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The Parliamentary Response to COVID-19 and States of Emergency (SoE) in the Western Balkans



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Introduction

The outbreak of the COVID-19 virus is affecting the lives of the majority of the population on a daily basis. There is hardly any region in the world which does not have any recorded cases of COVID-19. The outbreak has not only affected everyday life, but it has also affected how governments and other public authorities have responded and still responding to this crisis. Parliaments were no exception as legislators faced severe and unique challenges in their current work. Having in mind that parliaments are the representative cornerstones of democratic governance, they should ensure that democracy and basic human rights and freedoms are respected according to constitutional principles and international treaties as well as relevant regulations and legislation. Parliaments play a key role in ensuring that an adequate balance between necessary health regulations and relevant human rights restrictions is met and that the accumulation of power by the executive branch does not undermine the distribution of power among the three main branches of government (executive, legislature and judiciary).

In this research paper we focus on how seven parliaments from the Western Balkans responded to this crisis. The analysis does not present detailed information for the parliament of Albania due to technical difficulties in obtaining official information and data; but basic information for this parliament is included in the table at the end of the paper. The paper mainly focuses on recording oversight and legislative activities from the Western Balkan parliaments which occurred in the period from March through May 2020. It also documents different health measures which parliaments have implemented for committee and/or plenary sessions, as well as whether the implementation of modern technologies is contributing to oversight and legislative capacities. This research paper also presents different examples of the introduction of extraordinary measures (for example, a state of emergency) which were needed in order to tackle the current crisis and how limitations on the main human rights and freedoms have affected the entire Western Balkan region.

Having in mind the structure and competences of Western Balkan parliaments, it can be noted that for the past couple of months the balance of power between the executive and legislative branches of government has been distorted in the sense that governments have accumulated exceptional competences which are not usually entrusted to them. This shift of power toward the executive was possible due to the introduction of extraordinary measures (state of emergency, state of natural disaster, public health emergency situation, etc.) which were provided for in the relevant constitutions. Even though measures were imposed, parliaments are the final line of defence in ensuring that those measures are adequate, well balanced, reasonable and in line with the constitution, relevant legislation and relevant confirmed international treaties. During times of crisis like this, the need for effective parliamentary oversight is stronger than ever.

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The National Assembly of the Republic of Serbia

In the Republic of Serbia, a state of emergency (SoE) at the national level was declared on 15 March. The state of emergency was declared by a government decision co-signed by the president of the republic and the parliament's speaker. The state of emergency was declared without convening a parliamentary session because on 11 March the government banned all indoor public gatherings with more than 100 participants.¹ Article 200 of the constitution provides that when the National Assembly cannot convene for a session, measures derogating human and minority rights may be prescribed by the government through an ordinance co-signed by the president of the republic.

Two days before the SoE was declared, two crisis centres were established – the Crisis Centre for the Control of the COVID-19 Infectious Disease² and the Crisis Centre for the Elimination and Prevention of Repercussions of the COVID-19 Infectious Disease on the Economy.³ Representatives of the parliament did not participate in either of the centres.

Following the declaration of the state of emergency, on 23 March eight members of the national parliament signed a request for an urgent session of the parliament; however no session was held.

The parliament's Rules of Procedure do not allow for work away from the parliamentary offices; however, during the SoE most employees worked at home in order to abide by the ordinances passed by the government when declaring the SoE (especially the Ordinance on Employers' Work Processes during the State of Emergency).

As the virus began to weaken in Serbia and government ordinances relaxed the controls, the speaker of the National Assembly convened the first parliamentary session during the SoE on 28 April (44 days after the state of emergency was introduced⁴). From the day the SoE was introduced through to 28 April, the parliament had not had a session (the last one having been held from 2 to 4 March). Given that holding a session entailed the MPs' physical presence, all preventive sanitary measures were taken: the use of masks and gloves, body temperature measurement when entering the parliament's building, disinfection of the building itself, etc. These measures were previously agreed at virtual meetings organised by the parliament's speaker with the deputy speakers, the heads of parliamentary groups and the management of the parliament's secretariat.⁵

¹More information is available at: <http://rs.n1info.com/Vesti/a576888/Vucic-Zabrana-javnih-skupova-u-zatvorenom-prostoru.html>.

²Prime Minister Ana Brnabić and Health Minister Zlatibor Lončar along with the director of the National Health Insurance Fund (Sanja Radojević Škodrić) and the provincial health secretary of Vojvodina (Zoran Gojković) were appointed as the managers of the Crisis Centre for the Control of COVID-19. See: <https://www.srbija.gov.rs/vest/450999/obrazovan-krizni-stab-za-suzbijanje-COVID-19.php>.

³The centre's co-managers are the President of the Republic Aleksandar Vučić and Finance Minister Siniša Mali along with the president of the Serbian Chamber of Commerce and Industry (Marko Čadež) and the governor of the Serbian Central Bank (Jorgovanka Tabaković). See: <https://www.srbija.gov.rs/vest/450999/obrazovan-krizni-stab-za-suzbijanje-COVID-19.php>.

⁴Certain analysts and opposition members were critical of such a long interruption of the parliament's work, saying that article 200 of the constitution provides that the parliament shall confirm the decision to declare a state of emergency which it did not take itself within 48 hours of its declaration, that is, to hold a session at its earliest convenience.

⁵More information is available at: <http://rs.n1info.com/Vesti/a592564/Konsultacije-Maje-Gojkovic-s-potpredsednicima-Skupstine-omerama-na-zasedanju.html>.



