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THE WESTERN BALKANS AND COVID-19

EFFECTS ON GOOD GOVERNANCE, RULE OF LAW, AND CIVIL SOCIETY



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EXECUTIVE SUMMARY

This policy brief¹ underscores outstanding issues that emerged during the COVID-19 crisis with possible long-term consequences on the functioning of democracy and rule of law in the six countries of the Western Balkans – Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, and Serbia. This paper specifically addresses the impact of the crisis on the functioning of democratic institutions, the judiciary, fundamental rights and freedoms, transparency, civil society, and the media, and continues to assess its impact on the social and political climates in each country of the region. The report identifies country-specific as well as common issues that should be monitored closely going forward.

The way in which the COVID-19 crisis was handled in the Western Balkans has amplified existing cracks in the region's unconsolidated democratic systems, along with problems related to rule of law and democratic performance. Ultimately, this pandemic is likely to leave lasting social, political, and economic repercussions for the countries of the region. Governments in the Western Balkans have shown a tendency to overstep their constitutional prerogatives and expand executive power by enacting legislation that threatens basic rights and freedoms, in cases declared unconstitutional (as in Bosnia and Herzegovina and North Macedonia). While the constitutional courts of these two countries have delivered landmark decisions on fundamental rights and overreaches of executive power, courts in other countries have not been functioning properly due to self- or government-imposed restriction measures.

Similar trends have been observed regarding the functioning of national parliaments, which have been bypassed through government decrees and whose function has primarily been to rubber-stamp decisions of the executive. The pandemic has also led to a brief cessation of inter-party hostilities, however, except for in Kosovo, where the incumbent government was brought down with a parliamentary no-confidence vote, and in Serbia where political polarisation has increased during the pandemic.

Civil society organisations (CSOs) in the region have been providing assistance to marginalised communities in dealing with the ensuing economic distress due to the pandemic, and have been holding the government to account, while the media has provided up-to-date coverage of the pandemic. Civil society initiatives holding governments to account have been especially successful in Bosnia and Hercegovina, where corruption was uncovered in a public procurement process for ventilators. Despite these positive developments, CSOs in the region have been largely unsuccessful in their attempts to curtail government excess and have frequently been targets of smear campaigns by

government officials. They are also likely to face financial constraints in the future as a consequence of the pandemic. In terms of media freedoms and the right to be informed, Serbia stands out as a negative example, with the position of the media further deteriorating in the context of the pandemic.

In the context of the COVID-19 crisis, the policy brief provides the following recommendations to EU stakeholders:

- Upcoming assessments of EU-related reforms by member states and European institutions need to take the impact of the COVID-19 crisis into consideration, without compromising on key principles of rule of law, such as transparency. The EU's announced financial assistance might serve as an effective means of rewarding or punishing the region's governments based on their performance in fundamental areas. This approach is in line with the rationale of the first cluster of negotiating chapters of the announced revised accession methodology. Concretely:
 - The EU should offer considerable increase of financial envelope to the Western Balkans, in the context of its ambitions towards this region and aspirations to become a more autonomous geopolitical actor.
 - The assistance should be offered conditional on respect for fundamental rule of law areas (the first cluster of revised accession framework). The EU should therefore apply more robust mechanisms for monitoring and evaluating the state of play in this area.
 - Such an approach would render the costs of non-compliance with the EU's requirements too high for governments in the region, making them publicly visible. At the same time, it would boost the credibility of the enlargement policy in two ways: towards the citizens of the region by revealing the responsibility of the state actors for (in)action, and to citizens of the EU, who would be able to track how the Union's money is being spent.
 - Increased transparency and strict monitoring should also characterise the EU's financial assistance aimed at the mitigation of the consequences of the COVID-19 crisis. Nevertheless, these funds should be exempt from the aforementioned accession conditionality requirements.
- The EU should communicate its values clearly and provide constructive criticism of government policies that exclude democratic deliberation. In this respect, national parliaments, civil society, and the media as counter-balances and watchdogs of the executive branch need greater empowerment and a larger role in the region's EU integration process.
- Financial and political support for the media and CSOs should increase in the coming period, as both are indispensable actors

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in the democratization process of the region from the bottom-up perspective. Free and impartial media, coupled with vibrant civil society and an active citizenry, can ensure durable democratic transformations that stretch beyond simply attaining EU membership.

- Political parties in EU member states and political groups within the European Parliament should be more vocal towards their counterparts in the Western Balkans in promoting dialogue and respect for basic democratic principles. Affiliation in political party families should not represent a shortcut for bypassing or breaching fundamental values and freedoms and thus further undermining the state of democracy in the region.
- To alleviate the growth of socio-economic inequalities as a result of the COVID-19 pandemic, the EU and bilateral support provided to the region to deal with the crisis should include funds earmarked for women and marginalised groups. Particular attention should be paid to addressing the crisis-induced challenges facing vulnerable groups, such as women and children who are victims of domestic violence (e.g. inhabitants of women's shelters).

ALBANIA

CONTEXT

The Albanian government reacted relatively swiftly to prevent the spread of COVID-19. From 9 March – when the first case was identified – it issued a series of executive decisions to close unessential businesses, suspend the educational system and transportation within the country and abroad, and ban public gatherings.

The Ministry of Health and Social Protection established the medical infrastructure to deal with the pandemic. Two hospitals, with a total of 310 beds, were dedicated to treat COVID-19 patients.ⁱ The government received the first medical supplies purchased from Turkey on 25 March.ⁱⁱ In April, additional medical supplies were received after the EU Commission approved the €4 million aid package.ⁱⁱⁱ

The measures taken have had an apparent success in flattening the curve. Nevertheless, the lack of transparency and accountability of the government actions taken to respond to and during the pandemic highlight the ongoing institutional and constitutional crisis in the country due to the opposition's February 2019 boycott and the lack of a constitutional court.

RULE OF LAW

Fundamental rights and freedoms

While the government may restrict fundamental rights and freedoms after declaring the state of natural disaster, they were restricted through normative acts^{iv} and health ministry decisions without such declaration. Measures to restrict freedom of movement, the right to work, and the right to strike were taken between 9 and 15 March, while the state of natural disaster was declared on 24 March. Similarly, the government deployed the Albanian military to enforce curfew measures – alongside the police – through a normative act that amended the Law on the Prevention of Infectious Diseases; however, according to the Albanian constitution and the current legal framework, the military may be deployed after declaring the state of natural disaster.

Judiciary

On 10 March, the High Judicial Council (HJC) issued a decision to allow only urgent cases to proceed while postponing other cases for two weeks.^v After the two week limit expired, the government approved a normative act to prolong the restrictions previously issued by the HJC.^{vi} On 22 April, the HJC issued a press release^{vii} to announce the resumption of court proceedings on 27 April in accordance with the government's normative act. It is unclear, however, the relevance of such a statement as it confirms the implementation of restrictions already in place. On 27 May, the government adopted another normative act allowing the full resumption of court cases, but forbidding public participation in the courtroom.^{viii} Despite the fact that the initial decision to restrict court proceedings was taken by the HJC, the subsequent government acts to either restrict or permit the work of the judiciary are concerning, especially as there is no constitutional court to judge the constitutionality of the government's decisions.

