document fraud” in connection with the purchase of overpriced ventilators from China.

The Prosecution of Bosnia and Herzegovina has been investigating the purchase at an inflated price of the 100 respirators from China since May.

The Federation entity bought them through F.H. Srebrena Malina, a company normally trading in fruit and vegetables.

The names on the announced indictment besides Novalic are Fahrudin Solak, suspended director of the Federation’s Civil Protection Administration, Fikret Hodzic, director of Srebrena Malina from Srebrenica, as well as Jelka Milicevic, Deputy Prime Minister of the Federation and Federation Minister of Finance.

Srebrena Malina, Novalic, Solak and Hodzic have been charged with conspiracy to commit crimes in conjunction with “abuse of office or authority, accepting rewards or other forms of benefit for trading influence, money laundering, falsification or destruction of business or trading books or documents, administrative document fraud and violation of the obligation to keep trading or business books and prepare financial reports and their falsification or destruction”.

The Prosecution has charged Milicevic with misconduct in office.

It said in its announcement that the defendants committed the said crimes in relation to the purchase of 100 respirators worth KM 10,530,000, as well as protective equipment worth KM 2,900,000, for the purposes of fighting the coronavirus in the Federation entity immediately after the proclamation of the state of natural disaster”.

It states that Novalic is charged with designing a plan for the unlawful payment of budgetary resources for the purpose of purchasing means and equipment for fighting the coronavirus, using the circumstances of the declared pandemic and the capacities and authority of the prime minister of the Federation.

“With the aim of obtaining unlawful material benefit, Fahrudin Solak, Fikret Hodzic and legal entity F.H. Srebrena Malina Srebrenica joined the plan. The associated group then purchased 100 respirators ACM812A at an inflated price.

“The respirators delivered cannot be used for the purposes for which they were purchased, namely for treating COVID-19, which caused material damage to the budget of the Federation of Bosnia and Herzegovina,” it noted.

This resulted in the suspects “obtaining unlawful material benefit, which was to be distributed among the members of the associated group”, the announcement stated.

It further states that Milicevic committed the crime of “misconduct in public office”, because, through a deliberate violation of law and other regulations, she enabled the purchase of the respirators and then failed to prevent the harmful consequences by not performing her statutory duties.

The investigation into another suspect, Aleksandar Zolak, “continues in a separate case, because of ... grounded suspicions that unlawful decisions were rendered by the Agency for Medicinal Products and Medical Devices in other cases as well,” the Prosecution announced.

The Prosecution said it was also continuing an investigation into several individuals for “assisting the perpetrators after the commission of a criminal offence” related to the purchase and distribution of the respirators.

A detention hearing was held on May 30. By decision of the State Court, the suspects were not ordered into custody.

## **Bosnia's Top Judicial Body Asks Chief to Consider Resignation**

<https://balkaninsight.com/2020/12/04/extraordinary-session-of-hjpc-asks-tegeltija-to-consider-potential-resignation/>

December 4, 2020 - Nermina Kuloglija, Sarajevo, BIRN

Members of Bosnia's top judicial body, the High Judicial and Prosecutorial Council of Bosnia and Herzegovina, HJPC, voted to ask its president, Milan Tegeltija, to consider resigning over a recording that appears to indicate his involvement in influence peddling – and has further shaken the body's reputation.

"The latest affair involving the top BiH judicial official in the alleged influence peddling casts a shadow over him as head of the institution and reflects negatively on the country's judiciary as a whole," the EU Delegation to BiH told the media some days ago.

However, after nine out of 14 present members requested that Tegeltija resign, it was concluded that the Council could not assess his responsibility for the audio recording, as its lawfulness and authenticity could not be confirmed.

A conclusion was instead adopted asking the competent authorities to protect both individuals and the independence of the judicial system against unlawful recording and surveillance that undermine their security and independent decision making.

Tegeltija told the session that the recording was fabricated, and was neither lawful, authentic nor credible. Following his address, nine members agreed that the recording was unlawful but said its contents had compromised the reputation of the HJPC and the judicial system, therefore seeking Tegeltija's resignation.

"The content went out to the public and additionally compromised the public's trust in the reputation of this institution and the judicial system," HJPC member Goran Nezirovic said. He added that the recording was only one element of the crisis in the HJPC. He said the entire Council should resign to help the body regain the public trust.

Three present members of the Council were against resignation, saying they did not want to discuss a recording obtained in an illegal manner.

Following addresses by all council members, Tegeltija said he respected the Council's conclusions. "When you ask a man against whom, as you say, a criminal offence was committed, who is a victim of a criminal offence, when you ask a victim to answer for being a victim, that represents a secondary victimization. I don't want to be a victim, I have not asked for any protection," Tegeltija said.

Following his address, judge Kees van der Weide, from the Netherlands, who acts as an advisor to HJPC, said he was glad that the majority of the Council were ready to face reality, hoping the Council's conclusions would result in measures.

Meanwhile, The Prosecutor's Office of Bosnia and Herzegovina on Friday filed an indictment in a case codenamed "Horseshoe" in which Tegeltija is also at the centre.

It follows an investigation that began in June 2019 after a secretly-filmed video was released showing him allegedly taking bribes through a middleman. The video suggested he might take a bribe to speed up a case in the courts. Tegeltija has dismissed allegations of taking bribes.



## **Bosnia Charges Serb Chetniks with Inciting Ethnic Hatred**

<https://balkaninsight.com/2020/12/10/bosnia-charges-serb-chetniks-with-inciting-ethnic-hatred/>

December 10, 2020 - Albina Sorguc, Sarajevo, BIRN

The Bosnian state prosecution said on Thursday that it has filed an indictment charging Dusan Sladojevic, alias Krvce or Cica, Slavko Aleksic, alias Vojvoda, and Risto Lecic with inciting hatred between Bosnia and Herzegovina's main ethnic groups at a rally in Visegrad.

Members of the Ravna Gora Movement – widely known as the Chetniks – rallied in Visegrad on March 10, 2019 wearing black uniforms and reportedly singing ethnically provocative songs.

The indictment alleges that the three suspects participated in incidents that “caused distress and fear among the population in Bosnia and Herzegovina, particularly [post-war] returnees and residents of Visegrad and the surrounding places, by playing and singing a song expressing threats or violence”.

AFP news agency reported at the time that the Chetniks were filmed singing that “the River Drina will be bloody again”. Visegrad, which is located by the River Drina, was the scene of war crimes by Serbs against Bosniaks in 1992.

The indictment alleges that Sladojevic, Aleksic and Lecic with “caused ethnic, racial and religious hatred, discord and intolerance between the constitutive peoples [Bosniaks, Croats and Serbs] and others”.

The Chetnik rally is held annually to commemorate the day on which Dragoljub ‘Draza’ Mihailovic, the leader of the World War II Chetnik movement, was caught by the Yugoslav Communist authorities in 1946.

During WWII, Mihailovic's forces committed war crimes and other atrocities, including crimes against Bosniaks in the Visegrad region.

He was executed in Belgrade in 1946 but was controversially rehabilitated by a Serbian court in 2015 on the grounds that his trial under the Communist regime was politically motivated.

The indictment of the three men has been filed to the Bosnian state court for confirmation.

Another case focusing on the Ravna Gora Movement's activities on Orthodox Christmas Eve in January 2020 is also being investigated.

After marking the religious holiday, Chetnik supporters formed a car convoy and drove around honking horns and blasting out traditional Serb songs. The convoy passed close to the Srebrenica Memorial Centre in Potocari, and through the towns of Bratunac and Visegrad.

Prosecutors are investigating a possible case of incitement of ethnic and religious hatred and intimidation of Bosniaks who returned to live in the area again after fleeing during the war.

## **Tegeltija Resigns as Head of Bosnia's Top Judicial Body**

<https://balkaninsight.com/2020/12/10/tegeltija-resigns-as-head-of-bosnias-top-judicial-body/>

December 10, 2020 - Danijel Kovacevic, Banja Luka, BIRN

Milan Tegeltija, head of the Bosnian High Judicial and Prosecutorial Council, HJPC, the Bosnian state's top judicial institution, resigned on Thursday after coming under pressure from the public and the international community over alleged influence-peddling.

At a press conference at the Basic Court in Banja Luka, Tegeltija said he would resign as president and member of the HJCP next week at a council session because there were no basic guarantees for his security in the Bosnian capital.

He said he expected five other HJCP members to resign at the same session, and would resign from all his judicial functions because he no longer believed in the Bosnian justice system.

Tegeltija reiterated that he had received death threats and believed his life in Sarajevo was in danger, dismissing the allegations against him. "Time has shown that I had nothing to do with corrupt practices," he said.

"Since my election in 2014, attacks on me by the SDA have begun, accusing me of coming to break up the judiciary in Bosnia," Tegeltija said, referencing the mainly Bosniak Party of Democratic Action, SDA.

He claimed an intelligence and para-intelligence operation had been set up to discredit him. He accused the SDA, the strongest Bosniak party in the country, of being behind the "political-media pressure" on him.

In late-November, media released a leaked audio recording which allegedly featured Tegeltija discussing naming the sister of a former member of the HJCP as a judge in the Banja Luka Basic Court.

The conversation in the recording was allegedly between him and former HJPC member Miljana Buha who insisted on the appointment of her sister, Sanja Cegar, to the post of the judge; Tegeltija can allegedly be heard saying the "tactics" should be left to him.

Tegeltija has said the recording was fabricated, and is neither lawful, authentic nor credible.

The HJPC on December 4 concluded that it could not assess his responsibility for the recording, as its lawfulness and authenticity could not be confirmed.

Instead, it asked the authorities to protect both individuals and the independence of the judicial system against unlawful recording and surveillance that undermine their security and trust in independent decision making.

Foreign embassies and international organisations in Bosnia and Herzegovina have expressed deep concern over the loss of integrity and credibility of the High Judicial and Prosecutorial Council.

In separate press releases, the Office of the High Representative, OHR, the EU office in Sarajevo, the OSCE and the US embassy have all called on Tegeltija to step down.

"It would mean a significant step towards restoring of the identity and reputation of the institution," the OHR, the body monitoring implementation of Bosnia's 1995 peace agreement, told the media, concerning the HJPC.

"The latest affair involving a top BiH judicial official in alleged influence-peddling casts a shadow over him as head of the institution and reflects negatively on the country's judiciary as a whole," the EU Delegation to Bosnia said some days ago.

In front of the courtroom where Tegeltija held a press conference, representatives of the Justice for David pressure group held a protest against him on Thursday night with banners that read: "Tegeltija, you will feel safer in prison" and "Justice for David".

Members of the group have been protesting for more than a year, demanding that the murder of 21-year-old student David Dragicevic in March 2018 be solved and accusing the authorities of a cover-up.

# Bulgaria

## **CoE report slams conditions in Bulgarian psychiatric, social care institutions**

<https://sofiaglobe.com/2020/12/02/coe-report-slams-conditions-in-bulgarian-psychiatric-social-care-institutions/>

December 2, 2020 - The Sofia Globe



The Council of Europe's anti-torture Committee (CPT) expressed grave concern in a report published on December 2 that many of its long-standing recommendations concerning the treatment, conditions and legal safeguards offered to psychiatric patients and residents of social care institutions in Bulgaria remain unimplemented.