The agenda of the first parliamentary session scheduled during the SoE contained the Draft Decision to Confirm the Ordinances taken by the Government and Co-Signed by the President of the Republic during the State of Emergency. The parliament confirmed the declaration of the state of emergency at the session, as well as the 44 ordinances passed by the government during the state of emergency. The plenary session was attended by Prime Minister Ana Brnabić and five ministers. The session was attended by 170 members of parliament, including part of the opposition which had boycotted the parliamentary sessions before.⁶

A few days before the first session of the National Assembly during the SoE was held, the parliamentary Committee for Administrative Matters had held a session, with 14 out of 17 members present, in order to discuss the amendments to the 2020 parliamentary budget. During the committee session, all the precautionary measures were also taken.

After holding the first session, the parliament's Speaker convened the second parliamentary session during the SoE on 6 May. The items on the agenda were a discussion on lifting the state of emergency and the Bill on the Validity of Ordinances Passed by the Government and Co-Signed by the President of the Republic during the State of Emergency and Confirmed by the Parliament, both of which were submitted by the government of the Republic of Serbia.

This session was led by the prime minister and the minister of foreign affairs. The session was attended by 135 members of parliament, rising to 160 members during the vote, this time including the opposition which had been boycotting the parliamentary sessions.⁷ At the session, the Law on Validity of Ordinances Passed by the Government and Co-Signed by the President of the Republic during the State of Emergency and Confirmed by the National Assembly was adopted.

With the adoption of this law, the state of emergency was officially lifted on 6 May 2020, although citizens were urged by decision-makers and epidemiologists to continue to abide by the precautionary measures.

Before the SoE was declared in Serbia, the general elections for the national parliament and the provincial and local assemblies had been scheduled for 26 April. Due to the introduction of the SoE, the National Electoral Committee at its session held on 16 March suspended all electoral activities. Upon lifting the state of emergency and following consultations among the political parties which had decided to run in the elections, it was agreed to hold the elections on 21 June.⁸

⁶ More information is available at: <https://otvoreniparlament.rs/aktuelno/154>.

⁷ More information is available at: <https://otvoreniparlament.rs/aktuelno/160>.

⁸ The continuation of the interrupted electoral activities and the determination of a new date for the elections were confirmed at the 124th session of the National Electoral Committee (RIK) held on 11 May. See: <https://www.rik.parlament.gov.rs/vest/2645/124-sednica-republicke-izborne-komisije.php>.



The Parliament of Montenegro

On March 17, Montenegro was the last country in Europe to confirm the first case of COVID-19 in its territory. Even before the first verified case of the COVID-19 virus, Montenegro had introduced certain measures in order to prevent the virus from spreading; however a state of emergency was never officially introduced.⁹ In accordance with the newly emerging circumstances caused by the spreading of COVID-19, the health minister established the National Coordination Body (NKT) under article 15 of the Law on Public Administration and article 56 of the Regulation on the Organisation of the Work of the Public Administration in order to undertake temporary measures to contain the transmission and spread of the infectious disease. Milutin Simović, the deputy prime minister in charge of economic policy and the financial system, was appointed chair of the NKT and Dr Kenan Hrapović, the minister of health, was appointed as his deputy. Representatives of the executive branch of government and health professionals were included in the NKT, but not the representatives of the legislative branch.¹⁰

Notwithstanding the fact that the state of emergency was not officially introduced, the Montenegrin government passed more than 25 ordinances and orders proposed by the NKT, placing restrictions on certain aspects of human rights and freedoms enshrined in the Montenegrin constitution (confinement, ban on assembly, suspended passenger transport, etc.). These decisions were made in accordance with article 39 of the constitution which authorises the derogation of the right to free movement and settlement if it is expedient for the prevention of infection.

The day after the corona virus was confirmed in Montenegro, the speaker of the National Assembly, Ivan Brajović, issued a communication stating that the parliament would carry on with its work while taking all necessary precautions. On 1 April, the parliament's collegium of members representing the party groups held a session which concluded that the parliament's legislative, control and oversight functions should continue, while observing the prescribed measures of healthcare. The possibility to hold sessions of working bodies and the plenary through a video conference system was discussed. During April, the work of the parliament continued by holding sessions of the parliament's collegium (topics discussed were mainly the economic consequences of the global pandemic).

However, representatives of the opposition political parties considered that the NKT's decisions were not taken in keeping with the constitution and that the derogation of human rights and liberties was only possible if a state of emergency was introduced. Besides, the opposition members requested that the parliamentary speaker urgently schedule a parliamentary session so that the measures of the government and the NKT could be discussed.¹¹

Regarding the newly emerged situation, the parliament's deputy speaker, Branimir Gvozdenović, announced the formation of a special committee to deal with the issues of the corona virus epidemic and its consequences for society

⁹ More information is available at: <https://www.vijesti.me/vijesti/drustvo/425368/obustava-svih-javnih-i-privatnih-okupljanja-obustava-nastave-na-najmanje-15-dana>.

¹⁰ Regarding the legislative branch, neither the government nor the opposition was represented in the NKT.

See: <http://www.gov.me/vijesti/223775/NKT-nije-isto-sto-Koordinaciono-tijelo-za-prevenciju-i-iskorjenjivanje-zaraznih-bolesti.html>.

