

Impact on Democracy of Emergency Measures Against Covid-19: The Case of Albania

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Introduction

Since the nineties Albania has declared several national emergencies. The violent riots of 1991 and 1997 were prominent cases thereof. The state of emergency was invoked six more times since that time owing to natural disasters. The situation with COVID-19 in 2020 marks a new, unique experience with fundamental differences from the past. In none of the previous states of emergency has public, private, parliamentary and judicial activity been effectively suspended and state propaganda and police force used as creatively as in 2020.

The outbreak of COVID-19 in early 2020 found Albania in a situation of political crisis, whilst stuttering in its efforts to recover from the natural disaster caused by the heavy earthquake of November 2019. The two subsequent emergencies left little breathing space and took a combined heavy toll on the Albanians whilst developing against a backdrop of growing political and institutional dysfunctionality. In February 2019 the opposition had collectively waived its parliamentary mandates and did not participate in political institutions since then.¹

Prior to that, the local elections of June 2019 had taken place in the absence of the opposition. As a result of this, the Socialist Party of Prime Minister Rama easily gained control of 100% of Albania's municipalities, as its candidates had virtually no competition or just makeshift opposition candidates. The legitimacy of the local elections is still awaiting a ruling by the Constitutional Court, while political life remains stuck in a situation of permanent conflict. As of 1 January 2020, Albania took over the chairmanship of the Organisation for Security and Cooperation in Europe (OSCE) and Prime Minister Edi Rama, at the same time Minister of Foreign Affairs, is currently the OSCE Chairman in Office till the end of 2020.

The outbreak of the pandemic followed by the declaration of a state of natural disaster on 23 March 2020 constituted a virtually uninterrupted extension of the state of emergency, as from November 2019 to 31 March 2020 a good part of Albania was officially in a state of natural disaster due to the earthquake of 26 November 2019. The November 2019 earthquake² wreaked havoc on a country already in shambles in terms of constitutional safeguards. At that time, Albania lacked a Constitutional Court and a High Court. It still does. Both courts continue to be dysfunctional because of the vetting of the judiciary. The absence of these key institutions of the justice system, the deepening crisis of the parliamentary and local government system, make the Albanian case unique in relation to other countries, as Albania had to face COVID-19 in a situation marked by the absence and/or poor functioning of some of its key democratic institutions.

¹ The parliament continues to function with only 122 out of 140 deputies, 39-40 of whom are MPs without a clear political identity, coming from the proportional lists as replacements for the outgoing opposition. Over 80% of the 'new opposition' MPs are pro-government, so all government acts easily pass in parliament with only 10-20% of votes against.

² On November 26, 2019, Central Albania was hit by strong seismic tremors, 6.4 Richter, the largest earthquake since 1979. Over 50 citizens lost their lives and over 2000 were injured. The scale of damage was extraordinary for a country with a fragile economic system and infrastructure.

Legal framework on crisis administration in Albania

The legal basis behind the management of emergency situations in Albania consists of the Constitution of Albania (1998), the law 'On Civil emergency' (2019), the law 'On the prevention and fight against infections and infectious diseases' (2016), and 'Law on Public Health' (2009).

The Constitution of Albania (1998) regulates the decision-making practices for the state of emergency. Article 170 of the Constitution stipulates that:

acts taken in the framework of extraordinary measures must be proportional to the degree of risk and must aim at restoring as soon as possible the conditions for the normal functioning of the state. In situations requiring extraordinary measures, none of the following laws can be changed: the Constitution, the laws on elections for the Assembly of Albania and local government bodies, and the laws on extraordinary measures.

Article 74 of the Constitution enables the convening of the parliament in an extraordinary session for the purpose of the adoption of emergency-related measures, limited in time and scope as per the provisions of Article 174. Additionally, Article 84 states that in case of extraordinary measures, as well as in case of urgency, with the consent of the President, the law shall enter into force immediately after being publicly announced. The law must be published as soon as possible in the latest issue of the Official Gazette.

Circumventing the legal framework

In the state of emergency of December 2019, the government passed in the parliament a bill on anti-defamation, severely criticised by the media and civil society as an initiative against the media and freedom of information. An Opinion of the Venice Commission on 19 June 2020 criticised this lawgiving initiative and suggested substantial changes to the legislation passed.³

In February 2020 the Assembly of Albania reduced the powers of the President of the Republic, who until that time was in charge of swearing in constitutional judges. In its June 2020 Opinion, the Venice Commission considered this initiative of the government majority to be wrong. In the second state of emergency situation of March-July 2020 the Assembly continued to hastily pass an astonishing number of legal acts, some of which through expedited procedure. The adoption of such acts, falling under the conditions of a state of emergency are expressly prohibited by the Constitution. This applies in particular to the amendments made to the Criminal Code (April 2020) and to the amendments to the Electoral Code and to the Constitution itself (July 2020).