In August 2020, the CPT's delegation visited St Ivan Rilski State Psychiatric Hospital and Tsarev Brod State Psychiatric Hospital for the first time, as well as Byala State Psychiatric Hospital which had been previously visited by CPT in 2006.

The delegation also visited, for the first time, the social care homes for persons with learning disabilities in Kudelin and Samuil and the social care home for persons with psychiatric disorders in Govezhda.

In all hospitals and social care homes visited, the delegation received allegations of ill-treatment of patients and residents by staff – orderlies were verbally rude to patients and residents, pushed or slapped them, punched, kicked, and hit with sticks, the Council of Europe said.

Gate guards in Kudelin and Govezhda social homes carried and would occasionally hit residents with wooden sticks (sticks matching descriptions given by residents were found by the delegation in staff offices in all three establishments), it said.

As regards living conditions, the committee noted that some renovation has occurred in all three psychiatric hospitals, particularly in Tsarev Brod, and that material conditions in Byala had improved since the CPT's last visit in 2006.

However, there was a clear scope for further general material improvement and personalisation of dormitories, the CoE said.

As for the social homes visited, Samuil provided for satisfactory internal décor and even en-suite sanitary facilities in many rooms but living conditions and sanitary facilities in Kudelin and Govezhda required major improvement.

“In all three hospitals visited, inadequate, and often grossly insufficient numbers of ward-based staff were found.”

The number of multi-disciplinary clinical staff, too, was totally inadequate to meet the many psycho-social treatment and rehabilitation needs of patients.

“Unfortunately, the findings of the 2020 visit suggest that the Bulgarian authorities still fail to fully grasp the importance of adequate numbers of staff and the need to assertively act to rectify that deficiency,” the committee said.

“The persistent staff shortages give the impression that, in the Ministry of Health, mental health care is not sufficiently valued; it clearly needs to be given a higher priority for investment and development.”

In social homes, too, the numbers of nurses and orderlies were totally insufficient, the CoE said.

Seemingly due to low salaries and the difficulties in attracting and retaining staff to work in the rather remote establishments, the professional quality of staff, especially orderlies, appeared to be poor; this, combined with inadequate training and supervision, undoubtedly increased the risk of ill-treatment of residents. The numbers of staff who could provide psycho-social, occupational and recreational input to residents were also inadequate, particularly in Kudelin and Govezhda.

As for means of restraint, seclusion, mechanical and chemical restraint of patients was practised in all hospitals visited, but it was not done in line with the CPT standards.

“The restraint equipment was inappropriate and caused pain to mechanically restrained patients,” the Council of Europe said.

“The most disturbing situation was found in Tsarev Brod where, despite the availability of properly designed padded restraint belts, patients were nearly exclusively restrained to beds with metal chains to wrists and ankles, secured with padlocks, often for days on end.”

The use of similar equipment was also alleged by the Kudelin social home residents, and chains and padlocks matching the residents’ descriptions were found in the establishment’s guard’s office.

“Many would believe that this behaviour had been eradicated from mental health establishments in Europe over a century ago. Such a shameful practice is totally unacceptable and could easily be considered as inhuman and degrading; it must stop immediately,” the committee said.

With regards to the regime and treatment available to psychiatric patients, the atmosphere on many of the wards in all three hospitals visited often appeared less than therapeutic, sometimes neglectful and even controlling, oppressive and punitive.



Treatment, as before, was predominantly pharmacotherapeutic, the Council of Europe said.

Many patients had no, or only very limited, access to daily outdoor exercise. Besides, a number of legally competent patients who had signed consent to hospitalisation forms and were still deemed voluntary, said that they wanted to leave but were not allowed to do so, and were thus de facto detained.

“The Covid-19 pandemic remains a serious risk to vulnerable patients and residents. The CPT recommends that the Bulgarian authorities develop a specific and comprehensive strategy to respond to the Covid-19 pandemic in psychiatric hospitals and social care institutions, review the total ban on visits to patients in the psychiatric hospitals instituted in response to the Covid-19 pandemic in March 2020, and take steps to ensure that patients can receive such visits in safe conditions, respectful of physical distancing and personal protective equipment requirements.”

Moreover, the committee recommends that the institution of a State-funded regime of regular PCR testing of all staff (and any psychiatric patient or social care resident who enters or re-enters the establishment) should be given serious consideration.

As to the general situation with social care institutions, the committee noted with regret that since previous visit in 2017 there has been little, if any, improvement.

“The Bulgarian authorities’ approach to predominantly just providing learning-disabled and mentally ill social care residents with food three times a day and a roof over their head is grossly insufficient and clearly needs to be urgently revisited,” CPT said.

“The continuation of the existence of such social care establishments in Bulgaria is not viable. The Committee strongly supports the Bulgarian authorities’ plan to close a number of social care establishments by 2022 and develop appropriate community care facilities. Moreover, the Committee strongly urges the Bulgarian authorities to rapidly accelerate their closure programme of the remaining old-style, outdated social care establishments, eradicating the need for them as soon as possible.”

In advance of such closure, the CPT called on the Bulgarian authorities to take concrete and urgent measures aimed at upholding the human dignity of all persons placed in the existing social care homes.

## **European Commission takes Bulgaria to court again over poor air quality**

<https://sofiaglobe.com/2020/12/03/european-commission-takes-bulgaria-to-court-again-over-poor-air-quality/>

December 3, 2020 - The Sofia Globe

The European Commission said on December 3 that it was referring Bulgaria to the European Court of Justice (ECJ) for failing to implement an earlier ECJ ruling, which found that the country had breached its obligations under the EU's ambient air quality legislation.

The ECJ ruled in April 2017 that Bulgaria failed both to keep air pollution below the limits stipulated by the EU's Directive 2008/50 and in its obligation to keep the period during which pollution levels exceed mandated norms as short as possible.

"As this is a referral to Court following non-compliance with a Court judgment, it may result in penalties for the time elapsed after the first judgement until achieving compliance. In order to comply with the judgement, Bulgaria is expected to adopt and implement a series of legislative and administrative measures," the European Commission said.

The Commission did not specify what those measures should be, but noted that Bulgaria recorded some of the most severe cases in the EU of exceeding both annual and daily limit values for PM10 particulate matter, which is dust particles in the one-hundredth of a millimetre size range.

The court referral is the last stage in the EU infringement process. It was one of six infringement procedures against Bulgaria in the EC December infringement package.

In three ongoing cases, the Commission sent reasoned opinions, the second stage of the infringement proceedings, which included a "final warning to Bulgaria over systemic failures in its implementation of EU nature legislation."

The Commission said that Bulgaria systematically neglected the cumulative impacts of existing and authorised plans and projects in the Natura 2000 network of protected areas, to the extent that this economic activity represented a major threat to conservation objectives.

Bulgaria also was sent reasoned opinions for not applying EU rules on the provision of EU-wide multimodal travel information services and failing to comply with all requirements of Directive 2004/54/EC, which sets minimum safety measures relating to the infrastructure and operation of tunnels.

Should Bulgaria fail to respond to the reasoned opinions within a period of two months, the Commission can take the cases to the European Court of Justice.

The EC also opened new infringement proceedings against Bulgaria by sending letters of formal notice – one for failing to maintain minimum emergency stocks of crude oil and another over Bulgaria's failure to submit a national long-term renovation strategy under the Energy Performance of Buildings Directive.

## **Bulgarian Parliament Approved the Possibility of Digital Lawsuits**

<https://www.novinite.com/articles/207008/Bulgarian+Parliament+Approved+the+Possibility+of+Digital+Lawsuits>

December 11, 2020



The deputies approved at first reading the changes in the Civil Procedure Code, which makes a step towards the introduction of e-justice.

The bill aims to ensure the introduction of unified information system of the courts, as well as the functionalities of the Unified Portal for e-Justice.

The new texts make it possible to carry out some procedures in electronic form and to prepare electronic court cases. The portal will be available after initial registration. All participants in court proceedings will be able to receive electronic messages, subpoenas and papers, including being notified of certain procedural actions.

The delivery of notices, subpoenas and papers to a lawyer will also take place through the single portal, and every attorney will now be obliged to register and maintain an account there. In addition to procedural actions, the issuance of judicial acts will also be able to be in electronic form.

Participants in criminal proceedings will be able to make requests, remarks and objections, as well as to appeal court acts electronically. The rules for holding videoconference court hearings when taking a custody measures in the pre-trial proceedings are specified.

A legal opportunity is created for the defendant to participate in the case by videoconference in case of a state of emergency, martial law, disaster, epidemic, other force majeure circumstances or at the written request of the defendant and his defense counsel, as well as at the discretion of the court.

## **Bulgarian Parliament Approved Election of Investigative Prosecutor for Probing Prosecutor General**

<https://www.novinite.com/articles/207155/Bulgarian+Parliament+Approved+Election+of+Investigative+Prosecutor+for+Probing+Prosecutor+General>

December 18, 2020

The Parliament approved at first reading the appointment of a new figure of an investigative prosecutor who will investigate the Prosecutor General, with an appendix to the Criminal Procedure Code (NPC) submitted by Krasimir Tsipov of GERB. 100 MPs voted in favor, 46 were against (mainly of the Bulgarian Socialist Party) and 10 abstained, BTA reported.

This person must have the status of acting prosecutor with the full powers under Bulgarian law, similar to the European Delegated Prosecutors.

It is envisaged that this Prosecutor will have a seven-year term, be nominated by not less than six members of the Prosecutor's College of the Supreme Judicial Council (SJC) and elected by the Plenum of the SJC by a simple majority.

"Between the first and second votes, we will submit a proposal that each candidate for this position can be self-nominated," Tsipov announced during the discussion.

He was adamant that the majority intends to adopt the annex by the end of this National Assembly term of office and to initiate the procedure.

"The election of the first prosecutor investigating the Prosecutor General is scheduled to start one month after the adoption of the amendments to the NPC and the Judiciary Act, and candidates will be nominated by then, and in another two months the SJC should make the choice.

The requirements are that the new investigative prosecutor has at least 12 years of service, has high professional and moral qualities, with a positive overall assessment from the latest attestation and in the last five years none of the four most severe disciplinary penalties has been imposed on him, such as disrating, dismissal as administrative director or deputy of one, or disciplinary dismissal.

The proposed seven-year term of the investigative prosecutor entitled to probing into the Prosecutor General would ensure his work during the tenure of various chief prosecutors, leading to the impossibility of potential influence, the rationale of the movers reads.

The Prosecutor's Office has already stated that such a magistrate is redundant, since even now, if there are any reports against No.1 prosecutor, they are being investigated like any other reports. However, the Justice Ministry upheld the idea.

# Croatia

## **Croatia Urged to Toughen its Response to Human Trafficking**

<https://balkaninsight.com/2020/12/03/croatia-urged-to-toughen-its-response-to-human-trafficking/>

December 3, 2020 - Anja Vladislavljevic, Zagreb, BIRN

A new report on human trafficking in Croatia by the Council of Europe's Group of Experts on Action against Trafficking in Human Beings, GRETA, published on Thursday, said that Croatia should strengthen its criminal justice response to human trafficking and enable victims to more effectively exercise their right to compensation.

GRETA's report, which focuses on victims' access to justice and effective remedies, stated that Croatia "is a country of origin, destination and transit of victims of human trafficking".