¹¹ More information is available at: <http://www.rtcg.me/vijesti/politika/274372/df-trazi-hitnu-sjednicu-parlamenta.html>.



and the economy in Montenegro. However, this committee has not been established, mainly due to the dissent of some opposition party members.¹²

Due to the tightening of protective measures and the introduction of a curfew, for the first time the parliament held sessions of the Committee for Economy, Finance and Budget and the Committee for Political System, Judiciary and Administration via online platforms on 16 April 2020.¹³

Concerning the work of the plenary, the second meeting of the first regular 2020 spring session was scheduled on 22 April. The session was held observing social distancing measures (MPs sat in four separate rooms of the parliamentary building in Podgorica), as well as other medical recommendations (use of masks and gloves and body temperature measurement). The agenda contained 11 items. Both the ruling coalition and the opposition representatives participated in the session proceedings. At the time of writing this report, the session had lasted for 11 working days (the last working day being 14 May).¹⁴

Montenegro decided to gradually relax the measures introduced to prevent COVID-19 spreading, rolling out in four phases. A curfew was still in force and was scheduled to be abolished on 15 May. The last phase of the relaxation measures was planned for 1 June 2020.¹⁵

¹²More information is available at: <https://www.pobjeda.me/clanak/mikic-dps-se-plasi-preuzimanja-odgovornosti>.

¹³More information is available at: <https://www.youtube.com/watch?v=dJX0FhaqBJM&feature=youtu.be> – 109th session of the Committee for Economy, Finance and Budget.

¹⁴The session could be followed through live streaming. Besides, videos from each day's sessions were uploaded on the parliament's official Youtube channel: <https://www.youtube.com/watch?v=LOxeNHcHC98&feature=youtu.be>.

¹⁵More information is available at: <https://www.coronainfocg.me/me/vijesti/ukida-se-zabrana-kretanja-otvaraju-se-ugostiteljski-objekti-i-trzni-centri>.



Assembly of the Republic of Kosovo

Kosovo reported its first COVID-19 cases on 13 March. However, even before the first confirmed cases, the government of the Republic of Kosovo had adopted certain recommendations and minor restrictions in order to proactively tackle the coming crisis. On 12 March, the government created the Special Commission for the Prevention of Infection from COVID-19 (a commission tasked to manage the prevention of infection from COVID-19 on behalf of the government without members of the assembly participating in it). Moreover, the government decided to restrict public gatherings, impose travel restrictions and limit working hours of businesses, but not shutting them down completely.¹⁷

Following the development of the situation in the Western Balkan region and in the world, the government declared a public health emergency situation on 15 March, following recommendations from the healthcare ministry. By declaring a health emergency, the government started imposing more strict measures which restricted some fundamental rights and freedoms. Finally, on 23 March the government restricted freedom of movement (the movement of citizens and private vehicles was prohibited between the hours of 10:00 and 16:00 and 20:00 and 06:00).¹⁸

The president of Kosovo and some opposition MPs asked the government to introduce a state of emergency having in mind that article 56 of the constitution stipulates that some fundamental rights and freedoms can be restricted only by law and in case of a state of emergency.¹⁹ The prime minister refused to propose such a law. The president eventually filed a motion in the constitutional court in order to question the constitutionality of the decision to limit certain fundamental rights and freedoms.

The prime minister strongly opposed this proposal and even dismissed the minister of the interior for creating a COVID-19 panic when the latter said that a state of emergency was needed.²⁰ Having in mind the unstable political situation which started even before the new government was elected, some parties which were part of the government (primarily the Democratic League of Kosovo (LDK)) and some opposition parties requested a plenary session of the assembly in which a motion of no-confidence in the government would be moved. Eventually on 26 March the term of the shortest government in Kosovo came to an end (the government was elected on 3 February and Albin Kurti became prime minister). A total of 82 MPs (out of 120 MPs) voted in favour of the no-confidence motion.²¹

¹⁶More information is available at:<https://europeanwesternbalkans.com/2020/04/28/kosovo-was-not-adequately-prepared-for-the-pandemic/>.

¹⁷More information is available at:<http://rs.n1info.com/English/NEWS/a577382/Kosovo-suspends-flights-coming-from-four-European-countries.html>.

¹⁸Decision 15/2020:<https://kryeministri-ks.net/en/documents-en/>.

¹⁹For article 56 see:<https://kryeministri-ks.net/wp-content/uploads/2020/03/Constitution1Kosovo-11.pdf> and <http://rs.n1info.com/English/NEWS/a579257/Thaci-wants-state-of-emergency-to-combat-coronavirus-pandemic.html>. Also, it is important to note that once a national state of emergency is announced and the parliament passes a national state of emergency, the authority for decision-making is elevated to the presidential level who then leads the National Security Council and has executive powers during the state of national emergency (constitution for the Republic of Kosovo, 2020).

²⁰More information is available at:<http://rs.n1info.com/English/NEWS/a579349/Kurti-dismisses-Kosovo-s-Interior-Minister.html>.

²¹More information is available at:<http://rs.n1info.com/English/NEWS/a582103/Kurti-retaliates-by-dismissing-his-deputy-after-Kosovo-MPS-voted-him-out.html>.



From raising the public health emergency situation on 15 March to the time of writing, the assembly held three plenary sessions. The topics in the first session were related to adopting the Law on the Kosovo Budget for 2020 and the continuation of the dialogue between Belgrade and Pristina (adopting the necessary resolution). Some of the opposition parties did not participate in the plenary session.

The second plenary session was held on 25 March in order to vote for the motion of no-confidence which was proposed by 44 MPs. Prior to the plenary session, a meeting of the assembly presidium was organised to agree on the conditions necessary for holding the plenary session. Some of the members of the presidium were against holding a plenary session because of the current medical situation. Eventually, the plenary session was held on the votes of four members with two members against.²² For the plenary session, medical masks and gloves were handed out to MPs and staff. Members of the media were not allowed to attend the session since MPs were sitting in the balcony in order to ensure social distancing measures (at least two meters between people).