Democracy and the opposition

Through normative acts, the government has effectively circumvented the need to submit amendments for deliberation in the Albanian Assembly. Furthermore, the Assembly – which has not been functioning properly since the parliamentary boycott of the opposition in February 2019 – is controlled by the governing party. From the enforcement of restriction measures until 16 April, the Assembly had not convened in a plenary session. It did so only on 16 April to vote on the Penal Code amendment bill submitted by the government and to approve the government's normative acts.^{ix}

Meanwhile, on 5 June the three main political parties and the parliamentary opposition reached an agreement on the electoral reform process.^x The agreement was reached through the so-called Political Committee – an extra-parliamentary body designed to bring the Democratic Party and the Socialist Movement for Integration to the negotiating table given that they had resigned their parliamentary mandates in February 2019 and thus could not take part in the ad-hoc Parliamentary Committee for Electoral Reform. Although the negotiations, which started in January 2019, were to address a series of OSCE/ODIHR recommendations, they addressed only one of them – namely, prevention of voter fraud by installing a biometric identification system.

CIVIL SOCIETY AND THE MEDIA

The institutional and constitutional crisis has disproportionately empowered the executive, while Albanian civil society's attempts to curtail the government's power have been futile. An open letter of Albanian CSOs criticizing the Penal Code amendments – which aimed to punish the breaking of quarantine restrictions with up to 15 years in prison^{xi} – as disproportional and an affront to human dignity were ignored by the government.^{xii}

The new anti-quarantine provisions included in the Penal Code enabled the police to arrest a few civil society activists protesting in Skanderbeg square.^{xiii} On 17 May, the National Theatre was demolished. A few actors and activists, who had occupied the building to prevent its demolition, were forcefully removed and arrested by the police. Throughout the day, the protests continued and the police beatings of peaceful protesters were common.^{xiv}

Concerning financial sustainability, the pandemic has impaired the ability of CSOs to make salary payments and cover administrative costs. Furthermore, the CSO survey conducted by Partners Albania

found that 22 from 90 CSOs could not reach the project beneficiaries and target groups.^{xv}

Media coverage during the pandemic has largely favoured the government. No substantial investigations on the government response to the crisis and its institutional and technical capacities have been conducted. Attitude towards the government began to shift gradually after the violent response to the peaceful protests in response to the demolition of the National Theatre, and the fining of a national broadcaster for breaking quarantine measures by hosting more than one guest in a political talk show critical of the Albanian government.^{xvi}

PUBLIC PERCEPTIONS AND SOCIAL CLIMATE

Albanian citizens have been generally compliant with and have supported the restriction measures. The opposition was also supportive of the measures taken, and would urge the government to increase testing.^{xvii}

The restriction measures have adversely impacted the Albanian economy. The World Bank forecasts a 5% contraction of the Albanian economy in its baseline scenario; a 7% contraction in its downside case.^{xviii}

The government has attempted to alleviate some of the short-term effects of the pandemic on the country's economy through two economic relief packages for small businesses and unemployed benefits (53 million euros)^{xix} and two sovereign guarantee packages totalling 26 billion leks (209 million euros) for big business loans.^{xx}

Despite these measures, there has been a general lack of clarity on the procedures for employees to claim their benefits resulting in a few strikes by employees in the manufacturing sector.^{xxi}

CONCLUSION AND RECOMMENDATIONS

The crisis has highlighted the fragility of Albania's institutional infrastructure. The Albanian government has been seeking to exploit the conditions of the pandemic and the ongoing institutional and constitutional crisis to further expand executive power. Normative acts and expedited legislative processes have become the government's modus operandi to amend legislation. These actions have effectively alienated Albanian civil society from the decision-making process by circumventing the public consultation process.

The continuous decrease of democratic governance, coupled with the current and forthcoming economic distress, is likely to lead to social unrest and potential migration towards Western European countries.

The lack of clear criticism – and sometimes acquiescence – of government policies by the European Union is not contributing neither to stability nor to the democracy of the country; on the contrary, Albanian civil society is becoming increasingly disenchanted by the lack of clarity of EU statements on the latest government policies.

To foster greater stability and ensure reform progress, effective pressure on fulfilling the Bundestag^{xxii} conditions to open EU accession negotiations should be increased, especially concerning the establishment of the Constitutional Court and the High Court.

BOSNIA AND HERZEGOVINA

CONTEXT

The first two cases of coronavirus^{xxiii} in Bosnia and Herzegovina (BiH) were registered on March 5, 2020. Institutional response has brought challenges for already fragile democracy and rule of law in BiH. The state-level government has on March 17, 2020 decided to declare a

state of natural disaster.^{xxiv} Sub-state levels (entities, Brcko District and cantons), under their own state of emergency declarations, adopted various measures to preserve public health.

Authorities were implementing fairly comprehensive emergency health policies combined with restrictive social distancing measures, significantly restricting freedom of assembly and the mobility of citizens, including a total ban of all outdoor activities for everybody under 18 and over 65.

Initially positive perception regarding these measures was marred by publicly stated concerns. Nevertheless, authorities managed to slow-down the spread of the virus. On March 15 the number of registered cases was doubling every 2 days. By May 31 it was slowed down to every 41 days. This has led authorities to ease restrictive measure. The unwinding strategies – as socio-economic measures – are not being implemented in harmonised manner across the country.

Throughout the pandemic it was the media, civil society and medical experts in the country who played an important role of a watchdog reminding authorities to respect democracy, rule of law and human rights. They did it despite often unresponsive and unaccountable authorities

RULE OF LAW

Political and societal climate

The Constitution of BiH does not provide for a declaration of a state of emergency at the state level, so the state level declared a state of natural disaster. Sub-state units adopted their own decisions, with Republic of Srpska entity going the furthest by adopting a state of emergency,^{xxv} while the Federation of BiH (Federation) and Brcko District declared the state of natural disaster^{xxvi} and the state of danger for the population^{xxvii}. Such a differentiated approach is in line with the constitutional and legal order in BiH. However, it is unclear if it is in line with the European standards and was still criticised by experts as it creates confusion among the public and makes coordination and harmonised approach difficult.

During the initial phase of the pandemic, usual political dynamic of confrontations and disagreements was temporarily halted but is back since several weeks and intensively occupying public discourse. These are taking place in two parallel arenas. The first is inter-ethnic where political disputes take place between political representatives of the three constituent peoples. The second is intra-ethnic and takes place within each of the three constituent groups and between ruling parties and the opposition. At the times when citizens seek clarity and reassurance political class offered an “everybody against everybody” situation, confusing the general public and having a negative impact on public trust in institutions and politicians.

Fundamental rights and freedoms

Many of the adopted measures restricted fundamental rights and freedoms. Some were problematic from the point of view of public health necessity, while other violated rights provided by the BiH constitutions and the European Convention of Human Rights.

