

# MONTENEGRO AND THE CORONAVIRUS:

the state of the nation in the first six weeks





A stylized illustration featuring grey silhouettes of people's heads and shoulders against a white background. In the bottom left corner, there is a red gift box with a yellow tag attached by a green ribbon. The tag has some illegible text on it.

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## A GOOD PASTIME

Montenegro has been facing the novel coronavirus pandemic for six weeks now. It should be noted that the results are rather good in the area of public health protection. Some parts of the system have demonstrated an enviable capacity to successfully manage this health crisis, while Montenegrin citizens have demonstrated both responsibility and discipline in respecting measures and complying with the accompanying recommendations. This synergy has had a significant impact on the success in curbing the disease so far. This success is reflected in the relatively small number of registered infected persons and the lowest mortality rate in the region, and among the post-Yugoslav states<sup>1</sup>.

Apart from the central health aspect, this situation has different implications on democratic practices and respect for human rights and freedoms, as well as on economic development. The future lives of many will be shaped by the outcome of these implications. The report *Montenegro and the coronavirus: state of the nation in the first six weeks* assesses the state of democracy and human rights in the country during the pandemic with the aim of pointing to the necessary balance in protecting public health and the democratic framework of society. The two cannot and should not be opposed concepts. Unfortunately, the facts, perceptions and experiences of different stakeholders raise concerns that in the complex Montenegrin socio-political milieu - also characterized by institutions with weak democratic capacity - issues that can return in the form of serious problems are easily overlooked.

The outbreak of the novel coronavirus has shaken the world, and there is an assessment that this represents a turning point that can lead to significant changes in various ways. Therefore, it is important not to weaken democratic standards and human rights when addressing this situation. It is as important to strengthen solidarity and trust within society in order to deal with the forthcoming challenges.

*'The major social, political and legal challenge facing our member states will be their ability to respond to this crisis effectively, while ensuring that the measures they take do not undermine our genuine long-term interest in safeguarding Europe's founding values of human rights, democracy and the rule of law,'* states the document published by the Council of Europe as a guidance for member states in the context of the virus-induced crisis<sup>2</sup>.

The document also recalls the earlier opinions of the Venice Commission that, even in extraordinary situations, the rule of law must be respected. The fundamental principle of the rule of law is the state's compliance with the legislation. *The principle*

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<sup>1</sup> Sloveniaa 5,78%, Northern Macedonia - 4,30%, Albania - 4,07%, Bosnia and Herzegovina - 3.82%, Kosovo - 2.84%, Croatia 2.52%, Serbia - 1.91%, Montenegro - 1.56%. Data downloaded from the site <https://www.worldometers.info/coronavirus/> on 24 April 2020, at 11:00, except for Kosovo for which were taken from Wikipedia statistics

<sup>2</sup> Respecting democracy, rule of law and human rights in the framework of the COVID19 sanitary crisis - a toolkit for member states, published on 7 April 2020. Available at <https://rm.coe.int/sg-inf-2020-11-respecting-democracy-rule-of-law-and-human-rights-in-th/16809e1f40>

*of necessity requires that urgent measures enable achievement of its purpose with minimal modification of the rules and procedures of the democratic decision-making<sup>3</sup>, the document explains.*

Against this backdrop, CCE's research team analysed the institutional framework and practice related to the public health emergency, respect for human rights, opposition's view, the stance of media and civil society, as well as a brief overview of independent institutions. Publicly available sources were used, and for the sake of qualitative insight, due to the inability to organize a focus groups during pandemic, 10 interviews were conducted with representatives of non-governmental organizations, media, judiciary and the healthcare system. Views of the interviewees have been included in the report. Interlocutors have been anonymised, with an indication to which area of work s/he belongs.

## **CRISIS MANAGEMENT: FORMAL IMPEDIMENTS AND POLITICAL CHOICES**

The National Coordination Body of the Government of Montenegro declared the epidemic of the novel coronavirus on 26 March 2020.

The management of this crisis situation is centralized and mostly done through the National Coordination Body for Infectious Diseases of the Government of Montenegro, headed by the Deputy Prime Minister for Economic Policy and Financial System, Milutin Simović, whose deputy is the Minister of Health, Kenan Hrapović. It consists of 18 members (+ secretary) from the Ministry of Health, Institute of Public Health of Montenegro (IPH), Clinical Centre of Montenegro, Ministry of the Interior, Ministry of Defence, Ministry of Economy, Ministry of Transport and Maritime Affairs, Police administration, Administration for Inspection Affairs, Secretariat for Legislation, Capital City Podgorica, the National Security Agency and the Office of the Prime Minister. The National Coordination Body for Infectious Diseases (NKT) has five operational headquarters. Their tasks include: 1) coordination of measures to prevent the spread of coronaviruses, 2) implementation of activities related to the return of Montenegrin nationals from abroad, 3) supporting the economy during coronavirus prevention measures, 4) requests for and coordination of international assistance, and 5) donation management. Each of the headquarters has a staff between four and 17 members, who include representatives of institutions and public companies at managerial level. The National Coordination Body for Infectious Diseases also has a Crisis Medical Staff consisting of 13 members from various health institutions. The Crisis Medical Staff also includes three additional teams (for the establishment

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3 Ibidem

of temporary hospitals, establishment of respiratory centres, provision of medical equipment and supplies) whose number of staff varies from four to seven.