The last plenary session in this period was organised in order to consider and adopt emergency economic measures to tackle the current situation. However, the parliament did not adopt any measures due to the withdrawal of a proposal by the Democratic Party of Kosovo (PDK).²³

Other working bodies, primarily the assembly's commissions, held regular in-person meetings and sessions. Some sessions were also organised online.²⁴ Besides committee meetings, the presidium of the assembly held regular meetings in order to discuss upcoming sessions as well as the law adoption process.

It is important to point out that initial decisions by the government which restricted fundamental rights and freedoms were ruled unconstitutional by a constitutional court decision on 6 April. Moreover, on 8 April the government decided that the minister of health was authorised to issue decisions in order to prevent and fight the spread of COVID-19 and that the minister would decide for each individual municipality on the movement or prohibition of movement of citizens and vehicles.²⁵

²² More information is available at: <http://www.kuvendikosoves.org/srb/vest/sa-sednice-predsednistva-skupstine-24758/#>.

²³ More information is available at: <http://www.kuvendikosoves.org/srb/vest/sa-vanredne-sednice-skupstine-24817/>.

²⁴ More information is available at: <http://www.kuvendikosoves.org/srb/vest/komisija-za-budzet-i-transfere-odrzala-je-sed-24847/>.

²⁵ The legal grounds for these decisions are found in Law No. 02/L-109 on the Prevention of and Fighting against Infectious Diseases. See the decision from the 24th government session: <https://kryeministri-ks.net/en/documents-en/>.



The Parliamentary Assembly of Bosnia and Herzegovina

The Council of Ministers of Bosnia and Herzegovina (BiH) recognised the threat posed to BiH's public health and safety by the COVID-19 virus, so it decided on 17 March to declare a state of natural or man-made disaster in the territory of BiH.²⁶ The day before taking the official decision, the BiH presidency had urged the council to declare a state of natural or man-made disaster.²⁷ Pursuant to the entities' decisions, the BiH presidency's conclusions and the Framework Law on Protection and Rescue of Persons and Assets from Natural and Other Disasters in BiH, the council decided to take this step and activated Bosnia and Herzegovina's Coordination Body for Protection and Rescue from Natural and Other Disasters. All institutions and authorities in BiH had to support and make all their capacities available to the Coordination Body. Within the coordination body there were no representatives of the legislative branch of government, while the chair of the body was the BiH security minister.²⁸ The coordination body consists of nine representatives of BiH's Council of Ministers, five representatives from each of the Republic of Srpska's government and the BiH Federation's government, plus two members of the Brčko district government.

It is important to note here that crisis management in BiH is decentralised. Thus, at the national level, institutions mainly have a role to coordinate the activities. Specific measures to suppress the virus and the epidemic are under the competences of individual entities (healthcare systems, other related services, civil protection, etc.). As a consequence of this structure of government, there have been situations in which different entities have enforced different measures, restrictions and bans. For example, in the territory of the BiH federation, confinement was completely abolished on 14 May, whereas in the Republic of Srpska the ban was lifted on 21 May.²⁹

Regarding the work of BiH's parliamentary assembly, since the declaration of a state of disaster three plenary sessions were held – two sessions of the House of Representatives (the 6th urgent session and the 8th session), as well as the 6th session of the House of Peoples. The topic of the urgent session at the House of Representatives was the amendment to the Rules of Procedure which enabled the House of Representatives to work online during the state of disaster caused by the corona virus pandemic.³⁰ Before the urgent session was held, the collegium of the House of Representatives was held

²⁶The council made a timely response and immediately after declaring the state of disaster/emergency in the entities, on 16 March it was decided to declare the same at the national level. See:<http://www.sluzbenilist.ba/page/akt/bTsBUE4N5GM=>.

²⁷At the BiH presidency session held on 16 March, 18 conclusions were adopted in order to prevent the spreading of the COVID-19 epidemic. See:<http://www.predsjednistvobih.ba/zaklj/sjed/default.aspx?id=87855&langTag=bs-BA>.

²⁸The security minister stated on 31 March that he no longer wanted to chair the body and that medical professionals should come in his place. See:<https://www.slobodnaevropa.org/a/30520051.html> and <http://www.sluzbenilist.ba/page/akt/yclMQ2gztz5k76kjin45hgFml=>.

²⁹There have also been situations in the BiH federation in which the ban on freedom of movement was lifted at night, as well as collective quarantine centres, so intermittent movement was enabled outside home for persons above age 65 and under age 18. On the other hand, confinement remained in force at the same time in the Republic of Srpska, and a complete curfew was introduced at weekends for everyone except services with special permission. See:<http://rs.n1info.com/Region/a593066/Hiljade-gradjana-na-ulicama-u-BiH-lekari-strahuju-od-sirenja-epidemije.html>.

³⁰It is significant to mention that this amendment to the Rules of Procedure is in force only during the emergency situation, that is until the state of natural or other disaster is lifted.

See:[http://static.parlament.ba/doc/126066_Koregovani%20Prijedlog%20dopune%20Poslovnika%20PD%20\(B\).pdf](http://static.parlament.ba/doc/126066_Koregovani%20Prijedlog%20dopune%20Poslovnika%20PD%20(B).pdf).



and conditions for holding urgent sessions were agreed (ensuring social distancing, using the means of protection, etc.). The following session of the House of Representatives was scheduled for 15 May. The session had 68 items on the agenda and was held in two parts on 19 and 20 May. The session itself was open to the public, with adequate social distancing measures employed.