On March 27 authorities in the Federation decided to ban all outdoor activities for those under 18 and over 65 years of age. A group of citizens and civil society organisations took this decision to the constitutional court, claiming it went beyond what was necessary and that these persons faced systemic discrimination in access to services, including health care. Despite authorities easing this restriction at some

points (e.g. allowing minors to drive in a car or those above 65 to move during parts of the day) on April 22 the Constitutional Court decided that it violated the Constitution and the ECHR. The authorities followed the Court's decision on April 24.

On April 7 authorities in Republic of Srpska adopted a measure officially targeting disinformation during pandemic, but according to the CSOs, journalist and international organisations it was targeting freedom of media. This provoked an outcry among public, in particular when individuals started to be fined on the basis of this measure. By April 17 authorities revoked this measure and all fines issued against individuals.

Early on in March some authorities went on to publish personal data of those infected or in contact with those infected. On March 24, Personal Data Protection Agency in BiH delivered a decision to ban public disclosure of these data.^{xxviii}

Other measures were problematic from the point of view of public health necessity. For example, authorities failed to show understanding for impact measures had on women and children, in light of the increased cases of domestic violence.

Overall, despite its weak and fragmented constitutional framework some institutions in BiH showed resilience and authorities reacted to the public pressure. These were, however, more exceptions than the signs of a trend or a change.

Civil Society and the Media

The media, civil society and medical experts in the country who played an important role of a watchdog reminding authorities to respect democracy, rule of law and human rights. Authorities, once again, failed to fully take advantage of their potential and expertise.

Despite limitation of their activities and often unresponsive authorities the media, civil society organisations and legal experts played an important role in disclosing cases of questionable public procurement cases,^{xxix} leading to some judicial follow up and removal of individuals from their position. They were also instrumental in putting pressure for authorities to increase testing capacities and discovering illegal "corona parties" where some politicians took part and some of them getting fined.

At the same time, already weak economic position of journalists in BiH became even worst. Many media outlets reported that income from marketing decreased significantly and some investigative journalists complained that due to global trends they are uncertain about foreign funding in coming years.

The role of trade unions and employers' associations was important, especially in discussion on the economic consequences. They use their presence in the media to put pressure on authorities to develop other appropriate measures which would be helpful for the economy as a whole.

PUBLIC PERCEPTIONS AND THE SOCIAL CLIMATE RELATED TO THE MEASURES TAKEN

Despite being faced with rather restrictive measures BiH mostly complied and supported them. The fact that the ban of all outdoor activities for those under 18 and over 65 was deemed unconstitutional by the Court has not increased public trust in institutions, since it came four weeks after this measure was introduced and at the time when authorities already started to ease measures.

One public opinion poll shows citizens felt well informed. They expressed the highest confidence towards in the medical professionals. Citizens are concerned about employment opportunities. Younger citizens are mostly concerned about the economic consequences, while elderly are concerned about the health consequences. Generally, fear and concern are the two most common emotions that arise among adult citizens of BiH to the thought of the coronavirus.^{xxx}

CONCLUSIONS

This crisis has put a test on already fragile state of democracy and rule of law in BiH, highlighting the complexity of the governance structure, and difficulty to achieve the necessary level of coordination and harmonisation among authorities. While some institutions showed resilience and in some instances authorities reacted to pressure by public, without continuation and additional effort from politicians sharing positive agenda, professionals within judiciary and the institutions, pressure from the civil society, media and public, as well as support from the outside, it is difficult to expect trends in BiH to shift significantly in coming months and years. In particular when taking into account economic and social consequences of the pandemic, which are expected to be large.

Recommendations

- Cooperation and harmonisation of measures at all levels of government – together with open cooperation with businesses, academia, CSOs, international organizations and media is essential and should be explored further;
- Particular attention for vulnerable groups should be given by governments to protect women and children, e.g. women's shelters;
- International financial and political support for investigative media and CSOs should continue and increase in the coming period, since both played an important and multiple roles during the pandemic.

KOSOVO

CONTEXT

The handling of the pandemic situation by the Kosovo government had been praised by national and international actors. After 9 cases with COVID – 19 emerged, on 15th of March, a state of public health emergency in Kosovo was declared, acting on the request of Ministry of Health.

Unprecedented, in an ongoing health crisis situation, Kosovo was caught in a political turmoil^{xxxi} which led to insecurity and lack of unity among citizens of Kosovo, paralyzed parliamentary life, and some of the key reform processes. President Thaçi urged the parliament to declare a state of emergency, strongly opposed by Kurti^{xxxii}, but surprisingly supported by then Minister of Internal Affairs, Agim Veliu (coalition party minister). He was dismissed by Kurti the next morning which lead to initiation of a no-confidence motion by LDK. The opposition in Kosovo fuelled the ongoing drama between the President and the Prime Minister, and voted the no-confidence motion that led to the government collapse, with 82 MPs voting pro^{xxxiii}. Additionally, opposition parties in Kosovo were highly critical towards the government on the managing of the situation with COVID-19. Particularly, the lack of inclusiveness of the Emergency Fiscal Package was emphasized as well as insufficient testing of potentially infected citizens. In addition, the freedom of movement restriction measures

undertaken were all evaluated unconstitutional by the opposition, arguing that they breach the guaranteed fundamental human rights.

Measures undertaken by the government and political clashes manifested constitutional crisis, as a number of government decisions were questioned by the President and opposition parties^{xxxiv}. President's request to declare state of emergency has portrayed his intention to take control of the state and lead all the decision making. After 20 days since Thaci started exchanging letters, he concluded VV is refusing to send the name^{xxxv} of the new mandate hence mandated Hoti, a mandate of the LDK, who claimed to have 61 votes. The constitutionality of the decree was automatically challenged by then Prime Minister Kurti. The Kosovo Constitutional Court upheld President Thaci's appointment of Avdullah Hoti as Prime Minister Designate. As a result, on June 3, the parliament voted the new government with 61 votes in favour, barely reaching the required majority. President Thaci has become the main political figure of the country, amongst others facilitation the creation of the new government.

Civil society in Kosovo condemned the active role that President Thaci exercised in facilitating the new government coalition, to such an extent that even a member of the new parliamentary majority (Haxhi Shala) admitted publicly to have changed his position regarding his vote in favour of the new government as a result of the influence of the President. This becomes even more problematic considering that the vote of Mr. Shala was decisive for the new government to be voted. Such an exercise of influence, through active lobbying for a change of attitude in relation to the vote towards the new government, is a serious constitutional violation of the President of the Republic.

RULE OF LAW AND DEMOCRACY

Fundamental rights and freedoms

The government undertook mild restrictions even before the first cases with COVID-19 appeared in Kosovo, with partial closure of the economic and social life. As the number of infected cases increased, the measure became stringent, and on March 15th, the state of emergency was declared. The government decided to restrict the movement by limiting the time citizens were allowed outdoors, and most businesses were brought to a halt^{xxxvi}. The measures have resulted in limited access to medical care, which is even more concerning breach of fundamental rights of citizens in need of immediate healthcare. Allegedly, many citizens with chronic diseases were likely to be prevented to receive appropriate medical care due to the focus shifting towards the pandemic cases.