It said statistics from Croatian Interior Ministry indicate that the total number of identified victims from 2015 to 2019 was 200: 38 in 2015, 30 in 2016, 29 in 2017, 76 in 2018 and 27 in 2019.

Over half the victims were women, and a quarter were children. While trafficking for sexual exploitation of women and girls remains the main form of exploitation in Croatia, the report notes an increase in trafficking for labour exploitation, which concerns mostly men. In 2018, for example, men accounted for about 60 per cent of all victims.

The number of foreign victims has increased over the years, totalling 86 for the period 2015-2019. Foreign victims mainly originated from Taiwan (59) and Bosnia and Herzegovina (14), but three victims originated from Afghanistan, two from Pakistan, two from Thailand and one each from Serbia, Slovakia, Romania, Hungary, Nigeria and the Philippines.

GRETA acknowledged the steps taken by Croatia since its previous country report, published in 2016, to develop the legislative and policy framework relevant to action against trafficking in human beings.

However, it "notes with concern that not all complaints about possible human trafficking offences are taken seriously by the police and urges the Croatian authorities to ensure that human trafficking offences are promptly investigated, leading to effective, proportionate and dissuasive sanctions".

The report recalled the decision of the Grand Chamber of the European Court of Human Rights, ECHR, in the case of S.M. v. Croatia, issued in June this year, which upheld the applicant's complaint of a lack of an adequate response by the authorities to allegations that she had been pressured into prostitution.

The Croatian woman, born in 1990, lodged a criminal complaint in 2012, alleging that a former police officer who initially contacted her via Facebook as a friend of her parents, promising to help her find a job, forced her into prostitution over several months in 2011.



Local courts concluded that the prosecution had failed to provide sufficient evidence for a conviction and that the applicant had offered sexual services voluntarily.

The ECHR determined that the Croatian authorities did not investigate all the circumstances. Furthermore, GRETA noted, the woman was not given appropriate assistance and support to alleviate the fear and pressure that she had felt whilst testifying.

GRETA urges the authorities “to build the awareness of all actors in the criminal justice system on how to avoid the re-victimisation and stigmatisation of victims of trafficking, and to avoid repeated and lengthy questioning of victims of trafficking”.

The report also calls on the authorities to better identify human trafficking victims for the purpose of labour exploitation, paying particular attention to at-risk sectors, such as agriculture, construction and hospitality, and to screen asylum seekers and unaccompanied children for trafficking indicators.

# Kosovo

## **SA Council members review Kosovo's progress on its path to the EU**

<https://europeanwesternbalkans.com/2020/12/01/sa-council-members-review-kosovos-progress-on-its-path-to-the-eu/>

December 1st, 2020 – EWB



New Born sign in Pristina Kosovo: CC BY-SA 2.0; Gebäude der UNMIK NEW BORN SIGN PRISTINA KOSOVO Giv Owned Image 23 August 2008.jpg

BRUSSELS – The members of the Stabilisation and Association Council (SA Council) reviewed Kosovo's progress on its European path following the publication of the European Commission's 2020 Report.

The joint statement issued on Monday reads that participants discussed recent key developments relating to the fulfilment of the political criteria, as well as the state of play concerning the economic criteria, financial cooperation and implementation of the 2015 Stabilisation and Association Agreement.

This meeting was chaired by the High Representative for Foreign Affairs and Security Policy, Josep Borrell, while the Commissioner for Neighbourhood Policy and Enlargement Negotiations, Olivér Várhelyi represented the European Commission.

"They agreed on the urgent need to accelerate reform processes, including through the second phase of the European Reform Agenda, requiring increased focus by all political actors and an effective coordination structure within the Kosovo institutions," reads the statement.

Participants also reiterated the importance of visa liberalization for Kosovo citizens and discussed reform priorities in areas including rule of law and judicial reforms, respect

for fundamental rights, public administration reform, economic development, education and employment.

When it comes to the latest developments with the Kosovo Specialist Chambers, participants appreciated the cooperation shown recently by Kosovo authorities and those arrested.

SA Council members welcomed Kosovo's continued strategic commitment to its European path and to the EU-facilitated dialogue with Serbia.

"The meeting underlined the importance of continuous engagement in good faith to negotiate and achieve a comprehensive legally binding normalisation agreement. This is crucial so that Kosovo and Serbia can advance on their respective European paths. Participants agreed that all past agreements need to be respected and implemented", reads the statement.

They also agreed on the importance of Kosovo's active participation in regional cooperation, notably in implementing the Action Plan to develop a Common Regional Market and the Green Agenda for the Western Balkans as endorsed at the Sofia summit on 10 November 2020 and in pursuing a green and digital transition.

The Kosovo delegation was led by the Prime Minister Avdullah Hoti, Deputy Prime Minister Driton Selmanaj and Ministers Meliza Haradinaj-Stublla, Agim Veliu, Hykmete Bajrami, Selim Selimi, Besian Mustafa and Vesel Krasniqi also participated.

## **Kosovo War Veterans' Leaders Indicted for Obstructing Justice**

<https://balkaninsight.com/2020/12/14/kosovo-war-veterans-leaders-indicted-for-obstructing-justice/>

December 14, 2020- Xhorxhina Bami, Pristina, BIRN

The Kosovo Specialist Chambers confirmed the indictment of the leaders of the Kosovo Liberation Army War Veterans' Organisation, Hysni Gucati and Nasim Haradinaj, for obstructing justice and intimidating witnesses.



*Haradinaj (right) and Gucati in court on September 29 and October 1. Photos: Kosovo Specialist Chambers/Screenshot.*

A pre-trial judge on Monday confirmed the indictment of Hysni Gucati and Nasim Haradinaj for "offences against the administration of justice, namely obstruction of official persons in performing official duties, intimidation of witnesses, retaliation and violation of secrecy of proceedings", the Kosovo Specialist Chambers said in a statement.

Gucati and Haradinaj were arrested in September after a raid on the Kosovo Liberation Army War Veterans' Organisation's offices and sent to The Hague.

They were held after batches of confidential case files from the Specialist Chambers were lead to the KLA veterans' group and Gucati and Haradinaj urged media to publish the material.

The indictment alleges that between September 7 and 25, 2020, "on the occasion of three press conferences and other broadcasted events, as well as through... social media statements, Mr. Gucati and Mr. Haradinaj revealed, without authorisation" lawfully protected information.

It also claims that they identified "details of certain (potential) witnesses".

“Mr. Gucati and Mr. Haradinaj also made disparaging accusations and remarks against (potential) witnesses and repeatedly expressed their intention to undermine the Specialist Chambers,” the Hague court’s statement added.

Haradinaj and Gucati are expected to have their initial pre-trial hearings on December 15 and December 18 respectively. They challenged the legality of the Specialist Chambers in their first appearances before the court.

The Specialist Chambers was set up to try former KLA guerrillas for crimes allegedly committed during and just after the Kosovo war from 1998 to 2000. They are part of Kosovo’s judicial system but located in the Netherlands and staffed by internationals.

The so-called ‘special court’, widely resented by Kosovo Albanians who see it as an insult to the KLA’s war for liberation from Serbian rule, was set up under pressure from Kosovo’s Western allies.

Those awaiting trial for wartime crimes include Kosovo’s recently-resigned President Hashim Thaci and former Democratic Party of Kosovo leader Kadri Veseli alongside two other guerrillas turned politicians, Jakup Krasniqi and Rexhep Selimi. They have all pleaded not guilty.

A status conference in the case against Salih Mustafa, who was a KLA commander in north-east Kosovo during wartime, was also held at the Specialist Chambers on Monday.

The prosecution said it would be ready for the start of the trial by March 2021, while the defence said it estimated that the trial could only start six weeks after that.

Mustafa is charged with the arbitrary detention, cruel treatment, torture and murder of civilian prisoners. He has pleaded not guilty.



## **Kosovo Faces New Elections After Court Rules Govt Illegitimate**

<https://balkaninsight.com/2020/12/22/kosovo-faces-new-elections-after-court-rules-govt-illegitimate/>

December 22, 2020 - Xhorxhina Bami, Pristina, BIRN

Kosovo is to hold new parliamentary elections after the Constitutional Court ruled that government is illegitimate because it was voted in with an invalid vote from a MP who was convicted of a crime.



*Kosovo Prime Minister Avdullah Hoti in Brussels in September. Photo: EPA-EFE/STEPHANIE LECOCQ.*

The Constitutional Court ruled on Monday that Prime Minister Avdullah Hoti's government is illegitimate because it was voted in by a majority in the Kosovo Assembly that included a vote cast by MP Etem Arifi, who was given a prison sentence for corruption.

"A person convicted of a criminal offence by a final court decision in the three last years cannot be a candidate for deputy or win a valid mandate in the Assembly of the Republic of Kosovo," the Constitutional Court said.

Arifi was sentenced to one year and three months in prison on August 20, 2019. He received an MP's mandate less than two months later, at snap parliamentary elections on October 6, 2019.

As Arifi's vote for Hoti's government was therefore invalid, "the government did not receive the majority of votes of all deputies of the Assembly of the Republic of Kosovo", the court's decision said.

New elections must now be held within a couple of months, according to the court's decision, and Kosovo will have its third change of government in less than two years.

Kosovo's Acting President Vjosa Osmani is set to meet political parties on Tuesday.

“Political parties will be invited tomorrow [Tuesday] by Acting President Osmani to discuss the date of the elections,” Osmani’s advisor, Bekim Kupina, told BIRN on Monday evening.

Kosovo’s largest opposition party, the Vetevendosje Movement, which brought the complaint to the court, welcomed the ruling in its favour.

“We have been waiting for such a decision from the Constitutional Court considering that only ten days after the Hoti government was voted in, Vetevendosje reached the conclusion that one vote was illegal,” Albulena Haxhiu of Vetevendosje, a former justice minister, told BIRN.

Hoti’s party, the Democratic League of Kosovo, LDK, appeared to accept the decision.

“The country is going to elections. The court leaves no space for comments,” LDK deputy leader Lutfi Haziri told BIRN.

The government led by Hoti received the minimum majority of 61 votes in the 120-seat Assembly when it was voted in on June 3.

Hoti’s government was created after his party, the LDK, ousted the previous government led by Albin Kurti, the leader of Vetevendosje, via a no-confidence motion.

Seventeen Vetevendosje MPs then launched a complaint that the Hoti-led government was illegitimate, which led to Monday’s Constitutional Court ruling.

A few minutes after the publication of Monday’s ruling, questions arose about whether the convictions of several Vetevendosje MPs for setting off tear gas amid a protest in the Kosovo Assembly building in 2015 will prevent them from running for election.

Pristina Basic Court in January 2018 gave conditional prison sentences to four Vetevendosje MPs – Albin Kurti, Donika Kadaj-Bujupi, Albulena Haxhiu and Faton Topalli.

But BIRN Kosovo’s legal expert Labinot Leposhtica argued that a conditional sentence is not a final prison sentence and therefore the court’s decision will not deprive the Vetevendosje MPs of the right to run for parliament.