The House of Peoples held only one session within the said period. That session on 28 May had 53 items on the agenda. Before the session was held, the House of Peoples' collegium held a session to agree on the measures for protection and necessary social distancing. It is important to add that at the 12th session of the House of Peoples' collegium, held on 22 April, an initiative to amend the Rules of Procedure was considered in order for the work to be undertaken using online platforms. However, it was concluded that there was no need to amend the Rules of Procedure, as there were technical and safety conditions for holding regular sessions if all prescribed epidemiological measures were applied.³¹ Regarding the work of other working bodies (committees and collegiums), meetings and sessions were held within this period in accordance with the epidemiological recommendations and measures.

³¹More information is available at:<https://www.parlament.ba/Publication/Read/16013?title=odrzana-12.-sjednica-kolegija-doma-naroda-parlamentarne-skupstine-bih&pageId=238>.



The National Assembly of the Republic of Srpska

In order to be prepared for the expected surge in COVID-19 cases, the government of the Republic of Srpska declared a situation of emergency on 16 March. At the point when the situation of emergency was declared, there were already 20 persons testing positive for the new virus.³² Immediately after the situation of emergency was imposed, the government announced that it would request the National Assembly of the Republic of Srpska to also declare a state of emergency.³³ The day after the situation of emergency was declared, the entity's Headquarters for Emergency Situations passed a range of emergency measures to prevent the virus from spreading further (prohibition of public assembly, shortened working hours of retail stores, reorganised work of healthcare institutions, etc.).³⁴ A headquarters team of operational professionals was also set up in order to better coordinate and implement the measures. There were no representatives of the parliament in this team. As early as 21 March the headquarters proposed a curfew from 8pm till 5am. The relevant authority for implementation of this decision was the government and its ministry of the interior.

On 28 March, at its 12th special session held in Banja Luka, as announced, the parliament adopted the Decision on the Declaration of the State of Emergency for the territory of the Republic of Srpska. In order to ensure social distancing measures, the session was closed to the public. MPs and members of professional services wore protective equipment during the session (masks and gloves). The session was held outside the parliamentary building for the same reasons (the session was held in the Banski Dvor cultural centre). The decision to declare the state of emergency was made pursuant to amendment VII to article 70, paragraph 3, of the Republic of Srpska's constitution.³⁵ The session was attended by representatives of the executive branch too.

Opposition MPs proposed that the decision to declare the state of emergency should, inter alia, guarantee free crossing between the entities during the state of emergency, which was not accepted. Besides, certain opposition parties criticised the imposition of the state of emergency because this placed restrictions on certain human rights.³⁶

Finally, on 3 April, the Decision on the Declaration of the State of Emergency for the territory of the Republic of Srpska came into force. The Chamber of Peoples of the Republic of Srpska had previously informed the parliament that the parliamentary groups in the Chamber of Peoples had considered the decision to declare the state of emergency for the

³²More information is available at: <https://www.slobodnaevropa.org/a/cvijanovi%C4%87-bi%C4%87e-sazvana-sjednica-vlade-na-kojoj-%C4%87e-biti-progla%C5%A1eno-vanredno-stanje-u-rs/30490869.html>.

³³See: <https://www.danas.rs/svet/cvijanovic-najavila-proglasenje-vanredne-situacije-u-republici-srpskoj/>.

³⁴More information is available at: [https://www.vladars.net/sr-SP-Cyrl/Documents/Zakljucak%20o%20obav%20sprov%20mj%20za%20reag%20na%20poj%20bol%20izaz%20novim%20virusom%20korona%20\(COVID-19\)%20u%20RS.pdf](https://www.vladars.net/sr-SP-Cyrl/Documents/Zakljucak%20o%20obav%20sprov%20mj%20za%20reag%20na%20poj%20bol%20izaz%20novim%20virusom%20korona%20(COVID-19)%20u%20RS.pdf).

³⁵It is important to mention that article 81 of the constitution envisages broader powers for the president of the republic during a state of emergency: it passes ordinances with the power of laws pertaining to matters under the competence of the parliament, and it appoints and dismisses public officials otherwise elected and dismissed by the parliament. Ordinances on decisions on appointment and dismissal are submitted by the president to the parliament for verification, as soon as it is able to convene.

³⁶More information is available at: <https://www.slobodnaevropa.org/a/republika-srpska-veto-vanredno-stanje-korona-virus/30518258.html>.



territory of the Republic of Srpska and its temporary enforcement, noting that they did not reflect the vital national interests of the constituting peoples.³⁷

As the situation with COVID-19 gradually improved and the epidemiological situation was getting better, the parliament decided to schedule the 13th special session for 20 May. Previously, at the 71th session held on 14 May, the government made a Draft Decision to Lift the State of Emergency.

In order to provide adequate social distancing measures, the session was held in the conference room of the Administrative Centre of the Republic of Srpska's government building, which met the epidemiological criteria. As the parliamentary session exceeded the permitted number of persons in a public place (up to 50 persons was the allowed number), prior to the session the parliament's management requested permission from the relevant institutions to hold the session.

The session had three items on the agenda: the Draft Decision on Lifting the State of Emergency, the Confirmation of Acts Passed by the President of the Republic during the State of Emergency and the Decision on Putting the Ordinances with the Power of Laws out of Force (41 ordinances and decisions in total). The session was attended by the top officials of the executive branch of government. Bearing in mind the headquarters recommendations from 21 May, the parliament decided to abolish the state of emergency. There were 60 votes for abolition and one abstention. Immediately after the state of emergency ceased, the government ended the ban on the freedom of movement. During the state of emergency, no other activities of the parliament's working bodies were noted.

³⁷The Bosnia Club had previously threatened to veto the approved decision because it was not accompanied by conclusions which would, *inter alia*, guarantee free crossing of an entity boundary during the period of its duration. See: <https://www.slobodnaevropa.org/a/30526881.html>.