Worrisomely, the domestic violence has significantly increased during the lockdown. Compared to the same period last year, the domestic violence increased by 30% according to the official database of the Ministry of Justice^{xxxvii}. Bearing in mind that the level of awareness in terms of reporting domestic violence is still unsatisfactory, the real statistics can be even higher during the lockdown. Considering gender mainstreaming, economic and educational halt, teleworking and social distancing, considerably increased women family responsibilities and household chores, especially children and the elderly. As a result, the lockdown seriously threatened the wellbeing of women in Kosovo, manifested significant economic difficulties, increased risks of domestic violence and difficulties of resuming the labor market.

Impact on judiciary system and judicial reforms

The work of judiciary has been highly affected by the pandemic situation. More precisely, the work of courts and prosecution has halted, with the exception of emergency services such as detention, domestic

violence, and cases that risk the statutory limitation^{xxxviii}. This has severely limited the access to justice and risked the potential increase of backlog cases. Furthermore, some judges started dealing with cases at home, a practice highly criticized by civil society, due to the risk of destruction and concealment of the case material^{xxxix}.

The courts resumed work on 1st of June, 2020 across Kosovo with full capacity. KJC initially banned the presence of the public in court sessions whereas judges also had the discretion to even ban monitors from sessions if they saw it fit.

CIVIL SOCIETY AND MEDIA

Civil Society

Civil society (CS) is one of the sectors that continued to play an active role during the pandemic. Apart from humanitarian activities, CS engaged also in providing evidence-based analysis that tackled different sectors impacted by the situation. Despite political chaos and in the brink of no-confidence motion, CS publicly appealed for a political unity and to avoid any institutional crisis in critical times for its citizens^{xl}. In its public letter, CS called for the political spectrum to fully focus on issues pertaining to the prevention of the virus spread, rather than creating a political crisis on top of a life threatening disease. Along the same lines, CS regularly engaged in awareness campaigns to inform and educate citizens on available tools and mechanisms to report any kind of violations of human rights, including domestic and gender-based violence, discrimination, and child abuse. Overall, the sector was less impacted from the COVID-19 situation, and majority of activities were adopted through online means. Most organisations were able to maintain their staff, while donor contracts were not endangered substantially. Amid social distancing, CS managed to enable an environment for protesting which was a novelty in the situation. Firstly, calling for institutional and political unity, citizens across Kosovo protested for six days in a row, banging pots from their balconies^{xli}. Once the situation got worse, on May 16th, CS activists engaged in preparing the main square in Prishtina by marking the two-meter distance standing points that would enable organizing potential protests at citizen will^{xlii}.

Media and transparency

In a professional and real-time approach, media sector guaranteed the news is properly and regularly provided to the public at large, while cooperation with the responsible institutions is to be applauded. Nevertheless, there were clashes between media and the government regarding the Emergency Fiscal Package introduced by the governments, the former criticizing the institutions for not including the media sector, which are in the forefront of the battle. The independent media sector was seriously affected by the pandemic. Majority of media outlets claimed to declining revenues due to lack of advertising, which led to journalist and other workers being fired during the recent months. Despite circumstances, media outlets have continued to professionally conduct their work in keeping citizens regularly informed. Considering the decline of revenue, it is expected that funds for media sectors to increase in the near future, with some donors already starting to provide emergency funds for the independent media.

PUBLIC PERCEPTIONS AND THE SOCIAL CLIMATE RELATED TO THE MEASURES TAKEN

The pandemic crisis in Kosovo has created a social polarisation due to the ongoing political clashes among the government, the opposition parties, and the President. The opposition parties in the parliament

refused to vote the legal amendments or initiatives necessary to properly manage with the health crisis. On the other hand, socio-economic impact on COVID-19 crisis will be devastating. According to the World Bank, the economic downturn is estimated to reach around 4.5% in 2020^{xliii}.

Another UNDP survey finds that changes in the daily routine due to lockdown have resulted in psychological effects for citizens in Kosovo, such as stress, anxiety and other psychological issues; with, 25% of men and 31% of women claim to have personally experienced some sort of psychological or emotional effects due to the pandemic.^{xliiv}

Overall, the public trust towards government institutions during the pandemic was solid, and the curfew measures by the government were largely respected. Survey data suggest that around 79% of citizens are satisfied with the response of public institutions to the crisis caused by the outbreak of COVID-19.^{xliv} The governments call to Kosovar diaspora to donate money was well received with more than 700.000 Euros donated so far^{xlv}. This tends to reconfirm Diaspora's key role and the readiness to contribute in times of crisis, but is also indicative of trust towards Kurti's government to manage with these funds. What remains to be seen is how the economic package is to be implemented by the new government, and whether it will remain as initially foreseen or could be completely replaced with a new economic strategy. Nevertheless, between political clashes and the economic crisis, citizens remain highly concerned and uncertain on what the future will bring.

CONCLUSION AND RECOMMENDATIONS

The political battle between the President and the Prime Minister led to political and social polarisation in Kosovo. In times of a worldwide life-threatening disease, power clashes resulted with constitutional crisis and even higher uncertainties among public. What remains crucial after the emergency situation with the pandemics is the implementation of a proper strategy to prevent further economic crisis and a higher unemployment rate. The suspension of parliamentary activities led to insufficient oversight, and any efforts to put forward any legal initiatives. On the other hand, rule of law institutions was functioning with limited capacities, which will undoubtedly result with increased backlog.

MONTENEGRO CONTEXT

Montenegro was the last country in Europe to confirm the existence of the first coronavirus cases on its territory (on 17 March) and managed to become the first corona-free country in Europe as well (since 24 May). During 68 days of pandemic, 324 people were infected: 315 recovered and 9 died.

International media reports, with big daily jumps in death toll in many rich and powerful European countries, especially Italy, increased awareness in Montenegro about the COVID-19 danger. Both, public authorities and citizens took situation seriously in general. All the more reason was awareness of weak capacities and shortcomings of the Montenegrin health system, lack of medical supplies and shortage of personal protective equipment. 2018 Euro Health Consumer Index Report puts Montenegrin health system on 23rd place out of 35 European countries^{xlvii}.

According to the Government statement, "the first measure was adopted on 9 January, and the first restriction for passengers in international traffic on 15 January, i.e. two months before the registered case of the disease". "Working from home" was recommended early

and schools were also closed from 13 March, five days before the first case was confirmed. Curfews were introduced on 30 March^{xlviii}. In spite of the fact that the measures taken have had success in flattening the curve, greatest failure was Constitutional Court, which failed to scrutinize Governments decisions, as well passivity of the Parliament which did not perform its control function for a whole month.

RULE OF LAW AND DEMOCRACY

The National Coordination Body for Communicable Diseases (NKT) banned gatherings of more than one person in all public areas and religious ceremonies with citizens present, as well as suspending public transport, while limited mobility of citizens was introduced from 30 March. Although a state of emergency was not introduced, the measures adopted to fight the pandemic have had significant implications for civil and political rights, particularly freedom of assembly and the mobility of citizens.