# Moldova

## Justice and injustice from three perspectives: bar, court and prosecution service. Interview with Anatolie Istrate

[https://www.ipn.md/en/justice-and-injustice-from-three-perspectives-bar-court-and-prosecution-7978\\_1078314.html](https://www.ipn.md/en/justice-and-injustice-from-three-perspectives-bar-court-and-prosecution-7978_1078314.html)

December 11, 2020



How does justice and injustice look like to a person who has worked for about 30 years in the legal system, being lawyer, prosecutor and judge in different periods of his life? How does he assess the activity of the three players from the viewpoint of the profession's purpose? Is the justice sector reform a solution to all the problems faced in the system? Responses to these and other questions can be found in Sabina Rebeja's interview with lawyer Anatolie Istrate.

**IPN: Mister Istrate, you have gone through the bar, the court and the prosecution service, serving now as a lawyer. When and where did your professional activity start?**

**Anatolie Istrate:** I started work in 1990 as an investigator in the Prosecutor's Office. Later I was promoted to deputy prosecutor, deputy prosecutor on county and district prosecutor. Afterward, I took the exams and became a judge. I served as a judge for six years. In 2009, I obtained a lawyer's license and work as a lawyer now.

**IPN: You now run the own law firm....**

**Anatolie Istrate:** Yes, the law firm of Anatolie Istrate...

**IPN:** You have worked for almost 30 years in the legal sistem. What did you find there on the first interaction with the system? Did the situation that existed then meet your expectation or not really?

**Anatolie Istrate:** I think it did, but I was at that romantic age ... and it was 1990. It was indeed a situation when only persons with capacities and persons who formed part of the Party of Communists came to work in the prosecution service. I never formed part of this party and was never a Communist, but I was chosen immediately after the faculty, when a delegation from the Prosecutor General's Office came to the State University and selected graduates of the Law Department to work in the prosecution service. I was very lucky, probably as the other mates, as I worked alongside professionals, honest persons. This is what we do not have now in the prosecution service – professionalism and honesty.

**IPN:** When did you see that things started to change? How did they change to the worse if they were initially good in the system?

**Anatolie Istrate:** To my mind, things started to deviate in 2008. The situation degraded in 2012-2014. The situation of 2012-2014 led to the current injustice. Justice actually failed. The European funds allocated for justice in the Republic of Moldova were practically wasted. I think we cannot remedy the situation during a short period of time. Political will is needed to change things in the justice sector of the Republic of Moldova. Now we are in the most serious situation. I was one of the lawyers who struggled with the regime in 2016-2019. To say it better, I defended also persons against whom criminal cases were started according to political criteria. I thought then that with the leaving of the regime, we could return to normality, more or less. Now I say it with determination – things worsened and we will be probably unable to remedy the situation in the justice sector of the Republic of Moldova, given the will of the politicians and citizens and also of offenders.

**IPN:** You earlier said that you were lawyer for a number of public figures, such as Renato Usatyi and Gheorghe Petic, who were politically affiliated one way or another or were even members of a party or party leaders. Was pressure exerted on you in the period?

**Anatolie Istrate:** The series of cases started according to political criteria can continue, as the proceedings brought against our colleague Ana Ursachi and against former acting mayor of Bălți Igor Șeremet, also our colleague, mayor of Drochia Nina Cereteu, mayor of Basarabasca Valentin Cimpoeș and also Valeriu Cucu, Petic and many others. You should know that I started to offer legal assistance to the opposition in 2013, together with my wife Angela Istrate and other lawyers. So, the following and intimidations against us started in 2012-2013.

**IPN:** And when did they stop?

**Anatolie Istrate:** They continue until now. Don't think that the situation calmed down. But the situation was more serious in the period between 2016 and 2019, until after the elections of 2019. Until then, we, the lawyers, I and my family had been followed. Those

who followed us knew when we went to work, when we left and whom he met. Our telephone conversations were tapped. I found special devices in the office. They saw that we found out and followed us near the office. They changed cars, installed devices and tapped [...] The most painful thing for a lawyer is when the clients are threatened so that they abandon the lawyers if they want their problem to be solved. This was an illusion as the problem wasn't solved anyway until the court dropped the case or passed an acquittal judgment. Of the 32 political cases declared by the PACE, which were later confirmed by the prosecutor general, 11 criminal cases involved us. It's regrettable that after the situation changed, after Mister Stoianoglo took up his duties as prosecutor general, on five cases we had to go to the Supreme Court of Justice to obtain acquittal.

**IPN: Let's return to the three important players involved in the administration of justice: lawyer, prosecutor and judge. How do you appreciate their activity in terms of the profession's purpose?**

**Anatolie Istrate:** I think all these posts of are important in administering justice in the Republic of Moldova, but cooperation between them is absent. I do not refer to 'cooperation' when those mishmashes between the prosecutor, judge and lawyer are witnessed. I mean that process, which can be even creative, within which all the three players show their juridical knowledge in a trial. There is no such effect now. There was such a situation when you received satisfaction between 2000 and 2006. The prosecutors and lawyers were into a competition to provide more convincing evidence for adopting a decision and even the courts of law weren't afraid to pass acquittal sentences. I can tell you as I worked as a judge and wasn't afraid to acquit 29 persons based on 29 sentences. Today the judges feel the pressure and are afraid to pronounce acquittal sentences.

**IPN: Why?**

**Anatolie Istrate:** First of all, they fear they will be immediately blamed by society, will be accused of taking bribe. As justice is perceived like this in our country, when a favorable legal decision on a civil lawsuit is obtained or when a criminal case is dropped, someone will definitely say that the prosecutor or the judge accepted bribe and passed a favorable decision... But these are to blame themselves for this as they created this perception in society.

**IPN: Is the justice sector reform a solution to all the problems faced in the system?**

**Anatolie Istrate:** Yes, definitely. All the reforms in the Republic of Moldova can start from the justice sector reform. I'm not a fan of Maia Sandu, but I agree with her statements, when she says that she will submit a bill on the justice sector to Parliament. I fully agree.

**IPN: Should this be a reform different from what has been witnessed until now?**

**Anatolie Istrate:** Yes, surely. But this should be first of all consulted with specialists. You know how it happens in our country. The laws are drafted ...I have nothing against NGOs, nothing at all, but they are designed by organisms or persons who didn't work in the field, in the prosecution service, the police, courts of law. When there is only



theory and practice is absent, the effect is not the expected one. I was very glad when ... I return again to Mister Stoianoglo as I said that he should be accepted as he is a former prosecutor who knows this work that is not at all easy from inside. There were persons in the prosecution service who didn't work earlier in the field and the service started to witness shortcomings. I think the biggest mistake in the work of Mister Stoianoglo during a year was the fact that he didn't make effort to bring back professionals to the service [...].

**IPN: A question that would be posed by many peoples involved in trials - why do the trials last so long, for years?**

**Anatolie Istrate:** It's a good question. I yesterday had a hearing in a case that started in 2012 and the ordinary court pronounced for 13 times. We or the other side appealed to the Appeals Court and the Appalls Court in 13 cases sent the case back for retrial, accepting either our position or the position of the other side. I also wonder why? Because there is interest, the interest of persons in these cases, the interest of the judge, the interest of the prosecutor, the interest of the lawyer. When the prosecutor and the judge, especially the judge, wait for someone to offer "benefits" in the case [...] there are interests. However, the Penal Procedure Code stipulates reasonable timeframes.

**IPN: But this does not specify these "reasonable timeframes"?**

**Anatolie Istrate:** The Penal Procedure Code says "reasonable timeframes", but these timeframes include the behavior of the parties, the difficulty of the case and other circumstances. [...] The judges were provided with consultants, clerks. The prosecutors were provided with consultants who get salaries and rather good ones. When those posts were introduced, they argued that the judges and prosecutors were overloaded and their work should be eased so that the reasonable timeframes are respected. Nothing changed now. We have the same delays and violations [...].

## **Moldovan Socialists Push to Cut Powers of Asset Inspectorate**

<https://balkaninsight.com/2020/12/11/moldovan-socialists-push-to-cut-powers-of-asset-inspectorate/>

December 11, 2020 - Madalin Necsutu, Chisinau, BIRN

Socialist deputies in Moldova have initiated a draft bill to reduce the powers of the national body that checks the assets of state officials – claiming the inspectors only target their party members.



*Socialist deputies attending a press conference in Chisinau, Moldova, March 11, 2019. Photo: EPA/Doru Dumitru*

Eleven Socialist Party deputies signed a draft bill on Thursday designed to reduce the powers of the National Integrity Authority, the body which verifies the legality of assets and conflicts of interests among state employees.

Moldova is one of the worst affected countries in Europe by corruption, according to various international rankings, and the EU has repeatedly criticised a lack of political will to tackle this widespread phenomenon.

The draft law elaborated by the Socialists would cut the timeframe for verifying the assets of officials from three years to one and contains other amendments that substantially affect the activity of this institution. The law also waters down the disciplinary sanctions applied in case of violations of the legal regime.

The draft bill may pass the Moldovan parliament, as the Socialist Party, PSRM, has a majority. It last week adopted another five controversial laws that triggered protests in the capital Chisinau last Sunday. Earlier this week, parliament passed a bill transferring control of the intelligence agency from the president to parliament.

The National Integrity Authority itself has criticised the draft bill, arguing that the changes will damage its ability to enforce the law. Adoption of the law would “undermine the strengthening of the control mechanism of assets and interests, as well as the efficiency of the ANI’s activity”, it said.

The bill comes after some Socialists deputies complained that ANI inspectors were focusing only on their party members. One Socialist MP, Bogdan Tirdea, said the newly elected pro-European President of Moldova, Maia Sandu, “has control over ANI. I’ll tell you why. The ANI was directed against PSRM deputies.”

The Action and Solidarity Party, PAS, which is led by Sandu, replied that Tirdea was one of many Socialist deputies whose assets needed to be verified.

“Deputy Tirdea’s wealth, with expensive cars and real estate worth hundreds of thousands of euros, substantially exceeds the value of his declared income of several thousand lei per month. It is natural for a state institution to investigate false declarations of assets,” the PAS said.

ANI rejected Tirdea’s accusations that it only checks the assets of Socialist MPs. So far, it said, it had verified the assets of 38 of the 101 MPs, sanctioning eight for late submission or non-submission of wealth statements.

## **How judges, prosecutors and lawyers perceive justice system, poll**

[https://www.ipn.md/en/how-judges-prosecutors-and-lawyers-perceive-justice-system-poll-7967\\_1078425.html](https://www.ipn.md/en/how-judges-prosecutors-and-lawyers-perceive-justice-system-poll-7967_1078425.html)

December 16, 2020



Over 66% of respondent judges, 54% of respondent prosecutors and 46% of respondent lawyers consider that the justice reform launched in 2011 had a positive impact on the judiciary, shows a poll presented by the Legal Resources Center from Moldova, which was carried out as part of a project implemented with financial support from the U.S. Department of State, IPN reports.

According to Ion Guzun, legal adviser at the Center, 49% of the judges who took part in the poll said the law on the reorganization of courts of law, which started in 2017, had a positive impact on the judiciary. The same opinion is shared by 32% of prosecutors and 38% of lawyers. Over 47% of prosecutors consider the location of prosecutor's offices should be modified according to the judicial map (should be located in the same settlements as courts of law). Over 43% said this is not necessary, while 9% didn't pronounce.