Until 14 April 2020, the legal basis for the establishment of the National Coordination Body for Infectious Diseases was unknown to the public. Then, as a result of the increased public interest, detailed information was published on the website of the Government of Montenegro<sup>4</sup>. However, the announcement did not ascertain when exactly the National Coordination Body for Infectious Diseases had been established. Leaked information points to 30 March 2020, which raised further questions about the legal basis on which the National Coordination Body for Infectious Diseases had previously issued orders and measures in order to prevent the spread of the novel coronavirus<sup>5</sup>. Also, it remains unclear as to why the Government of Montenegro had not promptly announced the decision on the formation of the National Coordination Body for Infectious Diseases, but rather allowed the issue to develop in this manner. Even in a comprehensive and detailed document in which the Government thoroughly described all of its activities in response to the coronavirus epidemic, there is no information when exactly the National Coordination Body for Infectious Diseases had been formed<sup>6</sup>.

None of the ten interlocutors from different fields knew how to explain the position of the National Coordination Body for Infectious Diseases, Crisis Medical Staff and other bodies that were subsequently established.

*'Not only am I not acquainted with their structure, legal basis of their establishment, jurisdiction and accountability system, but also, most importantly, I am not acquainted with their interrelation, i.e. whether there is a relationship of mutual cooperation between them, or is it cooperation and mutual control at the same time, or exclusive control of one body over others... Also, I am not aware of the way they make decisions and whether this decision-making is based on communication with other authorities and bodies or whether they are independent and autonomous in their decision-making. Finally, I do not understand to whom they are responsible for their work, how and what kind of relationship they have with the Government of Montenegro. Competencies of these bodies vis-a-vis other state and local self-government bodies is a specific issue. Press releases that practically exert influence on the bodies responsible for detecting and prosecuting criminal offenses and misdemeanours. There have also been official communications<sup>7</sup> in which inspecting units had been asked to perform*

4 Announcement of the National Coordination Body for Infectious Diseases, published on 14 April 2020. Available at: <http://www.gov.me/vijesti/223775/NKT-nije-isto-sto-Koordinaciono-tijelo-za-prevenciju-i-iskorjenjivanje-zaraznih-bolesti.html>

5 Vijesti online (2020) 'Worked in a 'company' that did not exist', published 16 April 2020. Available at <https://www.vijesti.me/vijesti/drustvo/radili-pod-firmom-koja-nije-postojala> Vijesti online (2020) 'Bošnjak: Constitutional Court to stop legal violence, National Coordination Body for Infectious Diseases is a branch of DPS', published on 14 April 2020. Available at <https://www.vijesti.me/vijesti/politika/bosnjak-ustavni-sud-da-zaustavi-pravno-nasilje-nkt-podruznica-dps-a;>

6 Document of the Government of Montenegro 'Responding to the COVID-19 Pandemic' published 20 April 2020. Available at <https://documentcloud.adobe.com/link/track/?pageNum=78&uri=urn%3Aaad%3Aascds%3AUS%3A8f7f2f80-d7c2-49f1-a11e-48b9fc305438>

7 Vijesti online (2020) "National Coordination Body for Infectious Diseases: prohibition of movement within the group is not respected in PG, non-compliance with wearing protective equipment in stores throughout Montenegro" published on 16 April 2020. Available at <https://www.vijesti.me/vijesti/drustvo/nkt-u-pg-se-ne-postuje-zabrana-kretanja-u-grupi-u-trgovinama-sirom-cg-nepostovanje-nosenja-zastitne-opreme>

*'enhanced controls and sanctions for infringement, including the closure of facilities.' This means that specific sanctions were suggested to independent inspection bodies, which is contrary to law,'* the interlocutor from the judiciary elaborates on his stance.

In addition to criticism regarding the general unknowns about the formation and operation of the National Coordination Body for Infectious Diseases and the absence of the involvement of independent experts or those who might be closer to political parties, other than the ruling ones, the efficiency of that body has also been highlighted. *'In fact, all key decisions related to the epidemic were made by the National Coordination Body for Infectious Diseases and it seems that they have managed the crisis quite well. The impression was that the National Coordination Body for Infectious Diseases had good cooperation with the key institutions at national and local level. Communication with the public through regular press conferences was also good<sup>8</sup>,*' one of the journalists said.