The Parliament of the BiH Federation

Similar to the Republic of Srpska, the government of the Federation of Bosnia and Herzegovina took action immediately after the first COVID-19 case was confirmed in order to prevent further spreading of the virus. On 16 March, the government declared a state of disaster due to the occurrence of corona virus cases in the area of the BiH Federation entity.³⁸ Legally, the declaration of a state of emergency did not even take place because there is no such provision in the federal regulations. A state of disaster, however, provides the legal grounds to act regarding the key issues, thus ensuring further prevention but through shortened procedures.

Based on the state of disaster and pursuant to the applicable legislation, the Federal Civil Protection Headquarters was responsible for taking all the actions to coordinate and manage the protection of the population in the territory of the BiH Federation. All national authorities and institutions were obliged to make their resources available to the headquarters. Until the 7th extraordinary session held on 25 March, the headquarters had a total of 21 members. However, due to the government's decision, the headquarters was downsized to nine members.³⁹

Immediately after the state of disaster was declared, the headquarters started passing orders in order to prevent the further spread of the COVID-19 virus. On the headquarters' first day, 17 March, 16 orders were imposed.⁴⁰ On 20 March, the headquarters passed an order introducing the ban on movement by persons under age 18 and above age 65. Some opposition parties criticised this decision, even submitting applications to the BiH constitutional court to review this decision. More than three weeks after filing the application, the BiH constitutional court ruled that the decisions to limit movement did not conform to the BiH constitution.⁴¹

Regarding the work of the parliament of Bosnia and Herzegovina, having declared a state of natural and other disaster due to the COVID-19 pandemic on 16 and 17 March, the procedure for postponing the session of the House of Representatives scheduled for 25 March was launched. This decision was confirmed at the collegium session held on 19 March.

Having understood the importance of the parliament's unhindered operations during the state of disaster and the further need to perform its duties as envisaged in the constitution, the House of Representatives held a plenary session on 7 April. The only item on the agenda was to amend the Rules of Procedure in order to enable online sessions of the plenary and working bodies during the state of emergency. All the MPs voted for the amendment. The session itself was

³⁸More information is available at: <https://www.slobodnaevropa.org/a/progla%C5%A1eno-stanje-prirodne-nesre%C4%87e-u-federaciji-bih/30490794.html>.

³⁹There were no representatives of the legislature among the headquarters' members. The reason for its downsizing was primarily to improve efficiency when taking urgent decisions. See: <http://www.fucz.gov.ba/novoimenovani-federalni-stab-civilne-zastite-danas-odrzao-7-vanrednu-sjednicu/>.

⁴⁰A list of all orders issued is available at the following link: http://fbihvlada.gov.ba/bosanski/aktuelno_v2.php?akt_id=8426.

⁴¹In the decision of the BiH constitutional court, the violation of human rights was established and the headquarters was ordered to enforce this decision within five days. See: http://www.ustavnisud.ba/dokumenti/_sr/AP-1217-20-1234093.pdf.



held outside the parliament, in the Skenderija cultural and sports centre, to ensure compliance with the sanitary and prevention measures. The session was held observing the social distancing measures and adequate protective equipment was provided. The session itself was closed to the public. The crisis headquarters of the Sarajevo canton declared the sessions of the entity and national parliaments exempt from the ban on assembly.⁴²

The following plenary session was held through the online platform on 23 April, so the session was not held in the parliament's building but online. The session was available for live streaming through the Facebook Live service. It had six items on the agenda, including amendments to the BiH federation's 2020 budget and the so-called corona law aiming at alleviating the consequences caused by the COVID-19 pandemic.

Following the amendments to the Rules of the Procedure, the sessions of parliamentary committees were held through the online platform, including: the Legislative and Legal Committee, the Local Self-Government Committee and the Information Committee. Upon the sessions' completion, communications about them were available on the parliament's website.⁴³

The House of Peoples held an extraordinary session on 8 April with one item on the agenda, amendments to the Rules of Procedure. The amendments were necessary in order for the House to be able to convene online in case of emergency. The session was also held in Skenderija and was closed to the public. All MPs attending voted for the amendments to the Rules of Procedure (49 votes for the amendments). During the session, social distancing measures were observed. All MPs and parliamentary staff were equipped with safety masks and gloves. The following session of the House was scheduled for 28 April. The session was not held online but in the Parliament's building. It was closed to the public in order for the social distancing measures to be ensured (with the public able to follow the session via social media). The session had seven items on the agenda.

Finally, the crisis headquarters issued new orders on 24 April whereby the measures banning the freedom of movement in Bosnia and Herzegovina were relaxed. Observing the deadlines set by the constitutional court of Bosnia and Herzegovina, the headquarters allowed the movement of persons older than 65 and younger than 18 within certain time intervals.⁴⁴ On 14 May, the prohibition of movement was lifted entirely, but other measures were introduced as part of the relaxation of the current ones. The state of disaster in the BiH federation was abolished on 29 May.

⁴²This way, the work of the legislative bodies was enabled, as well as decision-making ensuring the actions of the executive were beneficial to all BiH citizens. See: <http://ba.n1info.com/Vijesti/a423099/Danas-vanredna-sjednica-Predstavnickog-doma-Parlamentna-Federacije.html>.

⁴³More information is available at: <https://predstavnickidom-pfbih.gov.ba/bs/page.php?id=2261>.

⁴⁴More information is available at: http://fbihvlada.gov.ba/file/3_NAREDBA%20143.pdf.