As to the Justice Ministry's and MPs' proposal to create courts of law for the examination of cases of corruption, most of the respondents from the three professions said this is not necessity. Over 83% of judges agreed that the quality of justice at present is better than five years ago. This assertion is supported by 58% of prosecutors and over 35% of lawyers. "We see that a part of the prosecutors and lawyers have a neutral position on the quality of justice. We can conclude that most of the representatives of the three professions consider the quality of justice today is better than five years ago," stated Ion Guzun.

35% of judges, over 50% of prosecutors and over 57% of lawyers consider the current remuneration of judges is insufficient to ensure their independence and impartiality. To the same question with reference to prosecutors, affirmative answers were given by over 48% of judges, 40% of prosecutors and 60% of lawyers.

Asked whether they agree that the Supreme Court of Justice's practice is uniform, 32% of judges, 33% of prosecutors, and 22% of lawyers answered affirmatively. 32% of judges, almost 48% of prosecutors and about 40% of lawyers agree that the number of judges at the SCJ should be reduced and this court should be turned into a veritable court of cassation. The external evaluation of judges' and prosecutors' professionalism and integrity by an independent commission is supported by 20% of judges, 34% of prosecutors and over 50% of lawyers.

The Center's president Vladislav Gribincea said over 80% of judges agree that the judges in 2020 are independent, while over 75% of the lawyers do not agree with this assertion. 63% of prosecutors agree that the prosecutors are independent. Over 80% of judges, more than 60% of prosecutors and less than 27% of lawyers consider the court decisions are fair and are taken without outside influences. It's normal for the judges to be more loyal to the system in which they work, but there is a too big difference between the legal professions and this points to great distrust in the quality of justice.

Asked about the level of corruption in the country, 12% of judges, 9% of prosecutors, and 6% of lawyers affirmed that the Republic of Moldova is free from corruption. 28% of judges, 43% of prosecutors, and 74% of lawyers answered that there is widespread corruption in Moldova. Asked what courts are the most corrupt, respondents from all three professions indicated appellate courts and the Supreme Court of Justice.

The poll covered a sample of 570 persons and was carried out in October-December 2020.



## **Courts of law haven't become institutions trusted by ordinary people**

[https://www.ipn.md/en/courts-of-law-havent-become-institutions-trusted-by-ordinary-7978\\_1078456.html](https://www.ipn.md/en/courts-of-law-havent-become-institutions-trusted-by-ordinary-7978_1078456.html)

December 18, 2020



Summarizing results in the justice sector with university professor Nicolae Osmochescu, former judge of the Constitutional Court, within IPN's series "2020 in Review: Good and Bad Aspects".

Nicolae Osmochescu said the expectations in 2020 were big, first of all related to the reformation of the prosecution service, including the appointment of the prosecutor general. When the current prosecutor general was appointed, there were big expectations that something will change radically in the prosecution service. But this didn't happen. However, some positive moves are made progressively and slowly. "I'm categorically against major expectations during such a short period of time in such a difficult and sophisticated area. There is great hierarchical subordination between the Prosecutor General's Office and the subordinate prosecutor's offices, but first of all between prosecutors. I think particular changes are yet made. These are small, but steady and I hope they will continue," said the expert. The former constitutional judge considers all the working bodies created within the prosecution system, such as the Superior Council of Prosecutors and the disciplinary commissions, do their job not brilliantly, but satisfactorily.

As regards the courts, more problems are faced here. These are created, organized and work according to other principles than the prosecution bodies, starting with appointment and ending with dismissal. There are more minuses than pluses here. The courts of law haven't become institutions that are fully trusted by ordinary people. We continue to see controversial judgments, sentences. We continue to see delays in particular cases with good or bad intentions, especially in resonant cases that are

known by everyone. This generates only disgust and a new wave of distrust on the part of the population.

"We see when those who are evidently guilty and were convicted are set free. Those who are convicted do not serve their sentences. It is a very serious problem. All the attempts to change the attitude of courts of law and judges to the quality of justice until now didn't produce the expected results," stated Nicolae Osmochescu, noting that even so, there are many upright judges with dignity who do their job honestly, but the people judge the whole judicial system by the inappropriate behavior of some of the judges.

According to the ex-judge, positive changes were made in the Superior Council of Magistracy. Some of the members became more vocal and are right in many cases and they treat the problems correctly. But some of the members attempt to make changes to the worse rather than to the better. The successes and failures of the judiciary depend greatly on the SCM as this is the only autonomous body that coordinates the activity of the judicial system, not the Ministry of Justice that often tries to unjustifiably intervene in the work of courts, including of the SCM.

A thing that he does not like is those comments on the opinions of the Venice Commission. When the Ministry of Justice or other institutions propose bills or amendments to existing laws, opposition appears immediately among civil society or in Parliament and reference is made to the Venice Commission. But this institution does a good job and works to promote democracy by law, but is a consultative body. The responsible ministries, the SCM, the parliamentary commissions are obliged to draft and propose high-quality bills here, in the country.

To improve things, the process of selecting judges, prosecutors and other law specialists should be optimized. The persons should not be chosen according to such criterion as "who knows who", the political color and others, but according to merits, professionalism and integrity. Without these three basic elements for the selecting and appointment of a judge or prosecutor, the judicial system or the prosecution service will never be efficient. Penalties should be also imposed for political interference in justice.

The people expect changes next year and their expectations are not related to the snap parliamentary elections. "I refer to the installation of President Maia Sandu on December 24. She will attract the necessary and appropriate attention and will treat the work of the law enforcement agencies with all respect, without interfering. This will be a step towards changes from both sides – inside and outside," opined Nicolae Osmochescu. According to him, the President should be very attentive to the functioning of the judiciary that is a branch of the state power equal in value to the legislature and executive.

In 2021 and in the future, everyone should realize this principle – the political class forms and influences the formation of law, including by adopting laws. But when a law is to be adopted, the politicians should act in accordance with the law. They are not above the law. "Starting with 2021, with a big delay, we should create a sociopolitical and juridical-political system in the Republic of Moldova that would be called preeminence of law in the state and society," noted the university professor.

# Montenegro

## **Heads of prosecutor's offices without the third term in office**

<https://www.cdm.me/english/heads-of-prosecutors-offices-without-the-third-term-in-office/>

December 2, 2020



The Prosecutorial Council has unanimously decided that the candidates who applied for the public tenders for the election of the heads of 11 state prosecutor's offices will not be elected to those positions, it was announced after the session of that body.

"Therefore, the registered candidates for public tenders who were the heads of the same state prosecutor's office two or more times, were not elected as leaders according to the mentioned announcements," the statement of the prosecutor's office submitted to Dan reads.

In relation to the second item on the agenda, the Prosecutorial Council concluded that the general conditions for old-age pension (67 years old) were not met because there was no personal request to use the acquired right to old-age pension under special conditions, and therefore there was no reason for the termination of Ms Nada Pavlović's function, pursuant to Article 103 of the Law on the State Prosecutor's Office.

On the occasion of the current event in the Basic State Prosecutor's Office in Cetinje, the Council decided that it is necessary to turn to the Ministry of the Interior for help until the financial resources for the formation of the prosecutor's security are provided.

The position of the Prosecutorial Council is completely different from the disputed decision of the Judicial Council, which in the summer of 2019 granted the President of the Supreme Court, Ms Vesna Medenica, and some other presidents of courts a third or even eighth term, although it is contrary to the Constitution.

Some heads of basic and higher prosecutor's offices submitted candidacies for managerial positions at last year's competition of the Prosecutorial Council, even though they previously had two or more terms of office.

Acting Supreme State Prosecutor, Mr Ivica Stanković, has explained why he believes that Article 17, paragraphs 1 and 2 of the Law on Amendments to the Pension and Disability Insurance discriminates against prosecutors and judges in relation to other professions, and that this is not in accordance with the Constitution or the decisions of the European Court of Human Rights. rights.

"Article 103 of the Law on the Prosecutor's Office stipulates that the function of the state prosecutor ceases by fulfilling the conditions for old-age pension, when it comes to the conditions for prosecutors, I think it is indisputable that the Labor Law and the Pension Insurance Law should be valid. The provisions of Article 17 of the Law on Amendments to the Law on Pension and Disability Insurance state that the insured person acquires the right to an old-age pension when men and women reach the age of 64 and 66 respectively. These are special conditions, which means that the right is acquired when the prescribed conditions are met and this is done at personal request. If this decision were imperative, then women prosecutors would retire by law either at 64.61 or at 56 years and 9 months of life ", Mr Stanković has stated.

## **Konjević: It's inappropriate for persons against whom there are pending criminal proceedings to work in state bodies**

<https://m.cdm.me/english/konjevic-its-inappropriate-for-persons-against-whom-there-are-pending-criminal-proceedings-to-work-in-state-bodies/>

December 12, 2020 – CdM



Speaking in a TV show titled 'Arguments' on the public broadcaster, RTCG, vice president of the Social Democratic Party, Mr Raško Konjević, commented on the amendments to the Law on Civil Servants and State Employees allowing employment in state bodies for people against whom there are pending criminal proceedings for a criminal offence prosecuted ex officio.

According to Mr Konjević, it's inappropriate for those people to work in state bodies.

"I'm also surprised to see that a government, which has committed to the fight against corruption, now deletes from Article 34 the requirement stipulating that a person may not enter employment in a state body if there are pending criminal proceedings for a criminal offence prosecuted ex officio," he was adamant.

He further explains that a parliamentary majority obviously believes that it's completely normal to recruit in state bodies people against whom criminal proceedings for criminal offences – money laundering, murder, robbery – are being conducted.

"I'm very surprised," told Mr Konjević.

He still hopes that his colleagues will notice the mistake, having in mind that, as much as he knows, there's no such solution in the region.



## **Ombudsman to initiate procedure to establish whether citizens' rights are violated**

<https://m.cdm.me/english/ombudsman-to-initiate-procedure-to-establish-whether-citizens-rights-are-violated/>

December 23, 2020 – Pobjeda



*Siniša Bjeković*

The Protector of Human Rights and Freedoms, Mr Siniša Bjeković, will initiate a procedure in order to determine whether the Ministry of Health violated human rights with new measures against coronavirus, it was confirmed to Pobjeda.

He will ask the Ministry of Health to comment on the new regulations that were adopted on Monday, and additionally explained yesterday at the press conference of the head of the Ministry of Health.

On Monday evening, the Ministry of Health passed new measures in the fight against the coronavirus, which, among other things, envisage a ban on organizing the New Year both outdoors and indoors, but enables religious ceremonies to be held.

Immediately afterwards, a group of citizens launched a petition asking the Government of Montenegro for equal rights for all during the New Year's holidays.



## **Vesna Medenica resigns as president of Supreme Court**

<https://m.cdm.me/english/vesna-medenica-resigns-as-president-of-supreme-court/>

December 30, 2020 – CdM



President of the Supreme Court of Montenegro, Ms Vesna Medenica, has resigned.

“As in my career so far, I have treated every open issue honestly, professionally and responsibly, I give my last contribution and personal stamp to resolving the issue of the election of the President of the Supreme Court. For these reasons, I ask that my function as a judge and president of the Supreme Court of Montenegro be terminated”, Ms Medenica said, following the Supreme Court Bench.