According to the data of the Montenegrin Trade Union of Physicians, Montenegro has 42 epidemiologists. However, only three of them are amongst more than 100 members of a complex structure that includes the National Coordination Body for Infectious Diseases, Operational Staff, Crisis Medical Staff and its teams.

*'Professionals engage only after passing through a political filter. Only politically active stakeholders are involved in making decisions and strategies. It is unclear how the measures on curbing the epidemic, which are the domain of epidemiology specialization, are managed by surgeons, orthopaedists, forensic pathologists... But what they all have in common is political affiliation with or affinity to the ruling parties,'* an interlocutor from the healthcare system noted<sup>9</sup>.

## AN EMERGENCY WITHOUT A DECLARED STATE OF EMERGENCY

State of emergency has not been formally declared in Montenegro, although numerous of the adopted measures are quite severe. Most of the respective measures have been in line with the existing legal and constitutional framework, with the exception of the publication of the list of persons in self-isolation and certain measures related to restriction of movement. The opposition had raised this issue, and they seemingly favoured the imposition of a state of emergency. The fact that the state of emergency would imply additional restrictions on the rights and freedoms of citizens was lightly neglected, which, precisely because of the weak democratic capacities of the institutions had to be avoided.

*'The state of emergency has not been declared but declaring an epidemic in*

8 Interview no. 1, conducted on 10 April 2020

9 Interview no. 10, conducted on 17 April 2020



accordance with the provisions of the Law on Protection of Population from Infectious Diseases has the character of an emergency. The state of emergency in the legal framework enables the executive authorities to take measures to protect the population. According to the Criminal Code of Montenegro, failure to comply with such measures is subject to criminal liability,<sup>10</sup> explained an interlocutor from the judiciary.

'At the very beginning of the crisis, the Government was managing the situation well and had the trust of everyone. However, as soon as the implementation of the specific measures for the suppression of the virus began, numerous polemics arose as to whether these measures could be enacted without the state of emergency, whether these measures are effective, as well as whether some of them are really necessary,<sup>11</sup> summarises the impression of an interlocutor from the NGO sector.

## NOTICES: CAUTIOUS TOWARDS THE RULING PARTY

The communication with citizens mostly calls for (self)discipline and solidarity. However, intolerance towards others, especially towards those with a different political stance, also leads to the conclusion that people consciously take the burden hoping for benefits in the future. *'The communication strategy of the Government and National Coordination Body for Infectious Diseases looks as if the ruling party wants to take the opportunity to attribute to itself the successful outcome of the fight against the novel coronavirus epidemic. This is supported by the fact that the*

*activities of the Government and the National Coordination Body for Infectious Diseases, incidentally, are led by senior officials of Democratic Party of Socialists (DPS) or those who are well-known for their commitment to that party. Even though epidemiologists, anaesthesiologists, etc. are on the front line of the fight, they are*

## SCHOOLS: THE GREATEST EFFORT



This situation was also a major challenge for the education system, which promptly adapted to the need to have pupils and students studying at home. A great effort, enthusiasm and dedication in that system were all evident. In particular, teachers who stood in front of the cameras and recorded lessons should be singled out, as this represented a major and abrupt change for their usual work. Home-schooling also requires significant parental engagement and a different approach of children themselves. This means that a more comprehensive assessment of the success of this segment will be feasible in the coming period.

<sup>10</sup> Interview no. 4, conducted on 14 April 2020

<sup>11</sup> Interview no. 7, conducted on 17 April 2020

*marginalized in public discourse. I think that this is an attempt to win the elections that the government would call as soon as possible when the pandemic ends<sup>12</sup>,* one of the interviewed journalists said.

*'The dominant discourse of the government in dealing with the crisis is urging citizens to be self-disciplined, but also to clearly envisage punishment of all those who disobey the measures<sup>13</sup>'* stated an interlocutor from the judiciary. The interviewees from the NGO sector noted that the government's narrative oscillated between appeals for solidarity and shifting the blame to citizens. As the time passes, the latter is becoming ever more evident in the official communication. It is noticeable that the officials themselves are not consistent in this in their public statements – some emphasize the discipline and solidarity of citizens, while others treat citizens as children who need to be scolded.

Numerous measures that were adopted were frequently insufficiently clear. They were often accompanied by additional interpretations or amendments due to the assessment that they were not applicable in their original form. Citizens demonstrated a great understanding towards these measures, even though many were undoubtedly hard to endure. A survey commissioned by UNICEF and conducted by Ipsos Strategic Marketing, also indicated that they had a major support of up to 96% of citizens<sup>14</sup>. In this first phase, as expected, citizens showed a great degree of trust in the National Coordination Body for Infectious Diseases and the most recognizable persons from the healthcare system who presented official data. Namely, in a situation of such imminent danger, people turn to authorities and the competent institutions in the hope that they will provide them with adequate protection and safety. It remains to be seen to what extent this trust will be maintained in the forthcoming period, given the uncertainty of the duration of the pandemic and the possibility of its second wave in the autumn of this year.