The changes in the powers of the President, the changes in the regulatory framework of the media and the changes to the Constitution became a source of intense political conflict, as just 10 months before the parliamentary elections, the parliamentary majority unilaterally decided to apply sweeping changes to the electoral system, banning pre-electoral coalitions, a move that was clearly to the benefit of the current government. The online debate on constitutional changes lasted only five days, making Albania, perhaps, the only country in the world to change its constitution in the COVID-19 period through an expedited online procedure.

Just a few days before the declaration of the state of emergency, on March 5, the Assembly approved a normative act of the government called 'On preventive measures in the framework of strengthening the fight against terrorism, organised crime, serious crime and consolidation of public order and security', a law that allowed the police to request seizure for any property of suspects, in the case of non-justification of the origin of the property, within 48 hours.

³ Venice Commission, Opinion No. 980 / 2020, CDL-AD (2020)013, <https://rm.coe.int/vc-opinion-albania-0620/16809ec9c9>.

The growingly unchecked government control over parliament enabled the former to push the latter to approve a host of new pieces of legislation including financial amnesties for individuals in possession of money outside the banking system, changes in the legislation entitling state police to eavesdrop on citizens without a prior court and prosecutorial decision, legislation on the territorial reorganisation of the country related to the upcoming election campaign, privatisation contracts, a law on capital markets, anti-defamation legislation and so on. The government backed down from the fiscal amnesty only after criticism by the IMF followed by pressure from the EU.⁴ It proceeded unimpeded with the remaining pieces of legislation, with the exception of the government-sponsored anti-defamation bill that was also heavily criticised by an international organisation.⁵

Constitutional experts maintain that in a state of emergency, no acts of a permanent nature should be passed unless absolutely necessary. The (mis)use of an emergency situation to spearhead constitutional changes was a severe deviation from sound constitutional practice in Albania. As a consequence of these actions, at least three lawsuits against the government were brought to the Constitutional Court. The President of the Republic used his veto powers to return to parliament at least 13 laws and normative acts passed in the same period.⁶ Of the latter, the Assembly accepted to reconsider only one of the returned laws, whilst overturning all remaining presidential decrees, thus leaving in force the laws as previously approved.

In the period 15 March – 23 June, the Council of Ministers adopted 30 normative acts with the force of law. The Constitution of Albania, Article 101, recognizes the right of the Council of Ministers, in case of need and under conditions of urgency, to issue normative acts that have the force of law, as temporary measures. These normative acts are to be immediately sent to the Assembly, which has to come together in a plenary to decide on their merits within 5 days from receiving them. According to this article, all acts adopted in such a manner become null and void, if they are not upheld by the Assembly within 45 days.

By the first meeting of parliament under the circumstances of COVID-19 the government had already adopted 13 normative acts. In total, 12 other normative acts were adopted as the parliament convened without respecting the constitutional 5-day deadline. Through its normative acts, the government bluntly violated the constitutional principle of separation and balance of powers and brought the focus of decision-making to itself by causing a significant weakening of the institution of the parliament. According to former judge at the European Court of Human Rights, Ledi Bianku, while most of the acts in response to the COVID-19 pandemic were adopted with a legitimate aim, their legal form, the lack of control by parliament within the Constitutional deadlines and the nature of that parliamentary control do not seem to comply with the Constitutional provisions.⁷

The two constitutional key preconditions – need and urgency for emergency measures – which would make the passing of the said normative acts justifiable, were not fulfilled in most of the cases. Parliament did not initiate in any case investigations or request clarifications from the executive on such need and urgency. Overall, most of normative acts with the force of law adopted by the Council of Ministers brought restrictions on the freedoms and constitutional rights of citizens. Decision 20/2006 of the Constitutional Court lays out that fundamental rights and freedoms can not be restricted by bylaws such as decisions of the Council of Ministers, but only by "law". Numerous lawyers criticised the contradiction between the adopted legal acts, the consequences of which, among other things, restricted human rights and freedoms.

In addition to Article 74 of the Constitution, Law 9000/2013 'On the organisation and functioning of the Council of Ministers' stipulates that all legal acts (normative acts, laws, government instructions, etc.) take effect after their publication in the Official Gazette. Orders of the Prime Minister and of the

⁴ <https://www.reporter.al/pas-terheqjes-nga-shkarkimi-i-metes-qeveria-terhiqet-edhe-nga-amnistia-fiskale/>.

⁵ <https://www.reporter.al/anti-shpifja-nje-ligj-ge-mund-te-mbroje-oligarket-thote-venecia/>

⁶ <https://www.parlament.al/LigjeRishqyrtim>.