As she pointed out, the values she was guided by when she applied for the presidency of the Supreme Court of Montenegro last year were aimed at continuing and improving the independence, autonomy, responsibility, quality, efficiency and transparency of the judiciary.

“I thought that the judicial system had already been built during my previous term, and that there was no concentration of power of the president of the court, given their competencies prescribed by the current Law on the Judicial Council and Judges” she said.

As the first president of the Supreme Court in the independent and sovereign Montenegro, which was for the first time, according to the Constitution, based on the rule of law, and as the XV president of the Supreme Court of Montenegro since its founding in 1945, she had the privilege and duty to influence the process of maturing of judicial system, which must be autonomous and independent in an internationally recognized state.

"... The fact that the honorary wall of photographs of presidents contains a female figure, gives hope to all women and girls in Montenegro that we can perform the highest functions professionally and with dedication", says Ms Medenica.

Her beginnings in the judiciary and in this court, she says, has not been easy.

"On the contrary, the courts were burdened with a huge number of unresolved cases. Only 27 percent of all courts cases were resolved, more than 60,000 cases were older than three years, and 350,000 cases were pending. Only slightly less of 30 per cent of cases were completed within three months, and the proceedings on appeal lasted for 3 years and 7 months on average..." Ms Medenica said.

Today, she adds, the things are different.

"More than 60 percent of cases are completed within 3 months, the average duration of the appeal procedure is 120 days, there are slightly less than 2,000 enforcement cases left, as well as cases older than 3 years – 2,900, which is 0.004 per 100,000 inhabitants (evaluated according to CEPEJ standards), and only 0.05 percent of decisions were made outside the legal deadline with only a slight delay," says Ms Medenica.

According to her, the judiciary is nowadays efficient, digitalized, significantly rejuvenated in key positions and represented in all international judicial bodies during the pandemic, with 100.1 percent efficiency at the level of all courts in Montenegro, which is a respectful result.

"I must note that non-governmental organizations and related media have continuously created an environment conducive to undermining the authority of judicial office holders and the negation of all achieved results. In such a context, a favorable environment has been created for political pressure on the judiciary over the past two years," she said.

She hopes that all colleagues, judges in Montenegro, will work on a sincere pursuit of general progress and strengthening of justice, rather than based on sensationalist, unfounded and secular interpretations of the contribution and role of the judiciary.

"Allow me to reiterate my respect for the Supreme Court Bench and for each judge individually. It was an honor to be at the top of the judiciary and to act for the citizens and on behalf of Montenegro citizens" said Ms Medenica.

# North Macedonia

## **North Macedonia NGOs File First Lawsuit Over Discriminatory Textbook**

<https://balkaninsight.com/2020/12/09/north-macedonia-ngos-file-first-lawsuit-over-discriminatory-textbook/>

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

An alliance of human rights organisations has filed the first lawsuit in North Macedonia against a university textbook that they say is full of discriminatory insults, calling on a recently re-adopted Anti-Discrimination Law.



*A university student waves his student index cards in front of the government HQ in Skopje during the student protests in 2014. Archive photo: EPA/NAKE BATEV*

The non-governmental Coalition Margini together with the Network for Protection against Discrimination has filed a lawsuit, demanding the removal of a university textbook that blames women for the rising number of divorces, condemns abortion and classifies same-sex partnerships as debauchery.

The textbook in question, Fundamentals of Personology, published in 2018, is used in the curriculum of the Faculty of Philosophy at the country's biggest Sts Cyril and Methodius University in Skopje.

The NGO alliance has noted a total of 22 statements contained in the book that they say show blatant discriminatory speech against various social groups.

One quote suggests that men should choose ugly wives to have peace of mind because "beauty is known to cause problems" and leads to jealousy.

"Many men had serious problems over their beautiful wives. On the other hand, many popular proverbs have pointed out that men whose wives are ugly enjoy peace of mind and can sleep at ease," the textbook reads.

"Many female persons whose hair is cut short and do not wear typical feminine adornments, and are constantly wearing pants – have difficulties in accepting their own sex," another quote states.

Talking about personal space in modern homes, the textbook states that while every household member usually has some part of the home, "most often a room or a corner", to call his own, "the kitchen is mostly the personal space of the housewife", adding: "In many homes, one knows where the father sits and where the mother sits".

"According to some studies, the relation towards home changes throughout life. The condition of homeless people is not optimal and they are to be pitied," another disputed statement reads.

The NOGs demand that the textbook is marked as discriminatory and replaced with more appropriate content based on science.

The textbook also gives advice on how to "manage" women. "Man's connection to a woman can direct him towards the task of managing her. Thus, the main precondition for managing a woman is managing oneself," it says.

Another statement says: "The basis of man's attachment to a concrete woman is the expectation that she will allow him to satisfy his basic need."

Speaking about "sexual disorders", the textbook lists "insufficient masculinity or insufficient femininity" as well as homosexuality and bisexuality. It also notes masturbation as a disorder.

Speaking further on homosexuality, it notes that it can "jeopardise [humanity's] survival and progress" because "if people become homosexuals, humankind will cease to exist".

Noting examples of "debauchery", homosexuality and same-sex marriages are again mentioned, along with wearing deliberately torn trousers or treating pets as family members, abortions and divorces.

Stating on Wednesday that "education in North Macedonia is a seeding ground for discrimination and harassment based on gender, sexual orientation and gender identity", the NGOs said they had resorted to a lawsuit after many requests for revision or removal of the content fell on deaf ears in the universities.

The group of NGOs filed the lawsuit based on the recently reinstated Anti-Discrimination Law, which parliament adopted in October.

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

However, the Constitutional Court struck it down 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, prompting the majority in the chamber to pass it again.

## **How North Macedonia Traded Justice for Peace**

<https://balkaninsight.com/2020/12/24/how-north-macedonia-traded-justice-for-peace/>

December 24, 2020 - Biljana Volchevska and Irena Zdravkova, Skopje, BIRN

New research shows how war crimes cases transferred back from the Hague Tribunal to the North Macedonia's authorities were never prosecuted after a legally dubious closed-door deal between politicians that was intended to secure reconciliation.

This article is also available in: Shqip Macedonian Bos/Hrv/Srp

Almost 20 years after a seven-month armed conflict between state security forces and the ethnic Albanian rebel fighters of the National Liberation Army (NLA), North Macedonia has still not prosecuted anyone for the war crimes that were committed.

Although five potential war crimes cases were initially investigated by the North Macedonia's authorities in 2002, the International Criminal Tribunal for the Former Yugoslavia, ICTY, then took over the cases.

But when the Tribunal decided to focus on high-profile cases only, so it would complete its caseload in time for its planned shutdown in 2017, it sent back four of them to the North Macedonia's judiciary.

However, the transferred cases against members of the NLA did not end in convictions or acquittals because the North Macedonia's authorities – supported by the country's leading politicians – adopted an amnesty for the sake of inter-ethnic political cooperation and reconciliation.

### **Status of cases unknown**

Out of the five initial war crimes cases, the ICTY only delivered a verdict in the so-called Ljuboten case.

In 2010, the ICTY's appeals chamber sentenced North Macedonia's police officer Johan Tarculovski to 12 years in prison for ordering, planning, and instigating the murder of three Albanian civilians, as well as the cruel treatment of others and wanton destruction in the village of Ljuboten in August 2001. Former Interior Minister Ljubo Boskoski was acquitted of the charges.

The only case that was heard by a North Macedonia's court was the 'Mavrovo Road Workers' case, in which the Public Prosecutor's Office indicted a total of 22 former NLA members for abducting and torturing seven Macedonian road workers in 2001.

However, after the controversial 2002 Amnesty Law, the court halted the proceedings.

The current status of the other three war crime cases – known as the 'NLA Leadership', 'Neproshteno' and 'Lipkovo Dam' cases – is unclear, according to the Public Prosecutor's Office's responses to BIRN's requests for information. The cases have either been dropped under the Amnesty Law or are still 'frozen' in pre-investigation procedures.

This uncertainty about whether or not the Amnesty Law was applied in the three cases is something that was taken for granted for years, and it was often reported by media



that the cases had been dropped under the legislation. However, the Public Prosecutor's Office's said that "no decision has been made" and that "the information about the cases is confidential since criminal procedures have been initiated".

This lack of clarity inevitably raises new questions about the cases.

### **Hague archives reveal North Macedonia's hypocrisy**

Although there is lack of information about the status of the cases before they were taken over by North Macedonia, the ICTY's archives include a legal decision dating back to 2002 which reveals the claims made by North Macedonia's public prosecutor Stavre Djikov about some of the cases.

The document shows how Djikov claimed that criminal proceedings were being conducted before the domestic courts in the 'NLA Leadership', 'Neproshteno' and 'Lipkovo Dam' cases, and that the perpetrators of the crimes had been identified.

Djиков stated that "56 people are charged as perpetrators of serious violations of international humanitarian law and despite adoption of the amnesty law in 2002 they could not be released from prosecution".

Djиков even said that there is "sufficient evidence" in three cases under investigation – the 'Mavrovo Road Workers', 'NLA Leadership' and 'Lipkovo Dam' cases – as a result of which he said he believed he could "expect a conviction". He did not mention any procedural activity in the 'Neproshteno' case, however.

The reason why these cases were not taken on by the ICTY was because of the Hague Tribunal's decision to focus on the most serious crimes and wartime leaders. The change of focus also implied that some of the cases would be referred to the national prosecutors and courts in North Macedonia as a part of the ICTY's completion strategy.

In the case of North Macedonia, this implies that the NLA-related cases are not on as high a level as the allegations about the actions of North Macedonia's security forces against ethnic Albanian civilians.

This approach might be interpreted as being in line with the traditional practice of international human rights law, where the obligations lie with the state and not individuals. Thus the allegations about the NLA's actions against Macedonian civilians were not considered to be high-level cases.

However, this classification of the four ICTY cases linked to the ethnic Albanian rebels raises an important question: is there the possibility of international criminal liability for suspects who have committed violations of humanitarian law during a non-international armed conflict?

It also raises the question of whether crimes committed by state authorities are the only high-profile cases and thus the only ones to be prosecuted by the ICTY.

An approach that dismisses the possibility of international war crimes being committed by non-state parties in non-international armed conflict is problematic for two reasons.



Firstly, although it is more common in international conflicts to only consider state parties as relevant factors, in an internal conflict such as the one in North Macedonia in 2001, non-state factors and non-state armed groups play a crucial role. Hence the National Liberation Army, although a non-state party, was a main actor in the conflict and the crimes of its members cannot be treated as incidental or insignificant acts.

Secondly, although international human rights law might be shaped around international conflicts rather than civil wars and internal conflicts, Protocol II of the Geneva Conventions does include non-state armies that exert control “over a part of [of a country’s] territory as to enable them to carry out sustained and concerted military operations”.

As such, non-state armies are like state ones, even if they lack “all of a sovereign state’s attributes” and do not “enjoy recognition by other states or membership of international organisations”.

### **Political deal prevented prosecutions**

As the ICTY transferred the four cases back to North Macedonia ahead of parliamentary elections in June 2008, the possibility for the whole process to be misused for political purposes increased.