Structure of the NKT did not correspond to the description of the coordinating body in the Law on Protection of Populations from Infectious Diseases or the Law on Protection and Rescue. It was lead by a vice-president of the Government instead of Minister of Health, as stipulated in the Law. This legal inconsistency undermined legitimacy of the NKT and that is why Institute Alternative (IA) and Human Rights Action (HRA) have requested the Government of Montenegro to publish the decision on the establishment of the National Coordination Body.

The non-compliance with the measures is subject to criminal liability, in accordance with Articles 287 and 302 of the Criminal Code of Montenegro, so all executive orders of the Ministry of Health were followed by repression. Since the outbreak of pandemic the Montenegrin, by 4 May, Police had pressed criminal charges against 1,531 persons for non-compliance with the measures, of which 753 had been arrested^{xlix}. Alongside the Police, which had very active role, the Military was also deployed to enforce some of the measures, particularly to secure isolation of the people in state quarantines.

The Parliament was mostly passive during the first month of pandemic. When the first case of infection was confirmed, both, committee sessions as well as plenary sessions of the Parliament have stopped immediately. Therefore, constitutional oversight role of the Parliament was not exercised for a whole month^l. Opposition was not objecting national "Stay At Home" campaign during the first weeks of epidemic and called for solidarity. The clearest example of this new national solidarity were the financial donations by all key political entities dedicated to fight the pandemic^{li}.

During the COVID-19 crisis, the Government did not initiate changes of the legislation with the aim of increasing its powers and competencies or changing institutional setup ("emergency legislation"). However, during the second month of the crisis, the Government started preparing set of laws related to economic interventions and financial assistance to the citizens during pandemic. Although there is an objective need for this, Institute Alternative (IA) warned that this is particularly sensitive since this is also an election year. In that regard, IA has criticized lack of accountability and transparency of one-off assistance shared by the Inner Cabinet of the Government^{lii}.

On 20 March, President of Montenegro postponed municipal elections in Tivat, which were planned for 5 April^{liii}. Opposition claimed that the Government did not introduced state of emergency so it wouldn't have to postpone national elections as well, which opposition advocated for. In general, the opposition did not contest the substance of the

measures, but it did challenge their legal foundation, claiming that the official introduction of a state of emergency was necessary.

Regarding the order of the Ministry of Health, which introduced further restrictions on the freedom of movement of citizens, including the prohibition of assembly in private apartments, and the dilemmas regarding the legal basis for such measures in a situation where no state of emergency is declared, NGOs HRA and IA urged the Constitutional Court to get involved in monitoring the implementation of constitutionality and legality in Montenegro, and called Minister of Health to ensure that his measures are more precise and better explained^{iv}. However, despite several calls from the opposition and NGOs, the Constitutional Court did not scrutinize the government's acts, failing to fulfil its role as the corrective of the executive.

Furthermore, from 27 February to 7 April, the Constitutional Court did not hold any sessions. During the crisis and limitation of liberties, it did not ensure the constitutionality and legality and necessary protection of human rights. It was when the crisis was completely over and there are no new cases of infection, 25 May, when Constitutional Court actually announced it will review constitutionality of one the most problematic measures. Namely, the Government of Montenegro introduced practise of publishing names and addresses of persons who were ordered into obligatory 14-day self-isolation due to COVID-19 risk. The Governments' justification was that it needs citizens' help in order to monitor persons ordered not to leave their homes^v. This was done with the consent of the Agency for Personal Data Protection and Free Access to Information. Thus far, the private information of more than 1800 people has been published on the website of the Government. NGOs and opposition claimed that this excessive measure is against the international minimal standard of the right to privacy. The Government removed data in early May^{vi}.

Additional to Governments' measures, Supreme Court introduced its own Measures^{vii} to suppress corona-virus in the judiciary. Public hearings in all courts were cancelled, but sessions of the panel of judges continued.

CIVIL SOCIETY AND MEDIA

No special measures, other than general ones, were adopted that are preventing the civil society and media from performing their duties. However, CSOs were facing several constraints on its ability to carry out its work, as a result of lockdown, distancing, and quarantine measures. Many of them gave positive contribution to helping the vulnerable population during pandemic, particularly to Roma population. IA urged NKT to implement tracking system of donations and spending of funds from single account opened for this purpose and this recommendation was enforced^{viii}. There were no protests (public assemblies) against restrictions as such.

Nearly 50 CSOs and 30 editors also urged the Ministry of Public Administration and the Government to postpone public debate on the controversial Law on Free Access to Information after the coronavirus pandemic, which they eventually did^{ix}. NGO HRA also raised questions related to multiple arrests, which took place due to publishing fake news. HRA argued that the state is violating freedom of expression, while Police and Prosecution claimed these persons committed the felony "Inducing panic and disorder", from Article 398 of the Criminal law of Montenegro. In January of 2020, the HRA raised an initiative to assess the constitutionality of this controversial article, the imprecise formulation of which has led to excessive limitations of the freedom of expression. Decision of the Constitutional Court is pending.

SOCIO-POLITICAL IMPLICATIONS

The Montenegrin Government has been seeking to exploit the conditions of the pandemic for its political gain ahead of the national elections. Survey published in the beginning of April showed that, in general, most of the measures were highly supported by the public in Montenegro, especially the ban on all private and public gatherings (97%), self-isolation (97%), quarantine (97%), the closure of catering facilities (96%), closing promenades and parks (88%). Every fourth respondent did not support the publication of the names of persons in self-isolation, 73% did^x. However, with reduced risk of coronavirus in May, the polarization of society returned to where it was before the pandemic.

The most uncomfortable with the COVID-19 crisis was Serbian Orthodox Church (SPC). Religious protests, which were Montenegrin reality before the outbreak of the pandemic, stopped when public assemblies were banned. However, SPC disputed other measures limiting religious rights: for example, ban for citizens to be present during religious ceremonies. Metropolitan Amfilohije was taken to Police station to be questioned about gatherings in front of religious institutions, during the worship on Cvijeti, 12 April. The situation calmed down since the Metropolitan invited people to stay at home during Easter so Easter liturgies were held without presence of people (19 April). The Government and NKT praised this decision. However, disagreement continued and Police has pressed criminal charges against the ten citizens for attending funeral of the priest in Kotor (1 May). Situation escalated on 13 May, when other priests, a Serbian Orthodox Church bishop Joanikije and eight other priests were detained for 72 hours by the prosecutors' decision, for leading a religious procession in defiance of the government ban on public gatherings because of the coronavirus. Violent protests happened in several towns in Montenegro and polarized society once again.

CONCLUSIONS

Montenegro's tourism-dependent economy is hit hard by the coronavirus crisis and a recession was forecasted. Political tensions between the leading coalition and the opposition were running high before the crisis, and could easily boil over after it. Corona-crisis, national elections, tension between the SPC and the Government make 2020 hardly a year of rule of law reforms and European agenda is out of sight at the moment. Populist and nationalist voices on both sides of the society are gaining ground and rational debate on concrete reforms is becoming obsolete or "fine tuning".