*'Good results of the measures were attributed to the Institute for Public Health of Montenegro, while citizens were reprimanded for the poor results and their allegedly irresponsible behaviour. And citizens have demonstrated a high degree of cooperation<sup>15</sup>,* notes an interlocutor from the healthcare system.

Unlike in some countries in the region, such as Serbia, there was no mention of 'internal enemies'. However, the response of the authorities in the case of the failure to deliver the ventilators from Serbia was widely commented on as something that favoured the use of the 'external enemy' matrix.

12 Interview no. 2, conducted on 9 April 2020

13 Interview no. 4, conducted on 14 April 2020

14 First survey of public opinion 'Public opinion in Montenegro about coronavirus' conducted by IPSOS with the support of UNICEF Montenegro published on 3 April 2020. Available at <https://www.unicef.org/montenegro/price/mjere-fizicke-i-društvene-distance-podžava-92-posto-građana-crne-gore> . Second survey of public opinion 'Public opinion in Montenegro about coronavirus' conducted by IPSOS with the support of UNICEF Montenegro published on 11 April 2020. Available at <https://www.unicef.org/montenegro/price/da-vjerski-velikodostojnici-treba-da-pozovu-građane-da-uskrs-slave-kod-kuće>

15 Interview no. 10, conducted on 17 April 2020

## LEADERSHIP WITHIN LIMITS

The Prime Minister did not expose himself much in the traditional media but had predominantly addressed the public via official Twitter account on specific issues or highlighting the Government's activities related to various aspects of the fight against the coronavirus. There were also several hasty performances in the first weeks of the fight against the pandemic, which did not contribute to the appeal for unity.<sup>16</sup> However, no significant confrontations with other actors in society occurred, which shows potential for correcting the previous non-inclusive policy of the Government.

Many commented on the absence of President Milo Đukanović from the media, especially in comparison to his colleague from Serbia, Aleksandar Vučić. However, in the particular case, unlike Vučić, Đukanović acted within his competences. But there are also opinions that such an approach has left consequences on his position. 'Duško Marković and the government have completely overshadowed the President of the State and the Democratic Party of Socialists (DPS), Milo Đukanović, whose personal authority may not come to the fore for the first time in many years'<sup>17</sup>, said one of the interviewed journalists.

Also, the Minister of Health has noticeably been marginalised. For instance, the President visited two health institutions during lockdown - the Clinical Centre of Montenegro and the hospital in Berane, and subsequently the Municipality of Tuzi after the special quarantine measures had been abolished. The Minister of Health was not part of any of these delegations, but there were senior representatives of the Crisis Medical Staff. The Minister of Health was mentioned by a number of interlocutors in an extremely negative context. '*The loss of valuable time for the preparation of the health system's response to the pandemic has caused infection of healthcare workers in some hospitals at the very beginning*',<sup>18</sup> reveals an interlocutor from the health system.

Reflecting upon the pandemic, the interviewee employed in the healthcare system also indicated that '*the Ministry of Health, management, the Institute for Emergency Medical Services are the weak links, while the strong ones include doctors and other medical workers, citizens of Montenegro, donors, individuals whose personal engagement compensated for the lack of institutional response*'.<sup>19</sup>

Proactive, but not necessarily the most deserving, ministers were in the limelight, commended for the adequate response to the coronavirus pandemic. As a result,

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16 On 18 March 2020, the Prime Minister promptly welcomed the proposal of one NGO to transfer the funds allocated for the activities of NGOs from the Budget to the fight against the pandemic, which is perceived in the NGO sector as an attempt to use this situation to harm NGOs. Also, on 20 March 2020, emphasizing the contribution of Montenegro Airlines in the transport of Montenegrin citizens to Montenegro, he tried to justify the disputable state aid that the government gave to Montenegro Airlines at the end of 2019

17 Interview no. 2, conducted on 9 April 2020

18 Interview no. 10, conducted on 17 April 2020

19 Interview no. 10, conducted on 17 April 2020

important activities of some of the relevant ministries were neglected. The enormous effort of the Montenegrin diplomatic and consular network successfully coordinated the return of a large number of Montenegrin citizens from different countries around the world. This endeavour showed an exceptional professional engagement and commitment of staff in Montenegrin embassies. Apart from one brief message from the Prime Minister on Twitter, there was no further public recognition of these capacities and the commitment of the Ministry of Foreign Affairs, diplomatic missions and consulates. This question was more broadly addressed during the parliamentary debate.

## PARLIAMENT ON A VENTILATOR

*'Parliaments, however, must keep the power to control executive action in particular by verifying, at reasonable intervals, whether the emergency powers of the executive are still justified, or by intervening on an ad hoc basis to modify or annul the decisions of the executive.'* the Council of Europe said<sup>20</sup>.