In May 2008, Nikola Gruevski, the leader of the then ruling nationalist VMRO-DPMNE party and Ali Ahmeti, the leader of the ethnic Albanian Democratic Union for Integration (DUI) party, reached what was known as the ‘political agreement’. They are believed to have agreed that North Macedonia’s parliament would adopt an ‘interpretation’ of the 2002 Amnesty Law that would allow the four cases to be quashed.

This agreement was never made public, nor was it formally signed. However, it is almost certain that an amnesty in the four cases was part of this political agreement following the VMRO-DPMNE’s negotiations with the DUI to form a new governing coalition.

Ethnic Macedonian and Albanian government officials in North Macedonia strategically used the rhetoric of transitional justice and reconciliation to present this move as closure for the 2001 ethnic conflict and as a chance to improve relations between the two ethnic communities.

International organisations have repeatedly reminded countries worldwide that striving for reconciliation and establishing peace between warring parties are one of the main responsibilities of a state.

However it should be unacceptable to use amnesty as a transitional justice measure for perpetrators of war crimes as in the ‘Mavrovo Road Workers’ case, for example.

In this case, considering the crimes committed, which included torture and inhumane treatment, the amnesty law was erroneously applied with the aim of keeping the perpetrators unpunished.

Such an amnesty is not in keeping with the principles of universal jurisdiction under international law, which allow for perpetrators of war crimes, even if they have been amnestied by one state, to be prosecuted by another state.

Amnesty laws and agreements for perpetrators of war crimes adopted at the national level cannot be given de jure or de facto recognition and legitimacy by a court of another state or international courts.

Avoiding prosecuting war crimes that were committed during the 2001 conflict has been shown to have damaged the general public's trust in the principle of the rule of law and shaken belief that North Macedonia's institutions adhere to the fundamental principle of legal certainty.

The ICTY's role also remains problematic, particularly because when it took on the Macedonian cases, domestic judicial institutions were prevented from investigating them independently until the Hague court sent them back to North Macedonia.

The ICTY also failed to conduct proper monitoring once the cases were transferred back to North Macedonia's judiciary, and instead was focused on a quick handover and administrative wrap-up to ensure that the Hague court met its deadline for completing its caseload and shutting down.

Biljana Volchevska and Irena Zdravkova are researchers from North Macedonia. This article is a summary of a research report that they produced in cooperation with BIRN. The full research report can be found below.

The article and the research report were produced as part of BIRN's Balkan Transitional Justice grant scheme, supported by the Matra Regional Rule of Law Programme.

## **North Macedonia arrests 8 suspected of terrorism**

<https://www.dw.com/en/north-macedonia-arrests-8-suspected-of-terrorism/a-56078348>

December 28, 2020

Police have linked the individuals to the "Islamic State" terror group. In November, an Austrian-born man of Macedonian-Albanian descent carried out an attack in Vienna, killing four and wounding several others.



*The shooter in the Vienna attack on November 2 held both Austrian and North Macedonian passports*

Police in North Macedonia have detained eight men on suspicion of planning terrorist attacks in the name of the "Islamic State" (IS), the Interior Ministry said Monday.

In addition, officers seized a large weapons cache as part of an operation that saw the men, aged between 21 and 31, arrested late on Sunday.

One of the suspects had a previous conviction for being involved in IS activities.

The eight were arrested in Skopje and Kumanovo after a monthslong investigation, the ministry said in a statement. If found guilty they face up to 10 years in prison.

The group has been accused of "creating a terrorist organization, based on the ideological matrix of the terrorist organization ISIS, for committing murders and destroying public buildings," police said.

North Macedonian law enforcers uncovered a supposed IS cell in September. The eight suspects arrested on Sunday are alleged to have links to that group.

On November 2, an Austrian-born man of Macedonian-Albanian descent went on a shooting spree in Vienna, killing four and wounding more than 20 others, before being shot dead by police officers.

In the wake of the attack, Austria asked North Macedonia to cooperate in future investigations, as the killer held both Austrian and North Macedonian passports.

# Romania

## **Romania to Punish Anti-Roma Acts with up to 10 Years in Jail**

<https://balkaninsight.com/2020/12/16/romania-to-punish-anti-roma-acts-with-up-to-10-years-in-jail/>

December 16, 2020 - Marcel Gascón Barberá, Bucharest, BIRN

A landmark law adopted by an overwhelming majority in the Romanian parliament stipulates long prison terms for messages and actions targeting the Roma minority.

The Romanian parliament on Tuesday adopted a law that will punish anti-Roma “verbal or physical” actions with prison terms ranging from three months to 10 years.

A total of 244 deputies voted for the law, which only one MP rejected. Some 20 legislators abstained and eight did not take part in the vote, according to the Romanian parliament’s website.

After Romanian president Klaus Iohannis promulgates the law, it will enter into force after being published in the government gazette.

Once this happens, those found guilty of “initiating or constituting an organization of anti-gypsist [sic] character” may can receive jail sentences of up to 10 years.

Distributing anti-Roma material or content can send culprits to prison for up to five years, while “promoting in public ... anti-gypsist ideas, concepts or doctrines” can be jailed for up to three years.

People who join in these crimes might also be deprived of some rights.

The so-called law “to prevent and combat anti-gypsyism” defines anti-gypsyism as any “perception regarding the Roma [that is] expressed as hatred against them”, as well as “the verbal or physical manifestations motivated by hatred against Roma” that is directed against members of this ethnic group, their property, their institutions and leaders or their traditions and culture.

More than 600,000 Romanians, or over 3 per cent of the total population in this country of more than 19 million, identified themselves as Roma in the latest census. According to some estimations, the Roma account to up to 10 per cent of the total population of Romania.

Romanian Roma were in the past used as slaves. Some 25,000 Romanian Roma were deported by the authorities during World War II to Transnistria, in today’s Moldova. Around 11,000 perished in forced labour camps.

Anti-Roma hate speech was a habitual feature of Romanian public discourse until recently. Derogatory expressions and racist discourses against this ethnic group remain common in social media and private social situations.

## **Romanian Court Scraps Law Banning Gender Studies**

<https://balkaninsight.com/2020/12/16/romanian-court-scraps-law-banning-gender-studies/>

December 16, 2020 - Marcel Gascón Barberá, Bucharest, BIRN

The Constitutional Court of Romania has annulled a law passed last June that banned discussion of any gender identity different to people's biological sex in the country's education system.

Romania's Constitutional Court on Wednesday annulled legislation adopted by parliament last June that effectively banned gender studies in the educational system.

The law was initiated by the Popular Movement Party, PMP, the party of former president Traian Basescu, and prohibited the "spread ... [of] theories or opinions" based on the notion that "gender is a concept different to biological sex". The ban applied to all arms of the educational system, including schools, high schools and universities.

The Constitutional Court declared the law unconstitutional in response to an action initiated by the current centre-right president, Klaus Iohannis, who argued that a blanket ban imposed "a stereotype/cliché regarding the results of research on some theories/opinions".

Iohannis also argued that the ban was a contravention of "individual freedom of consciousness" and affected "freedom of thought and opinion".

The law was condemned by several civil society organisations and academics, who concurred with Iohannis in deeming it an attack on freedom of thought and as a regressive move in Romanian society.

Iohannis added in his court papers that "the educational system should be open to ideas, opinions and values, [and] the state should abstain from adopting legislative solutions" that were liable to be interpreted as attacks on personal convictions.

Apart from the PMP, the party which tabled the law, the gender studies ban was supported in parliament by the Social Democratic Party, PSD, and its breakaway Pro Romania party. Most legislators from the centrist USR party and from the ethnic Hungarian Democratic Union of the Hungarians in Romania voted against it. MPs from the ruling National Liberals, PNL, abstained.

## **Anklage gegen Tăriceanu erhoben**

<https://adz.ro/inland/artikel-inland/artikel/anklage-gegen-tariceanu-erhoben>

17. Dezember 2020 – ADZ, Bukarest

Am Dienstag hat die Generalstaatsanwaltschaft gegen den ehemaligen Senatschef Călin Popescu Tăriceanu Anklage wegen Amtsmissbrauch erhoben. Tăriceanu habe als Vorsitzender des Senats nicht die nötigen Schritte eingeleitet, um den Senator Cristian Mariciu, der wegen widerrechtlicher Aneignung eines öffentlichen Amtes auch angeklagt ist, seines Amtes zu entheben. Laut Staatsanwaltschaft hatte Mariciu ab März 2015 für drei Jahre das Verbot, ein öffentliches Amt zu bekleiden, weswegen er ab dem 11. Dezember 2016 nicht als Senator hätte wirken dürfen. Tăriceanu bezeichnete die Anschuldigungen wegen Amtsmissbrauch als erfunden.

## **Kein Gefängnis für Steuerhinterziehung**

<https://adz.ro/inland/artikel-inland/artikel/kein-gefaengnis-fuer-steuerhinterziehung>

17. Dezember 2020 – ADZ, Bukarest

Die Abgeordnetenkammer hat am Dienstag ein Gesetz verabschiedet, welches Steuersünder bis zu einem Betrag von 100.000 Euro nur mit einer Geldstrafe anstatt Gefängnis davonkommen lässt, falls der hinterzogene Betrag zurückgezahlt wird. Bei einer Zusatzzahlung von 20 Prozent soll auch die Geldstrafe entfallen. Dafür stimmten die Abgeordneten von PSD, Pro România und ALDE, dagegen PNL und USR. Das Gesetz war ursprünglich 2017 vom PSD-Abgeordneten Cătălin Rădulescu vorgeschlagen und vom Parlament verabschiedet worden, wurde jedoch vom Verfassungsgericht als verfassungswidrig zurückgewiesen.



## **Romanian Bar Condemns Lawyer's Conviction For Representing Fraudster 'Prince'**

<https://balkaninsight.com/2020/12/21/romanian-bar-condemns-lawyers-conviction-for-representing-fraudster-prince/>

December 21, 2020 - Marcel Gascón Barberá, Bucharest, BIRN

Romanian lawyers say conviction and heavy jail term for colleague who acted as the legal representative of a self-proclaimed prince found guilty of corruption is unjust and could deter other lawyers from doing their job.



*Romanian people and lawyers outside the Sector III Court building in Bucharest, 22 October 2013. Archive photo: EPA/ROBERT GHEMENT*

Dozens of Romanian lawyers protested at Bucharest's High Court on Monday against the conviction of a lawyer for his "direct involvement in sealing contracts" and "transmitting notifications" on behalf of a self-styled Romanian prince convicted and sentenced last week over a fraudulent restitution of land.

Protesters say Robert Rosu merely fulfilled his duties as a lawyer, representing his client, a businessman who was acting in on behalf of Paul Philippe of Romania, who styles himself Prince Paul, and who is now at large, having fled a court verdict. They argue that the conviction sets a dangerous precedent that might interfere with the ability and willingness of other lawyers to conduct their work.

Rosu's five-year prison sentence was condemned also by the National Union of Romanian Bar Associations, UNBR. Its president told state TV that the verdict "creates fear in the exercise of the profession".

Together with three businessmen that were also found guilty in the case, Rosu was convicted of constituting a criminal group in support of a former king's illegitimate grandson's claim to two swathes of land situated north of Bucharest. He eventually obtained the land from the Romanian state.

Paul Philippe of Romania, aka Prince Paul, is the son of an illegitimate child of King Carol II of Romania. He claims to be the head of Romania's royal house, dethroned in 1947.