⁷ Ledi Bianku. Legal Framework, and Previous Experiences, of the Use of Emergency Powers in Albania Albania –Exceptional Extraordinary Measures, <https://verfassungsblog.de/albania-some-exceptional-extraordinary-measures/>, May 2020.

Ministers, in addition to the publication in the Official Gazette, may enter into force immediately after being notified to the interested parties and announced, for at least 3 days, in a visible place of the respective institution. It turns out that some of the orders and acts issued during COVID-19 were never published in the Official Gazette and were not made known to the public.⁸

In a report on the violations of human rights and freedoms during the COVID-19 period, the People's Advocate cited two acts of the Ministry of Health that have not been published in the Official Gazette, adding that 'despite the constitutional obligation to publish the new acts, the measures laid out in the two normative bylaws have been implemented and are being implemented by state structures without gaining legal force as they have not yet been published in the Official Gazette. The public has been informed of the existence of such measures solely through the declarations of the Prime Minister, by the notifications of the State Police or by the media.'⁹

On 17 April, the Prime Minister announced that 13,518 fines imposed during the period 15 March 15-17 April for violations to the ban on circulation and movement rules imposed by the government would be pardoned. Of these, 7107 fines applied to pedestrians who were caught outside their apartments in violation of the schedule of movement restrictions. The fine consisted of a penalty of 10 thousand ALL and of the removal of the right to use a personal vehicle for up to three months. Experts criticised the fact that fines and sanctions were imposed before the legal measures necessary for their enforcement took legal effect, which forced the government to *de facto* forgive the consequences of an illegal act. Whilst the Council of Minister's Decision on the declaration of the state of emergency banned travel outside the territory of Albania, there were cases when senior state officials, including MPs, traveled abroad and upon their return, were not subject to mandatory quarantine. The Prime Minister, after being confronted by the media, admitted that in May 2020 he traveled by special plane to Paris, on a trip for which the Minister had not informed the media or the public.

A faded-out parliament

From 12-30 March, Parliament suspended its sessions. On 31 March it decided to resume work online, by amending its Rules of Procedure. Work resumed online in the parliamentary committees and with limited physical presence in plenary sessions. The amendment of the Rules of Procedure of the Parliament was made on 16 April, with 30 days of retroactive effect. The changes to the rules were made within 4 days, without a public consultation. The restriction on the adoption of acts by accelerated procedure was removed, as well as the restrictions related to parliamentary procedures, especially those related to public consultations, and accountability. There is no end in sight of the online activity of the Parliament, despite the fact that the state of natural disaster officially ended on 23 June 2020.

During the four months of the pandemic, Parliament held 18 plenary sessions, adopted about 150 acts, of which 30 were normative acts on the situation of COVID-19. In July 2020, seven plenary sessions were held in quick succession: 3 sessions within 3 days, on 27, 29 and 30 July 2020.¹⁰ The high number of normative acts passed by the Parliament was clearly linked to the pre-electoral political agenda of the government majority. In the last week of July, the majority initiated and approved the amendment of the Albanian Constitution with regard to the electoral system. The Albanian legislation on the state of natural disaster entrusts the essential decision-making to specialised bodies, while the political institutions are supposed to exercise political control over the legality and effectiveness of the acts proposed by the specialised bodies.

Over a period of four months, the Parliament did not hold a single question-and-answer session on the situation of COVID-19. It did not set up a commission of inquiry into the epidemic, and did not set up a monitoring structure on the measures taken by the executive branch. It conducted 7 interpellations, but

⁸ <http://isp.com.al/wp-content/uploads/2020/06/KUVENDI-I-SHQIP%C3%8BRIS%C3%8B-MASAT-LIGJORE-DHE-ZHVILLIMI-I-AKTIVITETIT-N%C3%8B-PERIUDH%C3%8BN-E-COVID-19.pdf>

⁹ www.avokatipopullit.gov.al/media/manager/ëëbsite/media/Rekomandim%20lidhur%20me%20aksesin%20shtetasve%20ne%20Oktet%20normative%20date%2026%20mars%20seksioni%20i%20vecante.pdf

¹⁰ ISP, Assembly of Albania during COVID – 19, Report, Tirana, August 2020.

none of them related to the problems of COVID-19. Two urgent interpellations were related to the demolition of the National Theatre, two to education and two to the situation of the crime in the country. The COVID-19 situation disrupted the functioning of political parties and cancelled their political agendas. Naming the pandemics as a reason, Prime Minister Rama's Socialist Party cancelled two of its general assemblies, one scheduled in March and another scheduled in July. These general assemblies would have elected the party's steering board, as its statutory mandate had already expired.