In Montenegro, even in ordinary circumstances, there is neither a system of checks and balances among the three branches of government, nor are institutions that are formally and legally independent, independent in practice. In the current emergency situation, these imbalances are increasingly visible. The Parliament has long lost its legitimacy and power. Nowadays, due to its passivity and the growing decision-making powers of the government, its role is additionally weakened. For example, the Government of Montenegro amended the Law on reprogramming of tax debt by decree. The said Law was earlier adopted in the Parliament as *lex specialis*.

At the same time, the Slovenian Parliament adopted a *lex specialis* on support to the economy during the coronavirus, while the Croatian Parliament enacted about twenty amendments to a number of laws.

Although most parliaments in the region have not held sessions since the coronavirus outbreak, the Montenegrin Parliament has not held any plenary sessions from 4 March to 22 April 2020. The need for a stronger involvement of the legislative power was pointed out by Members of the European Parliament (MEP), especially those who know the region well. One such MEP is Vladimír Bilčík who warned that *'democracy cannot be a victim of the pandemic'*<sup>21</sup>. The Montenegrin opposition required that the parliament discuss the coronavirus pandemic that affected the country.

Not only is the absence of a formal gathering a matter of concern, but so is the

<sup>20</sup> Respecting democracy, rule of law and human rights in the framework of the COVID19 sanitary crisis – a toolkit for member states, published on 7 April 2020. Available at <https://rm.coe.int/sg-inf-2020-11-respecting-democracy-rule-of-law-and-human-rights-in-th/16809e1f40>

<sup>21</sup> Radio Free Europe online (2020) 'Empty parliamentary benches for DPS or virus', published on 16 April 2020. Available at <https://www.slobodnaevropa.org/a/prazne-poslani%C4%8Dke-klupe-zbog-dps-ili-virusa-/30559493.html>

absence of an initiative by the Parliament to actively participate in solving the problem, and to exercise its control function over the government.

The report<sup>23</sup> prepared by the Government for this first session contains no indication of omissions or difficulties in the work of governmental bodies, and in a laudatory tone masterly avoids all 'inconvenient' aspects.

During the session, which is still in progress, in line with the proposal of the governing coalition, the agenda included: amendments to the Law on Local Self-Government, which enable the extension of the mandate of municipal authorities in case these expire during the state of emergency and the emergency situation; and amendments to the Law on Financing Political Parties and Election Campaigns. This leads to a new violation of the Constitution, since the above-mentioned amendments to the Law on Local Self-Government concern the electoral system should be adopted by a two-thirds majority. The ruling DPS is seeking to enact these laws with simple majority, the Democratic Montenegro has noted<sup>24</sup>. The amendments to the Law on Financing Political Parties and Election Campaigns would allow unhindered payments from the budget reserve to those who are financially deprived. The rejection of amendments by the Social Democratic Party (SDP) for oversight of payments by a commission composed of representatives of the opposition and NGOs, reinforces the belief that the pandemic might use as a stake in the election campaign. It is worth noting that all the proposals on the agenda were rejected by votes of the ruling majority, either by voting against or by abstaining. The united abstention of the ruling coalition to put on the agenda the opposition's proposal on increasing wages of employees in the healthcare system was particularly striking<sup>25</sup>.

## ECONOMY SUPPORT: INSUFFICIENT AND NON-TRANSPARENT



Although the focus of this report is not on economic measures, numerous interviewees said that these measures were not timely, that they did not address the greatest interests in Montenegrin economy – small and medium enterprises, and that they were insufficient in most cases. The absence of a more comprehensive and long-term strategy created the impression that more time is being bought for negotiations than invested in serious thinking about saving the economy. Some of the opposition also demonstrated the lack of efficiency and transparency of the IRF.<sup>22</sup>

22 Vijesti online (2020) 'Šaranović: For MNE it would have been salvation if Đukanović, Marković and Vukčević stayed at home for ever', published on 22 April 2020. Available at <https://www.vijesti.me/vijesti/politika/saranovic-za-cg-bi-spas-bio-da-dukanovic-markovic-i-vukcevic-nikad-nijesu-izasl-iz-kuce>

23 Document of the Government of Montenegro 'Responding to the COVID-19 Pandemic' published on 20 April 2020. Available at <https://documentcloud.adobe.com/link/track/?pageNum=78&uri=urn%3Aaaid%3Aascds%3AUS%3A8f7f2f80-d7c2-49f1-a11e-48b9fc305438>

24 Dan (2020) 'Amendments only with the support of 54 MPs' published on 22 April 2020. Available at <https://www.dan.co.me/?nivo=3&rubrika=Politika&clanak=741714&datum=2020-04-22>

25 Vijesti online (2020) 'Proposed to discuss on increase of wages in the healthcare system, ruling coalition MPs were sustained', published on 22 April 2020. Available at <https://www.vijesti.me/vijesti/politika/predlozeno-da-se-zdravstvenim-radnicima-povecaju-plate-poslanici-vlasti-uzdrzani>

## INSTITUTIONS WORK BY INERTIA

According to publicly available information, the last session of the government was held on 19 March 2020 and was the 162<sup>nd</sup> session<sup>26</sup>. On 23 April 2020, the government announced that it would hold its 170<sup>th</sup> session on 24 April 2020, with a unique topic related to the *'Government's proposal for a second package of support to citizens and the economy to reduce the negative effects of the coronavirus pandemic'*<sup>27</sup>.