His father was the product of a brief marriage between Carol and Zizi Lambrino that the Romanian courts rapidly annulled in 1919.

He was jailed in absentia for three years and four months for the fraudulent claim. He is still wanted by the authorities, however, having fled to Portugal upon the issue of the verdict.

The prosecutors' version of the events, which was accepted by the court, said Rosu drew up the legal documents used by the group to attain the land. Those critical of the conviction argue that this work fell within a lawyer's rightful attributions.

The prosecution's court papers maintained that the group caused the Romanian state a loss of over 145 million euros, media reported.

# Serbia

## **Tired of Broken Promises, Activists Await Govt Action on Same-Sex Law**

<https://balkaninsight.com/2020/12/01/tired-of-broken-promises-activists-await-govt-action-on-same-sex-law/>

December 1, 2020 - Milica Stojanovic, Belgrade, BIRN

A Serbian government minister has announced the government will submit to parliament a draft law on same-sex partnerships, but LGBT activists say they have heard it before.



*Participants wave a rainbow coloured flag during the Belgrade Pride Parade march in Belgrade, Serbia, 15 September 2019. Photo: EPA-EFE/ANDREJ CUKIC*

LGBT activists in Serbia have welcomed an announcement that the government will submit to parliament a draft law on same-sex partnerships before the year is out, but remain cautious after previous promises of new legislation were broken.

Speaking on Prva Television on Monday, Serbia's newly-appointed minister of human rights and social dialogue, Gordana Comic, said her ministry has a one-year plan to adopt "all missing laws, strategies and actions plans".

Comic said a draft law on same-sex partnerships and another on gender equality should come before MPs by the end of the year.

Stefan Sparavalo, media and public relations coordinator at the NGO Da se zna! (Let it be known!), welcomed the announcement, but urged caution.

"So far, the legal regulation of same-sex partnerships has been announced so many times and no concrete steps have been taken," Sparavalo told BIRN. "This kind of

promise seems a bit more optimistic because it comes from a person who has been an ally of marginalised groups for years as an MP and politician.”

LGBT activist Goran Miletic, an organiser of Belgrade Pride, said the announcement should be followed by the actual drafting of the law and its adoption by the government and parliament, dominated by the conservative Progressive Party, SNS.

“Since we now do not have a government that depends on several parties, the political will for this simple process depends exclusively on the SNS,” Miletic told BIRN.

“This law has been written and talked about for a very long time, and the model of the law itself has existed for a long time,” he said. “After 15 years of some kind of ‘public debate’ in the media, it seems clear to most that the law serves to enable some citizens a decent life, and the state to regulate the facts.”

Sparavalo said: “We have to wait to see what the government’s draft will look like and whether there will be room for civil society to react – if necessary.”

Regulation of same-sex marriages was defined in Serbia’s Anti-Discrimination Strategy for 2014-2018, but little progress has been made. Serbia is currently in the process of drafting a new strategy covering 2020-2025

Sparavalo said that, from the new law, “we expect legal visibility and legalisation of such communities, which are our reality, and at least a part of the rights that married couples in Serbia have.”

“That is, the right to visit a partner in the hospital, to health insurance through a partner, inheritance of real estate or pension after death.”

Not everyone in the SNS has welcomed Comic’s announcement.

“I sincerely, with all my heart and soul, love the Serbian Progressive Party,” MP Vladimir Djukanovic tweeted. “However, I certainly love God and our Orthodox faith, my homeland Serbia and my family far more. The law on same-sex partnership CANNOT BE!”



## UN Court Urges Serbia to Send Wanted Nationalists to Hague

<https://balkaninsight.com/2020/12/08/un-court-urges-serbia-to-send-wanted-nationalists-to-hague/>

December 8, 2020 - BIRN

The International Residual Mechanism for Criminal Tribunals in The Hague has repeated its demand for Serbia to arrest two Serbian Radical Party politicians and send them to stand trial for contempt of the UN court.



*A Serbian Radical Party rally in support of Ratko Mladic in Belgrade in May 2011. Photo: EPA/KOCA SULEJMANOVIC.*

Serbia should arrest wanted Serbian Radical Party politicians Petar Jojic and Vjerica Radeta as soon as possible and transfer them to The Hague to face charges, judge Liu Daqun of the International Residual Mechanism Criminal Tribunals said in a ruling on Tuesday.

Judge Liu's ruling called on Serbia to "execute the arrest warrants and related transfer orders against the accused in order to enable their transfer to the seat of the Mechanism in The Hague without further delay".

Jojic and Radeta, both former Serbian MPs, are charged with contempt of the Hague court during their party leader Vojislav Seselj's trial. They are accused of threatening, blackmailing and bribing witnesses to either change their testimonies or to not testify at all.

Seselj was convicted of wartime crimes in April 2018 and sentenced to ten years in prison, but is not serving any jail time because of the years he spent in custody prior to sentencing.

The Serbian authorities have been locked in a dispute with the UN court for several years over the arrest and extradition of the two Radical Party politicians.

The court initially submitted a warrant ordering their arrest in January 2015.

But in May 2016, Belgrade Higher Court ruled that there were no legal grounds for extraditing the Radicals because Serbia's Law on Cooperation with the Hague Tribunal obliged Belgrade to extradite people charged with war crimes, but not those charged with contempt of court.

In October 2016, the UN court issued an international warrant for the arrest of Jojic and Radeta, saying that Serbia had refused several times to act on its order to arrest and extradite them.

The UN court also reported Serbia to the UN Security Council several times for non-cooperation in the case.

It then made the decision to allow the proceedings to be transferred to Serbia – but this decision was revoked after witnesses said they had concerns about their security.

Judge Liu's ruling on Tuesday said that Serbia again told the UN court in August this year that it will not arrest the two Radicals because at the time of their alleged offence, "Serbia's obligation of cooperation [with the UN court] applied to serious violations of international humanitarian law... but not to the crime of contempt".

Serbia also noted that Jojic and Radeta are no longer MPs after the Serbian Radical Party failed to get into parliament at elections in June this year, and insisted that the Belgrade authorities are "fully prepared" to accept the responsibility of trying their case.

But Liu's ruling said that despite this, the UN court will not permit Belgrade to try them because "the witnesses maintain their unequivocal unwillingness to testify should the case be referred to Serbia which renders the conduct of the proceedings in Serbia impossible".

A third Radical Party member who was also accused in the contempt case, Jovo Ostojic, died in 2017.



## **UN Rights Rapporteur: Govts Using 'Anti-Terror' Laws to Target Critics**

<https://balkaninsight.com/2020/12/08/un-rights-rapporteur-govts-using-anti-terror-laws-to-target-critics/>

December 8, 2020- Sasa Dragojlo, Belgrade, BIRN

UN Special Rapporteur Mary Lawlor told BIRN that rights defenders are under constant attack, with at least 300 murdered last year – and Serbia is far from alone in using 'anti-terrorism' laws to silence HRDs.

Mary Lawlor has been a human rights defender for decades, having started her advocacy career in Amnesty International, leading this prominent international watchdog from 1988 until 2000.

Her commitment to human rights then led her to Front Line Defenders, an organisation she herself founded in 2001 and played a key role in as executive director for 15 years.

In May this year Lawlor, now 68, continued her professional path in the field, becoming the UN's Special Rapporteur on the situation of human rights defenders, HRDs.

One of her first actions in this post was to evaluate the pressure that Serbia's government is putting on to individuals and NGOs that work on human rights, transparency and exposing corruption.

In late July, Serbian media revealed the disturbing news that a department in the country's finance ministry, tasked with tackling money laundering and terrorism financing, had asked banks to hand over data about the transactions of dozens of individuals, media and NGOs.

The list included Balkan Investigative Reporting Network, BIRN, several other investigative media, both Serbia's major journalism associations and a host of rights groups, including Civic Initiatives, YUCOM, the Belgrade Centre for Security Policy, the Helsinki Committee for Human Right and the Humanitarian Law Centre.

Journalists and civil society representatives in Serbia accuse the Belgrade government of trying to silence its critics by using an alleged fight against terrorism and money laundering.

UN experts led by Lawlor have expressed concerns that Serbia's use of the Law on the Prevention of Money Laundering and the Financing of Terrorism, for example, interferes with and limits the freedoms of expression and association and people's right to take part in public life and criticize the authorities.

"As we said in a statement, the unjustified use of this law risks intimidating civil society actors and human rights defenders, restricting their work and muffling any criticism of the government," Lawlor said.

Serbia is not alone in this. "We see that many countries use anti-terrorism policies and laws to target HRDs, from the Middle East to the Philippines, Latin America and many other places," she added.



*UN Special Rapporteur Mary Lawlor. Photo: UN*

A report on Serbia by the UN Commissioner for Human Rights, OHCHR, compiled for the country's 2018 Universal Periodic Review, noted that cases of assaults on human rights defenders continue to be reported, with civil society and media reporting an increase in threats. The UN will "continue to follow the situation" in Serbia, she said.

### **Hundreds of HRDs killed globally last year alone**

The Rapporteur stresses that HRDs face a wide range of attacks, from online smears, undermining their work, to the criminalization of the defence of human rights, to physical attacks and murder.

"At least 300 HRDs were killed last year for the peaceful work they do. But we also believe many attacks go unreported; it's hard to know exactly how many were physically attacked or killed," Lawlor told BIRN.

She says HRDs working on indigenous people's rights, environmental protection, land rights, women and the LGBT community are the most vulnerable.

Lawlor also emphasizes that attacks on HRDs are not confined to non-Western countries; they face hostility in Europe, the US and other Western countries as well.

In some Western countries "there is mounting concern that governments are undermining the work of human rights defenders. An example would be those working for the rights of refugees and migrants", she noted.

The recent COVID-19 pandemic has also affected the work of civil right defenders, she says; the health crisis has made their job harder and more complicated.

"It has affected them in many ways in many different parts of the world. Many HRDs are forced to work online more now, making it more dangerous for some of them, in that they can't move around or go to places of safety. Some have the virus themselves, or are looking after people who have it," she explained.



*Belarus policemen block a street during a protest in the wake of the presidential election, in Minsk, Belarus, 13 August 2020. EPA-EFE/STR*

Most recently, Lawlor condemned the situation in Belarus, saying that the regime there had effectively criminalized human rights work at a time when it was “more essential than ever”.

She expressed concerns about the arrest in September of Maria Rabkova, a volunteer coordinator at the Human Rights Centre Viasna, and the prosecution of two other women HRDs, Irina Sukhiy and Marina Dubina, both members of the environmental NGO Ecohome.

Rabkova faces up to three years in prison after being charged with training or preparing people to participate in riots. Dubina and Sukhiy were detained on charges of violating the procedure for holding a protest, but there have been many irregularities in the administrative process against them, as Lawlor has stated.

Lawlor described the situation in Belarus as dangerous for all HRDs, especially for women, as is the general case everywhere.

“It’s often much more difficult for women to speak out for human rights,” she said.

“Women human rights defenders are often targeted not just for what they do but for who they are.

“I mentioned the cases of Maria Rabkova, Irina Sukhiy and Marina Dubina – but we know there are many more women, and men, HRDs who are being targeted,” Lawlor concluded.

# Sources

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