Assembly of the Republic of North Macedonia

The first COVID-19 case was registered in North Macedonia on 26 February. However, two days before the first case, the government of the Republic of North Macedonia introduced the first set of measures to prevent the outbreak of a COVID-19 epidemic in the country.⁴⁵ One of the first measures was related to forming a crisis headquarters which was led by the minister of health. The headquarters was composed only by medical experts in the field of infectious diseases (MPs did not participate in this body). The headquarters held meetings on a regular basis and gave specialist recommendations for containing the COVID-19 virus to the government. Also, the headquarters was responsible for informing the public about the COVID-19 situation in the country.⁴⁶ During the next few weeks, the government issued numerous decisions in order to prevent the further expansion of COVID-19 in the country (restricting public gatherings, suspending educational activities in schools and faculties, mandatory self-isolation for people coming into the country, restricting working hours of catering facilities, etc).

On 14 March the government formed another body to tackle COVID-19, the Main Coordinative Crisis Headquarters (MCCH). The MCCH had the main tasks of coordinating activities among different public institutions and local government units and proposing decisions and recommendations in order to stop the further spreading of COVID-19.⁴⁷ The MCCH consisted only of members of the executive branch of government (the prime minister among others). From the beginning of March, the government had almost regular daily sessions in order to adopt measures to tackle the COVID-19 situation and on 18 March the government asked the Assembly of the Republic of North Macedonia to declare a state of emergency (SoE).⁴⁸

Even before the first registered case of COVID-19 in the country, the assembly voted on 16 February to dissolve for the upcoming elections which were scheduled for 12 April.⁴⁹ Under the relevant legislation, on 3 January the government was dissolved and a new technical/caretaker government was elected with the primary task of organising free and fair elections in the coming 100 days.⁵⁰

When the assembly is dissolved, article 125 of the constitution empowers the president to declare an SoE and requires the assembly to confirm this decision when it is able to convene. Therefore, the president signed the decision to declare the SoE which came into force on 19 March for 30 days. Before signing the decision, the president of the assembly

⁴⁵More information is available at: https://vlada.mk/sites/default/files/dokumenti/covid/zaklucok_11_vrsm-25.2.2020_godina.pdf.

⁴⁶Besides the national headquarters for the entire country, local and regional headquarters were also created to control the COVID-19 situation in their self-government unit or region. See: <https://novatv.mk/se-formira-krizen-shtab-tri-bolnitsi-ke-bidat-tsentri-za-izolatsija-od-korona-virus/>.

⁴⁷The official decision to form the MCCH is available at: <https://bit.ly/30ynUty>.

On 18 March, North Macedonia had only 35 confirmed cases of COVID-19. See:-

https://vlada.mk/sites/default/files/dokumenti/zaklucok_22_vrsm_vonredna_sostojba.pdf.

⁴⁸The majority of MPs voted for dissolution—80 MPs were in favour and six were against.

See: <https://www.slobodnaevropa.org/a/30437134.html>.

⁴⁹This is the second technical government to be charged with running the country until the elections. The prime minister of the new government is Oliver Spasovski from the ruling majority and a former minister of interior affairs.

⁵⁰See: <https://www.slobodnaevropa.org/a/ostavkom-zaeva-otvoren-put-vandrednim-izborima/30358608.html>.



forwarded the request to declare an SoE to the president.⁵¹ One day before declaring the SoE, the main political parties jointly agreed to postpone the scheduled elections indefinitely. New election days are now set for 13 to 15 July.

From the period when the SoE was introduced, the assembly did not have any plenary or committee sessions mainly due to the dissolution. According to the constitution, the government can make decisions with legally binding force during an SoE. Also, the government is able to limit certain human rights and freedoms during an SoE. This caused some critics among MPs to say that the assembly should convene to discuss the decision to declare an SoE and numerous other government decisions with legally binding force.

During the 30 days of the SoE, the situation did not improve as the government planned, even with the limitation of some human rights and freedoms (such as freedom of movement for instance; and a police curfew was officially introduced on 21 March). Therefore, the government submitted to the president a proposal to extend the SoE by an additional 30 days. The government drafted a detailed report arguing that in order to successfully deal with COVID-19, a state of emergency was still necessary. The president extended the SoE for the additional 30 days after consultation with the Security Council.⁵²

Once the SoE was extended, certain MPs started collecting signatures in order to reconvene the assembly. Signatures were collected with the intention to discuss numerous legally binding decisions made by the government and to confirm the decision by the president to declare an SoE. The initiative to reconvene the assembly was initiated by the biggest ruling party, the Social Democratic Union, and it was supported by some of the smaller opposition parties. However, this initiative was never brought for consideration in the assembly because the speaker of the assembly considered that there was no legal possibility to reconvene an assembly which had been dissolved.⁵³ Some of the opposition MPs also questioned numerous legally binding decisions by the government because they argued that only one third of them were actually related to the COVID-19 situation.⁵⁴ The question of reconvening the assembly was also considered in the constitutional court. However, the court decided not to consider a question from one of their colleagues (a judge in the court) on whether the decision to dissolve the assembly was constitutional.⁵⁵

Taking into account that the situation with COVID-19 virus is still not under full control in North Macedonia at the time of writing, the president has used his powers and extended the SoE twice more. In both cases, the government asked the president to extend the SoE not for 30 days but only for 14 days as this was considered to be more suitable in this instance. Therefore, the president decided on 15 and 29 May to extend the SoE for an additional 14 days. Officially the SoE ended at midnight on 13 June. However, the SoE was again extended on 15 June for an additional eight days. The main reason for extending the SoE once again was that the main political parties agreed that elections should take place from 13 to 15 July and therefore relevant decisions with legally binding force needed to be adopted.⁵⁶

⁵¹ Official information is available at: <https://bit.ly/30tYahP>.