Although it cannot be said that COVID-19 triggered any new problems in Montenegro, it failed to be used as a game changer into positive direction as well. Independent institutions (the Parliament, Constitutional Court, Agency for Personal Data Protection) proved to be weak and unready to step up and provide needed check and balance.

RECOMMENDATIONS

Experts suggest a second wave of COVID-19 could hit in the fall, therefore:

- The highest priority is that independent institutions improve their IT capacities and provide electronic means that would enable them to perform their duties in full capacity during the crises.

NORTH MACEDONIA

CONTEXT

North Macedonia entered the COVID-19-crisis with a dissolved parliament and one month away from holding pre-term elections. In line with national legislation, a 'technical government' composed of both position and opposition ministers is in place since January 3rd, 2020. When the crisis erupted, the only option for COVID-19-related legislating was for the President to declare a state of emergency, giving the Government the power to adopt legally binding decrees, which he did.^{lxix}

The 'state of emergency' was a challenge, as it has never before been put to practice and the general constitutional provisions have not been further regulated, leaving legal gaps. Pressed for time and prompt reactions, these lacunae were filled without proper public dialogue, exacerbated by the lack of a functional parliament.

As 'the curve' started to flatten slightly, the issue of holding elections was re-opened, with the date being main point of party contestation. Other pressing issues were pushed to the background: the crisis revealed present disparities in the enjoyment of fundamental rights^{lxxii} as well as low information and communication technology (ICT) capacity of state institutions as they instructed majority of workers to work from home.^{lxxiii} Still, the public has been rather supportive of the introduced measures so far.

As the European Council supported the opening of accession negotiations with North Macedonia in March 2020, the ongoing COVID 19 crisis carries significance in view of the upcoming steps in this respect.

RULE OF LAW

Democracy

Rule of law has proven to be an easy target as it was already vulnerable with two major issues: the impact on transparency and political (party) dialogue.

As to the former, while regular and open press conferences were held,^{lxxiv} special websites^{lxxv} and applications^{lxxvi} were put to use, overall transparency seems to have suffered. Firstly, there was a period of time when the government decrees were not freely available to the public.^{lxxvii} Second, institutional responsiveness slowed down, including on issues with legally prescribed deadlines as free access to information. The state institutions already lacked human and financial capacity to operate in the new circumstances, including providing rapid response. No systemic solution was found for executing timely and quality responses thus far. The crisis further exposed existing shortcomings such as an urgent need for interventions in ICT capacities. Yet, it also revealed that a well trained and equipped public administration can operate with less personnel. Thus, increased public (or at least civil society) pressure on public administration reform is to be expected. Third, some key documents which can help the public monitor the government's actions were not made public. This includes the report from the Government to the President regarding the actions it has undertaken to address the state of emergency.^{lxxviii} While the urgency and novelty of COVID-19 did create a need for prompt and ad hoc reactions, it does not alleviate the responsibility for transparency and accountability.

The crisis did slow down the political parties. However, it does not seem to have had an impact on the dynamics which pull the largest ethnic Macedonian political parties apart, ultimately halting all political processes.^{lxxix} It should not be expected that constructive political

dialogue will be one of the outcomes of the crisis. The most hotly debated issue - the elections date – has been a clear example of this tendency.

Judiciary and judicial reforms

The COVID-19 crisis will postpone the implementation of some measures foreseen in the Judicial Reform Strategy 2017-2022. The Action Plan was already amended with a view to setting a realistic timeline in order to ensure sufficient time for a comprehensive debate on policy proposals regarding systemic laws.^{lxxx} Some of the judicial reform legislation is in the parliament's pipeline. However, their adoption has been further delayed due to the postponement of the parliamentary elections.^{lxxxi} The preparation of amendments and new laws is also brought into question, since working groups do not hold meetings. Planned public consultation processes are also likely to be further delayed.

The COVID-19 related decrees affected the efficiency and course of court proceedings, by freezing procedural deadlines,^{lxxxii} thus affecting access to justice in general. The Constitutional Court stroke down some of the newly introduced measures as unconstitutional.^{lxxxiii}

A welcome change was the increased use of the ICT technology by the judicial community: the first online trial was conducted,^{lxxxiv} online webinars, consultations and meetings also took place.^{lxxxv} If further supported, this may have a positive impact on a longer term.

Fundamental rights and freedoms

As in other countries, the Government decrees affected fundamental rights and freedoms in many respects. Firstly, the country derogated from the European Convention on Human Rights.^{lxxxvi} The freedom of movement limitations,^{lxxxvii} prohibition of public gatherings, cancellation of all public events and closing of venues,^{lxxxviii} and imposing self-isolation^{lxxxix} were some of the adopted measures. These measures have a negative impact on the socio-economic aspects of the livelihood of the citizens and exercising various fundamental rights, such as access to health services and education. Marginalized communities, such as the Roma, persons deprived from freedom, and victims of domestic violence, have faced persisting, if not enhanced, systemic discrimination in access to services, including health care.^{lxxx} Women are predominantly engaged in essential services and in hospitality, thus they are both more at the forefront of the fight with the pandemics and first to lose their jobs.^{lxxxi} This coupled with worries and reports of increased domestic violence.^{lxxxii} Hate speech and biased and somewhat discriminative media reporting was also present.

CIVIL SOCIETY AND MEDIA

In an un-transparent manner, as part of the economic measures for re-directing state budget funds towards activities for dealing with the crisis, the Government cut funds already allocated and awarded to CSOs. A CSOs reaction ensued, but to no avail. CSOs are likely to be significantly affected by this decision.^{lxxxiii} There were no significant developments regarding the situation of the media in the country. Thus, at present, no specific trends arising from or being shaped by the COVID-19 crisis can be identified.

PUBLIC PERCEPTIONS AND SOCIAL CLIMATE

With the exception of public disapproval regarding the slow reaction (or inaction) on two massive breaches of the prescribed measures related to religious ceremonies, the general public seems to be supportive of the measures undertaken by the authorities thus far. One public opinion

poll reveals overwhelming and exceptional for the national context (over 70%) support for the measures in place and for the way the state institutions have been dealing with the crisis and for the Minister of Health.^{lxxxiv} However, if one contrasts this with the previously noted lack of more detailed and timely information, one can conclude that the public is more willing to accept stricter measures or tolerate limitations of their rights and lower transparency by the state institutions because of the uncertainty and fear. This would be similar to what has been identified in some EU countries as well.^{lxxxv} This is a point of concern for the future.

CONCLUSIONS

The COVID-19 crisis will have several very important direct and indirect consequences which the country will need to deal with. We single out here six main ones. First, this crisis has underscored the importance of having a built and well working system, one which does not depend on individual persons and which even in times of crisis will not circumvent important rule of law principles, such as transparency. Second, it revealed the need for fast and quality investment in human and other ICT capacities for the state institutions. Third, it slowed down all reform processes, including the judicial reform. Fourth, the crisis will deepen social and economic inequalities, more so for women and marginalised groups. At present, aside from isolated individual measures, there does not seem to be a comprehensive grasp of the situation and a plan to address it. Fifth, while media freedom was largely not-affected by the crisis, civil society was directly affected, by removing vital funding. Sixth, newly mobilised public trust, inter alia because of uncertainty and fear, leaves room for instituting limitations of citizen and human rights and lower transparency by the state institutions.