Operational management of the pandemic

The first cases of COVID-19 were identified in citizens coming from Italy. Between 8-13 March 2020, several thousand citizens entered the country from Italy. The Albanian authorities failed to establish a testing system for the reception of incoming Albanians from Italy. Institutionally, after identifying 'the patient 0', the government reacted immediately by announcing several restrictive measures. On 11 March, the Ministry of Health declared the state of pandemic and on 15 March, the Council of Ministers approved the normative act 'On special administrative measures during the period of infection caused by COVID 19'. On 12 March Parliament decided to suspend its own activity. It imposed a national traffic ban, a 14-day quarantine system, the suspension of administrative activities, the suspension of the education system, the suspension of public, political, sports and cultural activities, as well as most private activities.

The scale of suspensions was drastic. It created a situation of uncertainty with heavy consequences for the citizens, institutions and businesses. All restrictive measures, initially envisaged for two weeks were extended on 1 April until the end of the pandemic. On 24 March, under growing public pressure the government declared the state of natural disaster. This decision limited 5 constitutional human rights. Just a week later, on 31 March, Albania submitted to the Council of Europe a verbal note on the provisional derogation of Articles 8 and 11 of the European Convention on Human Rights¹¹ until further notice. On 25 March, the Council of Ministers decided to postpone all court hearings on administrative, civil and criminal cases planned by all courts in the country. The suspension of court proceedings at all levels removed all legal guarantees for civil rights, as well as judicial control of normative acts and parliamentary control. The suspension of the activity of the administrative courts denied all opportunity of access to justice to Albanian citizens involved in administrative cases.

According to Article 3 of Council of Ministers' Decision 243/2020 'On the declaration of the state of natural disaster', the highest body for coordination and cooperation of all institutions and financial and material resources for coping with the natural disaster following the epidemic caused by COVID-19, is the Inter-Ministerial Committee for Civil Emergencies (KNEC). KNEC is chaired by the Prime Minister. It consists of 8 ministers and 5 senior officials of the police, army and civil emergency personnel. To date, KNEC has not conducted any documented meetings and has no online presence. All bylaws during the COVID-19 period were issued by the Ministry of Health, while by law KNEC should be the responsible body for this. On 31 January 2020 the Ministry of Health set up a Task Force to prevent the spread of COVID-19, as well as a Temporary Committee on COVID-19.¹² Both structures are headed by the Deputy Minister of Health. They report to the minister and consist of people working under her responsibility. *De jure* all government decisions during COVID-19 were made on behalf of this committee of experts, whose decision-making was never made public.

De facto the Committee of Experts did not make any public deliberations on the management of the pandemic except for publishing statistics on the dead and those under treatment. All technical and political statements for the media were made personally by the Prime Minister or by the Minister of Health. The day to day and the strategic management of the pandemic was purely political. The committee was simply a public relations tool used by the government to announce its decisions and to justify them when they turned out to be wrong. None of the government measures were reviewed by

¹¹ Council of Europe. Reservations and Declarations for Treaty No.005 - Convention for the Protection of Human Rights and Fundamental Freedoms, Albania <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/declarations?>

¹² <https://www.covid19healthsystem.org/countries/albania/livinghit.aspx?Section=5.1%20Governance&Type=Section>.

the committee. On two occasions, the Minister, on behalf of the Committee of Experts, spoke against the activities and attitudes of the political opposition, and always in favour of government acts, even when some of the latter were contrary to the law on the natural disaster situation and violated the rights of citizens. In addition to this, the Government of Albania actively used the application of strict quarantine rules and curfews to keep civil society activists away from the National Theatre building that was swiftly demolished with a legally questionable intervention reminiscent of a police state, just a few hours before the quarantine expired.

Key features of emergency management

Albania's health system has a markedly poor infrastructure. Large numbers of qualified Albanian health professionals constantly emigrate towards EU countries in search of more decent pay. The local health services suffer under a cumbersome and heavily centralised decision-making system. In the period 2013-2020 most hospital services were handed out as concessions to private companies, most of which were blatantly unqualified for the job. The owner of the main private company in charge of the concession of the national health check-up service was herself infected by COVID-19. At the height of the epidemic she chose to be treated in a private hospital in Turkey, causing massive public outcry. Senior state officials affected by COVID-19, including the chairman of the parliamentary committee on health, the directors of major health insurance companies, etc., chose to be treated privately in Turkey, Switzerland, Austria, etc. They chose to avoid receiving treatment in the very national health system they jointly managed.

Albania identified its patient zero in the first week of March 2020. *De jure* Albania was already in a state of emergency due to the recent earthquake. Until early March, the authorities consistently declared that Albania was immune to COVID-19 and harshly criticised any dissenting voice or action that pointed to the contrary. On 23 February 2020, a non-public school in Tirana decided to suspend its teaching activity for two weeks and switch to online teaching due to the spread of the coronavirus in neighboring Italy.