⁵² More information is available at: <https://bit.ly/2AqtgMD>.

⁵³ More information is available at: <https://bit.ly/2zp74IF>.

⁵⁴ In the period from 25 February to 22 May the government was very active and organised 45 sessions in total.

⁵⁵ The constitutional court also decided not to consider the constitutionality of the SoE decision because the decision to introduce an SoE for the first time had legally expired. See: <https://bit.ly/30zjcLN>.

⁵⁶ More information is available at: <https://bit.ly/2U0tnbQ>.



Conclusion

According to relevant government response trackers, it can be easily seen that the Western Balkan region was one of the regions in the world with the most severe measures from the end of March until the end of April.⁵⁷ Some human rights activists and civil society organisations were saying that some of the measures in some of the Western Balkan countries were not in line with constitutions or ratified international treaties.⁵⁸ This paper shows that the entire Western Balkan region introduced certain extraordinary measures which allowed governments to accumulate more power. The constitutional courts of Kosovo and of Bosnia and Herzegovina ruled that the limitation of freedom of movement was not in line with their respective constitutions. Rulings from the constitutional courts signalled that regulations adopted by their respective governments were not adequate and proportionate.

This paper also records how Western Balkan parliaments responded to the outbreak of COVID-19 in the region and how extraordinary measures were introduced. When it comes to the operation of the parliaments in the region, almost all parliaments organised plenary and committee sessions during this period. However, only the parliament of the Federation of Bosnia and Herzegovina was in the position to organise a plenary session online, while the majority of parliaments were organising committee sessions online. All parliaments implemented local health regulations in order to hold sessions. On the other hand, in this period the oversight function of parliaments was limited in their response to COVID-19 crisis.⁵⁹ Some parliaments adopted relevant COVID-19 legislation in order to adequately mitigate the negative effects of the COVID-19 pandemic.

It can be concluded that the COVID-19 pandemic represents a unique crisis which is influencing all aspects of society. Also, the outbreak of COVID-19 created a range of responses from governments and parliaments. As these institutions continue to respond to COVID-19, it is very important to measure and evaluate which measures are producing the desired effects and which are not. Also, it is important to evaluate how these measures are influencing fundamental freedoms and human rights. As governments continue to cumulate more power it is important for parliaments to perform an effective oversight role. Having in mind the current situation in the Western Balkans, it is important for the parliaments to be prepared and to cooperate among themselves regionally in order to enhance their oversight capacities for any new developments in respect to COVID-19 and adopted measures.

⁵⁷For instance, the Oxford COVID-19 Government Response Tracker reports that the majority of Western Balkan countries score more than 90 points out of 100 (100 being the strictest response) during this period. See: <https://www.bsg.ox.ac.uk/research/research-projects/coronavirus-government-response-tracker>.

⁵⁸For instance, freedom of the media, the right to a fair trial, freedom from discrimination and the provision of data protection. See: <https://europeanwesternbalkans.com/2020/04/23/pandemic-measures-further-complicate-problems-with-human-rights-in-the-western-balkans/>.

⁵⁹The recorded number of oversight hearings, committee sessions, reviewing reports from the government etc was very low.



Parliament	Duration of state of emergency or extraordinary measures (number of days)	Plenary sessions organised during extraordinary measures	Plenary sessions organised online	Committee sessions organised online	Decision on limitation of freedom of movement not in line with relevant legislation or constitution (decision from the Constitutional Court)	Adopting relevant Covid 19 legislation	Participation of MPs in Crisis HQ
Parliament of Albania	77 days - State of Natural Disaster is still in force	✓		✓		✓	
Parliamentary Assembly of Bosnia and Herzegovina	84 days - State of Emergency declared for Bosnia and Herzegovina is still in force	✓		✓			
Parliament of Federation of Bosnia and Herzegovina	77 days	✓	✓	✓	✓	✓	
National Assembly of the Republic of Srpska	68 days	✓					
Assembly of the Republic of Kosovo	86 days - Public Health Emergency situation is still in force	✓		✓	✓		
Parliament of Montenegro	47 days of restriction of freedom of movement	✓		✓			
Assembly of the Republic of North Macedonia	83 days - State of Emergency is still in force						
National Assembly of the Republic of Serbia	54 days	✓					

All information are updated on June 8th, 2020

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*Only the following basic information for the Parliament of Albania was available due to technical difficulties in obtaining official information and data.



Human Rights and the Gender Equality Network of Committees in the Western Balkan (HUGEN)

The Westminster Foundation for Democracy (WFD) is the United Kingdom public body dedicated to supporting democracy around the world. Operating directly in over 40 countries, WFD works with parliaments, political parties and civil society groups as well as on elections to help make countries' political systems fairer and more inclusive, accountable and transparent. By being active in the Western Balkans since 1992, WFD is well placed to support efforts to improve governance in the region, political institutions, the rule of law, gender equality and post-conflict reconciliation.

WFD has recently launched a thirty-month programme (from April 2019 to November 2021) which aims to establish a human rights and gender equality network of parliamentary committees (HUGEN) in the Western Balkan region. The programme is supported and funded by the Norwegian Ministry of Foreign Affairs and it will include parliamentary committees from eight parliaments from the Western Balkan region. The programme is implemented by the WFD regional office in Belgrade in cooperation with country offices throughout the region.

Working across the Western Balkans region the programme will support members of parliament and parliamentary staff in strengthening parliamentary cooperation in the region, enhancing oversight capacities of the parliaments and improving the implementation of best human rights and gender equality standards

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