SERBIA

CONTEXT

A state of emergency (SoE hereinafter) was introduced in Serbia between 15 March and 7 May 2020 in response to the outbreak of the COVID-19 pandemic. It imposed contestable restrictions on freedom of movement, with curfews extending as long as 80 hours over several weekends, as well as restrictions on freedom of assembly in line with pushing social distancing approach and the interests of public health.

Overall, this period was marked by increased concentration and abuse of power by the President of the Republic. How the state of emergency was declared^{lxxxvi} (by the President and Prime Minister instead of the Speaker) and the lack of any parliamentary sessions or oversight during the pandemic raised a number of questions by legal experts^{lxxxvii} over whether the country is still a functional democracy or is speeding towards becoming an authoritarian political regime.^{lxxxviii} Eventually, following a number of petitions, the Constitutional Court of Serbia declared that the manner of the declaration of SoE was in accordance with the law. Consequently, this period has led to the further polarisation of Serbian society and the political scene as well as the continued erosion of democracy.

RULE OF LAW

Democracy

While the inferior position of the National Assembly as compared to the executive branch of power has long been a matter of concern,^{lxxxix} the introduction of the SoE additionally degraded the parliament's controlling function and disabled it from fulfilling its mandate. Namely, several days before the introduction of the SoE, the government

brought a decision on the banning of public gatherings of more than 100 people.^{xc} Practically, this disabled the National Assembly from convening and approving the state of emergency by majority vote, and thus violated the Constitution.^{xc} This turn of events could have been avoided as existing technologies allow for online gatherings, for instance, during extraordinary circumstances, as the experience of many parliaments across Europe has shown. Additionally, considering that the Constitution has adopted the principle of the separation of powers, and that the National Assembly is the "supreme representative body and holder of constitutional and legislative power in the Republic of Serbia",^{xcii} it is of dubious nature whether the executive branch of government may restrict the functioning, through bylaws, of the legislative body for any reason whatsoever.

Furthermore, as COVID-19 infections began to drop, the decision to lift the suspension of the Assembly's work at the end of April was announced by the President of the Republic, instead of by the Speaker (as prescribed by law^{xciii}), which further downgraded the significance this institution is supposed to have in policy and decision-making. As a matter of fact, parliament was totally side-lined from decision-making on budgetary revisions in order to curb the consequences of the pandemic, as the executive branch produced a Decree amending the Law on the Budget for 2020 just four days before the announcement that parliament would resume its work. This begs the question of why the two processes could not have been synchronized to allow for parliamentary debate on such important questions. All things considered, in the Serbian political system, the COVID-19 pandemic has probably dealt its hardest blow so far to the reputation of the National Assembly and its supposed institutional weight.

Fundamental freedoms

The SoE also severely challenged freedom of expression. In the first weeks of the pandemic, the government issued a Conclusion to ban the dissemination of information on COVID-19^{xciv} in Serbia by sources other than the core government crisis response team. In the context of this decision, a journalist was placed in police detention for 48 hours after allegedly spreading panic with an article discussing unprotected medical staff and the lack of medical equipment in one of Serbia's hospitals.^{xcv} Following the swift public mobilisation of the media, civil society, and international organisations, the ban was soon lifted. This attempt to centralise the right to provide information can be understood as a direct violation of media freedom as well as an attempt to limit the media in their function as "watchdogs" of society.

Even though this decision was lifted, Serbian citizens were practically unable to find any opposition voices or critiques of the government on the five major TV channels broadcast nationwide during the SoE. Representatives from the ruling majority absolutely dominated prime-time programming, with a shocking 99% of presence in first two weeks of the SoE and 92% in the first half of April.^{xcvi} Other research has shown that during the 52 days of the SoE, on RTS, Serbia's public broadcaster, President Vučić was criticised for a total of 13 seconds, and not by any Serbian opposition figure, but by the Montenegrin Minister of Health.^{xcvii} Given that around 87% of Serbia's population relies on TV as the most popular form of media,^{xcviii} these figures indicate an extremely difficult situation for the freedom of expression and the right to be informed.

Judiciary

In terms of the functioning of the judiciary during the SoE, probably the most controversial measure adopted has been the so called "Skype decree"^{xcix}, which permits criminal proceedings before a court to be held

via video conference call. This manner of handling court proceedings, albeit technologically progressive, proved to be in violation of international human rights standards as well as the Constitution of Serbia.^c Such proceedings are potentially unfair and problematic to the accused: the lack of proximity to lawyers or bad internet connections are potential enough to lead to breaches of the right to fair trial. The European Court of Human Rights (ECHR) has already dealt with similar problems in the past in *Stanford v. U.K.*^{ci} and *Castravet v. Moldova*,^{cii} both cases involving the applicant standing in glass boxes cages (or boxes) during trials in national courts. The ECHR has ruled that limiting the communication of applicants with their lawyers is a breach of the right to fair trial.

Furthermore, the Decree on offences for violation of the Order of the Ministry of Interior on the restriction and prohibition of movement in the territory of the Republic of Serbia^{ciii} has proven to be unconstitutional as well. The Decree provides that an individual can be accused of the same violation in both criminal and civil (minor offences) proceedings. Being forced to answer for crimes in two proceedings is nothing more than the violation of the Constitution and the so called *ne bis in idem* principle.^{civ} It is yet to be seen how these two legal solutions will reflect in the future and whether Serbia will have to defend its position before an international court – such as the ECHR.

CIVIL SOCIETY AND MEDIA

Serbian civil society organisations (CSOs) contributed to helping vulnerable populations during the SoE in spite of problems they faced in gaining permission to work during the curfew hours. Moreover, CSOs were active in providing free legal aid, informing the public, and scrutinising authorities. The government's Office for Cooperation with Civil Society, along with the National Convention to the EU, recommended local self-governments to involve CSOs in their activities.^{cv} Nevertheless, the pandemic has once again shown the state and local authorities' lack of vision to fully take advantage of the potential and expertise of CSOs in fighting, and alleviating the consequences of, the pandemic. In this respect, the city of Šabac stands out as an exception and a positive example.^{cvi}

At the same time, the SoE has seen the further consolidation and increased influence of government-sponsored CSOs (so-called GONGOs), which have long pursued defending the policies of the current government and discrediting the work of genuine CSOs.^{cvi} Overall, the deterioration of the state of democracy in Serbia, deepening cleavage among political actors, coupled with an expected decrease in funding opportunities, are likely to further compromise the position of CSOs in Serbia.