The Albanian government reacted harshly to the school's decision, accusing it of spreading panic and fake news. The Ministry of Education stated that there was no viral situation in Albania and in addition to revoking the school's licence, filed a criminal report against it in the prosecutor's office. Just two weeks later the Ministry of Education issued an order to stop the entire teaching process in the country due to the outbreak of COVID-19, but it did not suspend its decision to revoke the licence of the school that had acted to prevent the spread of the virus. The Prime Minister himself, a day before the announcement of the epidemic, called it a common flu and spoke against the use of protective masks. The government did not accept any responsibility; on the contrary, it considered its role in managing the situation as an historic success and seized upon the opportunity to launch an intensive campaign to improve its image.

The government produced and aired a host of TV spots featuring the measures taken to contain the pandemic, with the Prime Minister and ministers appearing daily whilst warning of danger, leading the emergency efforts and comforting the victims' families. These TV spots showed MPs and state officials engaged in handing out state aid packages, and police and military showing solidarity to those affected.

Previously, the Prime Minister had personally accompanied every foreign delegation in the earthquake-stricken areas. He invited two children who lost their parents in a meeting with famous footballers Ronaldo and Buffon in Turin (Italy) in a well-publicised move to de-dramatise the heavy consequences of the earthquake, and to shift the public attention away from the responsibilities of the state officials who had given construction permits in unsafe areas and had allowed poor quality construction to spread throughout the country. Six months after the earthquake, no high-level state official has faced justice, despite the dramatic consequences resulting in considerable loss of life and widespread material damage.

In the period January-June 2020, Freedom House, Transparency International, Reporters without Borders, and other watchdog organisations published reports that were highly critical of Albania, in the areas of democracy, good governance, media and human rights and freedoms.

Monopolisation of public information under emergency conditions

Until 2020, in Albania natural disasters usually led to two easily predictable consequences: 1) reduction of political tensions paving the way to a consensual handling of the crisis; 2) increased support *for* and increased influence *of* the government. After the Gerdec tragedy of 2008¹³, the opposition gave public support to the government, and the latter, although heavily involved in the scandal, went on to win the parliamentary elections of 2009. When Albania was hit by an earthquake in 2019, politicians of all camps joined in the humanitarian response. The support for the government increased significantly. In cases of disaster and tragic events, the political culture in Albania tends to shun serious investigations into actual responsibilities, in favour of entrusting the government with managing the situation, and in rallying behind the usually weak and ill-prepared state authority to weather the crisis.

Traditionally, in times of natural disasters, in view of the low capacity of the institutions to handle crisis situations, Albanian leaders make exceptional personal efforts to prop up their humanitarian credentials; they make donations, distribute aid and establish direct communication with those affected; they quickly mobilise the support of their local party structures to maximise public outreach. In addition to these understandable, but not always commendable efforts, the state apparatus has a penchant to fight critical voices in the media through different ways of putting pressure on those having an opinion that does not suit the government narrative.

In 2020, this old phenomenon grew into a new dimension. All public communications were ostensibly focused on the messianic function of the Prime Minister, the institutions faded away and the critical voices died out. To date, for the whole duration of the COVID-19 regime in Albania there exists no publicly available data (film footage, photographs, etc.) proving that there were regular meetings of the Council of Ministers. In the second week of March 2020, the government announced the launch of its official online portal (e-albania), through which citizens could apply for a permit to move out of their residences or to use their personal vehicles for work and emergency purposes. During the first month of the pandemic, 2.2 million applications were issued for exit permits alone.¹⁴

In the period March-May 2020, application on this online portal became the only way to resolve claims, while according to Eurostat data in January 2020 only 68% of Albanian citizens had internet access. The concentration of all queries onto only one government portal, not only excluded from the vital public services about 30-32% of citizens without internet access, but also another large number of users who do not possess the technical knowledge or are otherwise unable to use an online portal. Although it is arguable that the over-concentration of citizen queries, reduced bureaucracy and prevented corruption, it also weakened the institutions and administrative mechanisms in charge of the state-citizen relations. Furthermore, the unregulated and therefore unlimited use of their personal data has created a database that can be misused for electoral purposes.

Repercussions on the freedom of the media

The media sector in Albania, which employs about 6,120 journalists, editors, operators and support staff, was severely affected by the pandemic. According to the data received by journalists' associations, during the pandemic more than 45 journalists lost their jobs, 40% of all media employees had their salary reduced¹⁵ by up to 50 percent.¹⁶ Journalists lacking personal employment contracts

¹³ The Gerdec explosion took place in a military facility 11 km from Tirana on 15.3.2008. It killed 26 people, over 300 were wounded and 4,000 people were evacuated. Even though top-level state officials and their relatives were allegedly involved in the incident, only low-tier officials were investigated and prosecuted.