It is unknown when the seven interim sessions were held between 19 March and 24 April, what were the points on the agenda and how the sessions were held. There are five announcements on the government's website from 1 to 23 April 2020, informing the public that *the Government of Montenegro 'without holding sessions but on basis of consent of the majority of members'* made a number of decisions. The content of these decisions shows that they were not urgent<sup>28</sup>. In the Library section on the government's website, there were no further recent documents, including those previously mentioned in official communications.

On questions about donations, the public did not pay enough attention to how much exactly was given by businessmen - and especially, certain businessmen whom Prime Minister directly invited and to whom he expressed gratitude (such as Stasis, Shinawatra, Phua, etc.), as well as who are the businessmen in this case who benefitted from the situation. However, spending reports with NKT accounts have started to be produced periodically and have been published in bulk in recent weeks.

There were no serious complaints about the work of the police, the inspection, the Army and other bodies that took care of the implementation of the measures and orders. However, it is too early to conclude whether they worked in accordance with the laws and regulations all this time.

No dissonant voice from the judiciary and an independent institution in relation to the decisions and measures of the government has been noted. It should be highlighted

26 The list of all sessions of the Government of Montenegro available on [http://www.gov.me/sjednice\\_vlade\\_2016](http://www.gov.me/sjednice_vlade_2016), last insight on 24 April 2020 at 12:00

27 Announcement of the session of the Government of Montenegro on the II package of economic measures, published on 23 April 2020. Available at <http://www.gov.me/vijesti/223975/U-petak-24-aprila-170-sjednica-Vlade-CG-na-temu-II-paketa-ekonomskih-mjera-nakon-sjednice-konferencija-za-medije.html>

28 Decision of the Government of Montenegro on the modalities and conditions of distribution of money donated to combat the effects of the corona virus epidemic, published on 1 April 2020. Available at [http://www.gov.me/vijesti/223513/Government\\_allocation-money-donated-to-suppress-the-effects-of-an-epidemic-corona-virus.html](http://www.gov.me/vijesti/223513/Government_allocation-money-donated-to-suppress-the-effects-of-an-epidemic-corona-virus.html); Announcement of the Press Service of the Government of Montenegro on the decisions of the Government made without holding a session, published on 2 April 2020. Available at <http://www.gov.me/vijesti/223534/Saopstenje-o-odlukama-Vlade-donijetim-bez-odrzavanja-sjednice.html>; Communication from the Government Information Service of the Government of Montenegro on the Government's decisions taken without holding a session, published 14 April 2020. Available on <http://www.gov.me/vijesti/223765/Vlada-donijela-vise-odluka-bez-odrzavanja-sjednice-Sportski-objekti-u-Podgorici-Golubovcima-Beranama-i-Baru-odredeni-za-privreme.html>; Announcement of the Press Service of the Government of Montenegro on the decisions of the Government made without holding a session, published on 16 April 2020. Available on <http://www.gov.me/vijesti/223846/Saopstenje-o-odlukama-Vlade-donijetim-bez-odrzavanja-sjednice.html>; Announcement of the Information Service of the Government of Montenegro on the decisions of the Government made without holding a session, published on 23 April 2020. Available on <http://www.gov.me/vijesti/223980/Saopstenje-o-odlukama-Vlade-donijetim-bez-odrzavanja-sjednice.html>

that not everyone was equally burdened here. Namely, the prosecutor's office worked intensively, while the basic courts had reduced volumes after a large number of trials have been postponed. The Basic Prosecutor's Offices had to prosecute both citizens and citizens who violate the NKT measures, as well as all other committed crimes that are common in regular environments. Conversely, the lack of many property records on the website of the Agency for the Prevention of Corruption may indicate that the institution itself was in a 'lockdown'.

National and local level cooperation was generally good. This was especially important in the case of the municipality of Tuzi, where consensus was achieved on the quarantine of entire municipality. Certain delays in communication were reported in the case of the municipality of Berane<sup>29</sup>.

The issue of employment in public sector bodies has been in the focus of the opposition, the media and NGOs. During the pandemic, many missed out dozens of public announcements issued by schools, the Tax Administration, the Ministry of Defence, etc.<sup>30</sup>

The government especially thanked the European Commission, which decided to give<sup>31</sup> the most funds, and the Member States (Austria, the Netherlands). It also expressed practical solidarity with some Member States, for example - by sending aid to Croatia after the earthquake or by communicating to the Italian authorities that, during the summer season, Montenegro will host older people who are most affected by the pandemic. The US Ambassadors in Podgorica, the Embassy of the United Kingdom, the Embassy of Switzerland, the Embassy of South Korea, China, Turkey, etc, also provided support.