PUBLIC PERCEPTIONS AND THE SOCIAL CLIMATE RELATED TO THE MEASURES TAKEN

While the absolute majority of citizens (92%) endorsed the restrictive measures introduced in response to the COVID-19 pandemic,^{cvi} the SoE deepened political polarisation in Serbia. On one hand, this period has seen record-high public support for President Vučić according to opinion polls conducted.^{cix} On the other hand, political tensions continued to endure beyond citizens' spontaneous pot-banging versus orchestrated torch-lighting gestures, which have demonstrated how the curfew rules do not apply to all citizens equally.^{cx} In fact, a display of violence between two groups of citizens in front of the National Assembly just several days after the end of the SoE points to deep

political rifts in Serbian society and the absence of functional institutions, forcing citizens to seek solutions "on the streets".^{cx}

CONCLUSIONS

The SoE introduced in response to the spread of COVID-19 pandemic has limited freedom of movement and freedom of assembly, and has also led to severe breaches and limitations of the right to freedom of expression, the right to fair trial, and the right to be informed. The judiciary is thus expected to come under a heavy burden in the upcoming period. Most vulnerable groups of the society (disabled, victims of violence, Roma, migrants) require special attention, as they have been particularly affected by the crisis. The National Assembly has been de-facto suspended by most MPs, ruling itself out of any meaningful debate. Lack of political will to address high level corruption cases and lack of intention to recognize the importance of broader public dialogue paints the perfect example of a State which is held hostage by political and interest groups who reject the need to introduce needed changes in Serbia. Finally, political and societal divisions have sharpened as the ruling coalition continues to dominate the political scene and monopolise the media as watchdogs of society. The outcomes of the June 21 general and local elections indicate that the described state of affairs will have a long-term effect on democracy in Serbia.

ROAD AHEAD

The COVID-19 pandemic and the related state of emergency have challenged the functioning of the countries of the Western Balkans and highlighted systemic weaknesses in their political systems. Parliaments in all countries of the region were de facto suspended or have not properly conducted their legislative functions during the pandemic, which has further weakened their oversight capabilities and has allowed the region's governments to increase their power. Activities in judicial reform are being postponed as a result of the pandemic, while halted or slower judicial proceedings will result in a backlog of cases, coupled with an expected further influx of cases regarding breaches of fundamental rights during the pandemic. Freedom of expression and of the media has been a particular issue of concern, especially in Serbia, Montenegro, and Albania. Marginalised groups – including Roma, disabled persons, victims of domestic violence, and migrants – have been additionally imperilled in the context of the COVID-19 pandemic. Given their predominant engagement in essential services and in the hospitality industry, women were disproportionately present at the pandemic's frontline, as well as the first to lose their jobs. CSOs across the region contributed to alleviating the repercussions of the pandemic, but also faced restrictions in their work. This environment that is already disabling to their work, coupled with an expected decrease in funding opportunities, are likely to further compromise the position of CSOs. In most of the countries of the region, political and social polarisation has intensified, which calls for attention in light of general and local elections in North Macedonia, Serbia, Montenegro, and Kosovo this year.

RECOMMENDATIONS

- Upcoming assessments of EU-related reforms by member states and European institutions need to take the impact of the COVID-19 crisis into consideration, without compromising on key principles of rule of law, such as transparency. The EU's announced financial assistance might serve as an effective means of rewarding or punishing the region's governments based on their performance in

fundamental areas. This approach is in line with the rationale of the first cluster of negotiating chapters of the announced revised accession methodology. Concretely:

- The EU should offer considerable increase of financial envelope to the Western Balkans, in the context of its ambitions towards this region and aspirations to become a more autonomous geopolitical actor.
 - The assistance should be offered conditional on respect for fundamental rule of law areas (the first cluster of revised accession framework). The EU should therefore apply more robust mechanisms for monitoring and evaluating the state of play in this area.
 - Such an approach would render the costs of non-compliance with the EU's requirements too high for governments in the region, making them publicly visible. At the same time, it would boost the credibility of the enlargement policy in two ways: towards the citizens of the region by revealing the responsibility of the state actors for (in)action, and to citizens of the EU, who would be able to track how the Union's money is being spent.
 - Increased transparency and strict monitoring should also characterise the EU's immediate assistance aimed at the mitigation of the consequences of the COVID-19 crisis. Nevertheless, these funds should be exempt from the aforementioned accession conditionality requirements.
- The EU should communicate its values clearly and provide constructive criticism of government policies that exclude democratic deliberation. In this respect, national parliaments, civil society, and the media as counter-balances and watchdogs of the executive branch need greater empowerment and a larger role in the region's EU integration process.
 - Financial and political support for the media and CSOs should increase in the coming period, as both are indispensable actors in the democratization process of the region from the bottom-up perspective. Free and impartial media, coupled with vibrant civil society and an active citizenry, can ensure durable democratic transformations that stretch beyond simply attaining EU membership.
 - Political parties in EU member states and political groups within the European Parliament should be more vocal towards their counterparts in the Western Balkans in promoting dialogue and respect for basic democratic principles. Affiliation in political party families should not represent a shortcut for bypassing or breaching fundamental values and freedoms and thus further undermining the state of democracy in the region.
 - To alleviate the growth of socio-economic inequalities as a result of the COVID-19 pandemic, the EU and bilateral support provided to the region to deal with the crisis should include funds earmarked for women and marginalised groups. Particular attention should be paid to addressing the crisis-induced challenges facing vulnerable groups, such as women and children who are victims of domestic violence.
 - The context of the COVID-19 crisis represents an opportunity for greater engagement between the EU and the Western Balkans. The EU's ambitions to become stronger geopolitical player and to reduce economic dependence on China require a stronger political and economic presence in this region. In the current circumstances, a genuine EU membership perspective will undoubtedly be the most effective driver of positive change in the Western Balkans. Addressing challenges to rule of law is a prerequisite for achieving this win-win scenario, as limitations in this area threaten to pull both the region and the EU away from progress they have both long invested in.



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ⁱⁱ More at: <https://www.novosti.rs/vesti/planeta.300.html:854324-DF-dao-donaciju-10000-pomoci-za-kupovinu-opreme-u-borbi-protiv-zaraze>

ⁱⁱⁱ More at: <https://institut-alternativa.org/en/one-off-assistance-not-to-be-shared-by-the-inner-cabinet-of-the-government/>

ⁱⁱⁱⁱ The elections will be held within 90 days from the day when the competent state bodies and health institutions confirm that the danger has ceased.

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^c The right to a fair trial is one of the foundations of rule of law in all countries in the world, and articulated in Article 32 of the Constitution.

^{ci} Stanford v. U.K. (No. 16757/90), Eur. Ct. of H.R. (1994).

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^{civ} Article 34(4) of the Constitution.

^{cv} Documents available at: <https://cutt.ly/ByFy9Ns>; and <https://cutt.ly/tyFy8o3>

^{cvi} More details available at: <https://rc.gradjanske.org/covid-19-je-doneo-i-glad/>

^{cvi} Some of the most blatant examples include the justification for the arrest of the journalist Ana Lalić by the NGO "Council for Monitoring, human rights and fight against corruption – Transparency"; or the alleged contribution of "Association for protection of the youth" in a violent campaign against the pot-banging during curfews, more information: <https://koms.rs/saopstenja/saopstenje-povodom-zloupotrebe-mladih-i-njihovih-udruzenja/>

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