¹⁴ <https://akshi.gov.al/karcanaj-pandemia-deshmoi-se-investimet-teknologjike-ne-shqiperi-jane-reale/>

¹⁵ <https://al.ejo-online.eu/ekonomia-e-medias/cipa-media-pesoi-goditje-te-rende-nga-pandemia>, 18.07.2020.

¹⁶ Deutsche Welle, 29.04.2020.

make up more than 90 percent of the workforce in the media market. Most journalists work based on collective agreements, and a minority work illegally. The media owners did not compensate the laid-off workers, taking advantage of the “natural disaster” clause.¹⁷ The print media that tried to continue to run business as usual were prevented from doing so because local authorities banned the activity of newspaper sellers.¹⁸

After the closure of the print media, the main role for informing the public was taken by the visual media and especially by online portals. The government decision on March 13 set a limit of two people in all shows or debates on television stations. Some media outlets were administratively sanctioned over this restriction measure by the health authorities, but public pressure forced the audiovisual media authority to suspend the penalties.

In December 2019, in the period of the first state of emergency, the Prime Minister described as ‘criminals’ those journalists who made critical reports of the situation and within a short time after his statement, 5 journalists and 3 media managers were put under investigation by the state authorities on accounts of false reporting.¹⁹ The investigations concluded that the journalists were correct in their reporting and all were declared innocent. According to the 2019 report of Reporters without Borders, Prime Minister Rama periodically labelled media and journalists with denigrating and insulting words, such as “*forgers, pigs, villains, hypocrites, parasites, liars, lazy, hostile, irresponsible, ignorant, villagers.*”²⁰

The absence of journalists in the field, owing to the significant travel restrictions, and to the limited resources at hand, put all sources of information in the hands of the state, with Prime Minister Rama’s online television channel, ERTV, taking the lion’s share amongst the official sources of information. The Prime Minister appeared on average 3 times a day on his TV channel, commenting on the situation, giving advice, announcing government decisions, commenting on his critics, making political statements and promoting the decisions of his government.

The dominance of the Prime Minister over the sources of public information began on 12 March, when in an unprecedented action, the Prime Minister sent a personal audio and text message to all Albanian citizens who owned mobile devices, warning them to beware of the media and its reports with regard to the pandemic. On 27 April he used the personal email addresses of every citizen, sending a message that asked for support for the measures announced by his government. The Prime Minister readily used the national network of telephone services, emails and personal data only 4 months after he appointed one of his close advisers as the director of the national regulatory body for electronic communications, AKEP. His public appeals directed against the media and the use of citizens’ personal data provoked critical reactions at home and abroad.²¹ AKEP justified its actions as follows: “*In the absence of coordination between institutions and powers, the Prime Minister proposed to send a vocal message to all citizens. This message was sent out for the purpose of raising awareness and the Prime Minister with the approval of the network operators requested that it be limited in time, only for the weekend.*” In addition to being unfounded in law, this action highlighted the real lack of preparation and coordination between institutions whilst coping with COVID-19.

In this period, the Prime Minister extensively compared the situation of the pandemic to a state of war and intensively used the terms ‘war’ and ‘enemy’, in relation to the pandemic management and to the virus respectively, a discourse that was criticised for its penchant to create panic and to silence critical voices. On 12 March, the Prime Minister told ERTV that the country is at war and the response to the enemy will be the same as in wartime. The Prime Minister went on with daily lectures on ‘wartime wages’ (state financial aid), ‘war hospitals’ (COVID-19 medical facilities), ‘resistance in times of war’ (quarantine), ‘fake news at war times’ (media criticism), and so on. According to the government ‘war

¹⁷ Deutsche Welle, 29.04.2020.

¹⁸ Aleksandra Bogdani, BIRN, 30.3.2020.

¹⁹ Geri Emiri, BIRN, 20.7.2020.

²⁰ <https://vertetmates.mk/censura-dhe-autocensura-ulen-indeksin-e-lirise-se-medias-ne-shqiperi/>.

²¹ Media Freedom Violations in the EU under COVID-19 <https://ipi.media/media-freedom-violations-in-the-eu-under-covid-19/>

narrative', 'fighting the invisible enemy' justified all measures and outweighed all costs.²² The government's main thesis was 'crazy measures for crazy times'²³, in response to criticisms for taking actions that ran contrary to the constitution and to the law in force. On March 20, the Prime Minister distributed to the media footage and photos of Albanian military units in armoured vehicles fitted with heavy machine guns whilst patrolling the streets of Tirana, noting that the army '*will protect the people from a very small minority of irresponsible individuals, real traitors, who can do us a lot of harm and should not be allowed in any way to wreak havoc upon thousands and thousands of innocents, and to bring great suffering upon them*'²⁴.