## HUMAN RIGHTS, ALL ON THE LIST

During the first few weeks, the general impression was that the government had an undivided understanding and support of all social actors for its activities to cope with the challenges of protecting public health from the coronavirus.

The first objection was recorded on 21 March 2020, when the government committed to a very contentious move - *to publish the names of persons in self-isolation*. Several non-governmental organizations immediately pointed to a direct violation of the Constitution, laws and international standards in the field of human rights and democracy. More specifically, this measure violates the constitutional guarantee of

29 Vijesti online (2020) "How's the patient from Plav held at hospital in Berane", published on 16.04.2020, available on <https://www.vijesti.me/vijesti/drustvo/kako-je-pacijent-iz-plava-zadržan-u-beranskoj-bolnici>

30 List of all advertised public advertisements available on the official website of the Employment Service of Montenegro <http://www.zzzcg.me/>, last insight on 24.04.2020, at 12:00

31 Non-refundable 3 million EUR of direct emergency assistance to the health sector and 50 million EUR long-term support to the health sector, economy and entrepreneurship and a credit of 60 million EUR from the EU Macro-Financial Support Fund

human rights and freedoms. The latter can be restricted only to the extent permitted by the Constitution and to the extent necessary to satisfy the purpose of the restriction in an open and free democratic society. Also, the violation of the Constitution occurred in the part of protection of the right to privacy and personal data, for which there is no basis for restriction, except - and even then, it is not unlimited - in a state of emergency. The state of emergency was never declared in Montenegro<sup>32</sup>.

In addition, provisions of the Personal Data Protection Act<sup>33</sup> and the Healthcare Act<sup>34</sup> have been violated. Among the international documents binding Montenegro, Article 8 of the European Convention on Human Rights (ECHR), or the right to protection of privacy and family life has been violated. This right may be restricted for the protection of public health, but only to the extent necessary in a democratic society, which is not was the case in the specific example. This is also borne out by the case law of the European Court of Human Rights in Strasbourg<sup>35</sup>. This is in contrast to the official statement of the European Data Protection Board of 19 March 2020<sup>36</sup> concerning the processing of personal data in the context of COVID-19 and states that *'data subjects should receive transparent information on the processing activities that are being carried out and their main features, including the retention period for collected data and the purposes of the processing ... It is important to adopt adequate security measures and confidentiality policies ensuring that personal data are not disclosed to unauthorised parties'*.

The reactions that followed this issue, including the CCE's response, emphasised that state has the obligation to protect citizens without endangering anyone's human rights.<sup>37</sup> Because of the small number of irresponsible individuals, the state should not have been allowed to perform a systematic violation of rights, thus inciting animosity towards and stigmatization of persons whose identity has been disclosed. Particular attention has been paid to the superficiality, arrogance and contradiction of the opinion of the competent Personal Data Protection Agency (PDPA), which is

32 Articles 24, 25, 28, 40 and 43 of the Constitution of Montenegro

33 Article 13 of the Law on Personal Data Protection stipulates that data relating to the *'detection, prevention and diagnosis of diseases and medical treatment of a person'* may be processed only *'if the data are processed by a health care professional or other person who is under the obligation of secrecy'*

34 Article 11 of the Law on Health Care stipulates that in the exercise of health care a citizen has the right to equality in all treatment during the exercise of health care and the right to privacy and confidentiality of all information relating to his health.

35 Judgment *Z vs. Finland* - application no. 22009/93, 1997 and *Mockute v. Lithuania* - application no. 66490/09, 2018, in which it concluded in the Court *'that without providing privacy protection, those in need of medical attention could be deterred from disclosing the personal and intimate information necessary to receive appropriate treatment and even to seek such assistance. In this way, they can endanger their health and, in the case of Infectious diseases, the health of the community'*. It was also emphasized that *'the right to privacy applies especially when it comes to protecting the confidentiality of data relating to viruses, since disclosure of such data can have detrimental effects on the private and family life of the individual and his or her social and professional situations, including exposure stigma and possible exclusion from the community'*.