Through his online personal channel (ERTV), the PM became the only source of insight into any decision-making on the situation in the country. He used this opportunity to experiment in creating the perception that the government had everything under control and that all penalties and privileges were his personal monopoly and would be enforced under his direct and exclusive discretion.

On 18 March, the Prime Minister announced a ban on citizens leaving their apartments with other people by their side, adding to the penalties not only a financial fine, but also their exclusion from state aid and the financial solidarity package. There was no normative act, no government decision or any other official document with regard to the added penalty. Yet the purely verbal order of the Prime Minister came into force and was implemented by the police and financial authorities. Partial restrictions on the population enforced following the verbal orders continued throughout the period March-May 2020.²⁵

Use and abuse of emergency measures: the demolition of the National Theatre and police repression in the name of COVID-19

For 27 months in a row, numerous artists, actors, public intellectuals, ordinary citizens and civil society activists had protested against the government's plans to demolish the National Theatre building to favour a private development thinly disguised as the construction of a new theatre. The protest for the protection of the historic building of the national theatre is the longest protest in the history of transition in Albania.

Over the last three years, the Government of Albania and the Tirana Municipality led by Mayor Erion Veliaj tried various ways to demolish the building, including removing it from the list of protected heritage, its declaration as structurally unsafe, and finally on 8 May 2020, through its transfer under the ownership of the municipality, which is 100% controlled by the Socialist Party of Prime Minister Rama. This gave free rein to Mayor Veliaj to proceed with the destruction of the building. Accordingly, the municipality with an expedited procedure, wholly non-transparent and contrary to the legislation, 24 hours before an announced meeting of the Municipal Council announced that the meeting was to be held online and the demolition of the theatre was voted for unanimously by email. At least two members of the city council resigned, claiming they did not vote in favor of the demolition. An investigation was launched by the judiciary; however the case was subsequently archived.

²² <https://exit.al/midis-dy-zjarreve-media-ne-kohen-e-covid19/>.

²³ Skender Minxhozi. Human Rights or right to stay alive, Java News, 10.4.2020.

²⁴ Edi Rama. <https://dritare.net/ngjarjet-e-dites/video-ushtria-del-ne-terren-rama-do-te-mbrojne-popullin-nga-nje>.

²⁵ On April 17, the Prime Minister announced that the movement of retired people for April 18 was allowed as of 11.00 hrs accompanied by only one person. Another act allowed the limited movement of authorized vehicles and only one person sitting in the back of it, 'positioned diagonally with the driver of the vehicle'. A day later, the Prime Minister announced for next Sunday the permission to leave the apartment until 11.00 for mothers with children up to 10 years old. Another order increased the age of children to 14 years old. On April 24, the Prime Minister announced that in the green zone the movement of vehicles with only 2 people in the car was allowed and stopped the movement of more than two people together in public. On April 25, the Prime Minister announced that retired persons could leave between 06.00-08.30 unaccompanied by another person. He banned the movement of any other person other than those with authorization. The Prime Minister announced on May 4 that retirees could leave the apartment for 60 minutes, between 09.00-10.00, and between 11.00-17.30 parents were be allowed to move with children under 14 years old. On May 8, the Prime Minister changed the schedule of pensioners to 9.30 and that of parents, allowing only one of them.

The illegitimate decision of the city council provoked harsh criticism.²⁶ Civic groups, the arts community and opposition parties announced a 24-hour non-stop action in defence of the theatre, while the government announced it would launch criminal proceedings against individuals violating rules in force to contain the pandemic. On 17 May, in the early hours of the morning, special police forces violently intervened against the civic activists inside the building. In a few hours they demolished the Theatre building. Following the news, several thousand citizens gathered in protest. Albania made news in the international media which covered the violent police intervention, the destruction of the national heritage, and the repressive measures against civil society activists.

Under the COVID-19 safety regime, more than 500 citizens, most of them supporters of the opposition, were prosecuted on charges of violating traffic schedules or participating in protests and public activities. Between 15-17 May 2020, during the civil and political reactions in defence of the National Theatre, the State Police penalised 42 citizens (on 15 May), 47 citizens (16 May), detained 34 and penalised 64 (May 17). The police did not comply with the safety anti-COVID measures and protocols whilst holding citizens responsible for failing to follow them. The situation became so absurd that for example, the same person was punished 2-3 times within 72 hours with a fine and revocation of his driving licence, when the latter can be revoked only once if the person possesses it.

On 14 May, the police imposed administrative fines and the withdrawal of driving licences for 11 citizens, who posted a joint photo in a closed environment (cafe), in violation of the COVID-19 measures. All those penalised were leaders of the political opposition. A few days later an open-air public activity was held against gender-based violence in Tirana with a significantly higher turnout. In this case, there was no reaction from the authorities and no penalties were imposed. On this occasion, the People's Advocate Institution argued that in the case of the demolition of the National Theatre the police acted on the basis of order 132/2020 of the Ministry of Health, which prohibited any form of public gathering during a situation of a pandemic. On the other hand, normative act 3/2020 passed as a law in Parliament on special administrative measures, prohibited only 'mass gatherings', and not 'non-massive' ones. Apparently the government-sponsored massive events were aptly considered as 'non-massive' gatherings.²⁷

Most punitive measures against the citizens were based on the order of the Ministry of Health and not on the normative act of the Council of Ministers, despite the fact that in the legal hierarchy the normative act with the force of law supersedes the order of a ministry. On 8 May, the state police arrested and sent to the prosecutor's office 10 civil society activists for illegally protesting in Tirana's main square. Three of them were accused by the police of calling through social media for protests. In a communication with the People's Advocate, the State Police reported that in the period March-June 2020, 27 rallies and protests were held, on account of which 21 of their organisers were detained, arrested or sent for criminal prosecution. From the monitoring of the daily announcements of the State Police, it appears that in fact the Police detained about 320 citizens, most of whom were prosecuted, on charges of violating the circulation restriction and especially for participating in public activities in the period of the COVID-19 pandemic.²⁸

In the period March-June 2020, over 65 local protests took place, mostly by workers demanding unpaid wages or protesting against collective dismissal, by social groups with minimal economic demands, with individuals and small groups of civil society protesting against flagrant cases of abuses by the authorities. Also, further protests against the demolition of the National Theatre took place in several cities across Albania, including the major cities of Durres, Shkodra and Korca. State authorities persistently applied double standards in addressing public rallies, by actively taking each and every opportunity to penalise voices critical of the government and by openly tolerating public activities that

²⁶ <https://portavendore.al/2020/05/15/tirane-keshilli-bashkiak-miraton-fshehtas-shembjen-e-teatrit-kombetar-shoqeria-civile-merr-ne-mbrojtje-godinen/>.

²⁷ www.avokatipopullit.gov.al.

²⁸ ISP. Legal measures under the COVID – 19 regime, Tirana, June 2020.

saw the participation of personalities close to the ruling majority, as shown by the case of the aforementioned Tirana open-air event.²⁹

During the COVID-19 pandemic, several state entities and institutions, first and foremost the Municipality of Tirana, the State Police, as well as most of the ministries organised public activities, concerts, and even beauty contests in full violation of the safety protocols in force. However in none of these cases reported in the media, was there any investigation or any administrative penalty such as a fine or revocation of the driving licence as was the case with the activities that saw the slightest note of criticism against the government.

The main concern regarding the handling of all forms of expression of dissatisfaction with the government was related to the fact that in this period all legal and constitutional mechanisms for the protection of rights were absent. In the absence of the Constitutional Court and of the judicial system, the citizens did not have a defence mechanism to address their grievances. In this period, in addition to a lawsuit filed by the President of the republic, twelve lawsuits were filed by civil society groups against police violence, human rights violations and illegal practices pursued by the state authorities. At the time of the writing of this paper, there is still no investigation underway further to the lawsuits nor any response to them.

Conclusions

This article has discussed the main areas where the emergency measures taken against COVID-19 have actually eroded Albania's democratic fibre. It has argued that the Government of Albania has actively instrumentalised the pandemic to advance its political agenda, whilst undermining public scrutiny, free expression and free press. In a situation marked by the absence of the key institutions of the justice system, including the lack of a Constitutional Court as a result of a highly problematic justice system reform, the Government of Albania remained the only player in the field, to the expense of the other democratic institutions, and to the detriment of the constitutional balance of powers. As the evidence shows, the overinflated presence of the Prime Minister, the hastily passed pieces of legislation in breach of the Constitution and the politicisation of the pandemic and the personalisation of the government narrative of the relief efforts centred on the Prime Minister, wreaked havoc on the already fragile democratic fibre of the country. It is therefore concluded that in a system lacking the minimal checks and balances, the room for manoeuvre for safeguarding a viable democracy is shrinking, and vigorous efforts are needed from all levels of society and by the international community to reverse this trend.

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²⁹ On June 4, 2020, a large-scale event was staged against a case of sexual abuse and violence against women. Thousands of citizens, including politicians and public figures, took part in it. Although the demonstration took place in violation of the restrictions of the COVID-19 epidemic, the authorities allowed it and nobody was penalised for infringing upon safety protocols.