36 Statement of the European Data Protection Council on processing of personal data from 19 March 2020. Available at [https://edpb.europa.eu/sites/edpb/files/files/file1/edpb\\_statement\\_2020\\_processingpersonaldataandcovid-19\\_en.pdf](https://edpb.europa.eu/sites/edpb/files/files/file1/edpb_statement_2020_processingpersonaldataandcovid-19_en.pdf)

37 CCE's statement *'State to protect citizens without endangering anyone's human rights'*, published on 21 March 2020. Available at [http://cgo-cce.org/2020/03/21/drzava-da-stiti-gradane-ne-ugrozavajuci-nicija-ljudska-prava/#.Xp6KF1Mzb\\_Q](http://cgo-cce.org/2020/03/21/drzava-da-stiti-gradane-ne-ugrozavajuci-nicija-ljudska-prava/#.Xp6KF1Mzb_Q)



a clear violation of laws and international standards in this field<sup>38</sup>. This is practically confirmed by the fact that a similar body in Bosnia and Herzegovina has cancelled the same measure in Bosnia and Herzegovina, but also that no other country in the region or in Europe has resorted to such an easy "solution" that includes a conscious violation of human rights.

The government's message issued at the time when the list of persons in self-isolation was published was particularly disturbing: *'Let everyone know who are the neighbours who put their fellow citizens at risk.'* This message did not contribute to the much-needed sense of solidarity and community.

*'The formal decision to publish it as a document has not been made available to the public to this day. It is not known whether it has been adopted at all,'* said one of the judicial interlocutors<sup>39</sup>.

Responding to initial criticism, on 22 March 2020, Prime Minister Marković indirectly confirmed that the government had violated legal regulations. *'While understanding the reasons for criticism, we have made a conscious decision that our citizens' lives are a priority. We have assessed that the rights to health and life prevailed over the right to unconditional protection of personal data. We will discuss possible failures when all this is behind us. And in order to talk at all, we need to survive, so this is not the time for legal nuances, but for saving lives'*<sup>40</sup> the Montenegrin Prime Minister said.

The fear of the coronavirus, coupled with the strong influence of the underdeveloped political culture in Montenegro, has resulted in widespread public approval of the measure, even by those who have had to think outside this framework. Only four Montenegrin NGOs had official announcements, and fewer reported activities on the issue<sup>41</sup>. The opposition also reacted, albeit with delay. Most Montenegrin media published the list of persons in self-isolation.<sup>42</sup> Even today, even though many of these isolation measures have expired, numerous names are still on the government's website. The list also included minors, as pointed out by the parents of these children. There were no negative reactions to this issue by Montenegrin human rights institutions.

The Ombudsperson stated that *"there is no possibility for reacting in the case of publishing lists of persons in isolation"*. He explained this with the PDPA's positive

38 CCE's announcement 'Government authorities to do their jobs, together to strengthen accountability and solidarity without violating fundamental human rights', published on 22 March 2020. Available at [http://cgo-cce.org/2020/03/22/drzavni-organi-da-rade-svoj-posao-a-zajedno-da-jacamo-odgovornost-i-solidarnost-bez-krsenja-osnovnih-ljudskih-prava/#.Xp6JnFMzb\\_Q](http://cgo-cce.org/2020/03/22/drzavni-organi-da-rade-svoj-posao-a-zajedno-da-jacamo-odgovornost-i-solidarnost-bez-krsenja-osnovnih-ljudskih-prava/#.Xp6JnFMzb_Q)

39 Interview no.4, conducted on 17 April 2020

40 Statement of the Prime Minister of Montenegro on adopted measures, published on 22 March 2020. Available at <http://www.predsjednik.gov.me/press-centar/izjave/223147/Premijer-Dusko-Markovic-Mjere-donosimo-da-zastitimo-gradane-nece-bit-prastanja-za-nepostovanje-pravila.html>

41 Non-governmental organizations Centre for Civic Education (CCE), Human Rights Action (HRA), Civic Alliance (GA) and Center for Democratic Transition (CDT) had official reaction to the list of persons in self-isolation. The NGO Juventas reacted to the publication of the list of people with the virus coronary disease later.

42 The list was not published by Vijesti (newspaper and portal) and IN4S (portal)

opinion on the publication of the list, noting that *'the Ombudsperson's office cannot interfere with the work of other independent authorities.'*<sup>43</sup>

The Head of the EU Delegation to Montenegro, with a strong understanding of the extraordinary circumstances in which measures restricting the right to privacy, however, emphasized that *'it is important that such restrictions are in accordance with applicable law and commensurate with the legitimate aim pursued. I encourage the Montenegrin authorities to find the right balance between protecting health and respecting the confidentiality of health information and the right to privacy of their citizens.'*<sup>44</sup>

The implementation of all prescribed procedures for checking self-isolation had not even occurred when this drastic move was made, which is in violation of basic human rights and freedoms and an irresponsible transfer of responsibility of the competent authorities to citizens. This is also indicated by the fact that the Police Directorate posted on its Twitter account on 23 March 2020 that one person had been prosecuted for violating self-isolation by that date. So, on the basis of only one prosecuted case, a measure that violated the rights of thousands of Montenegrin citizens has been introduced. As of 20 April 2020, a total of 34 people have been prosecuted for failing to comply with self-isolation<sup>45</sup>. This also confirms the ineffectiveness of the measure and the inflicted damage that is disproportionate to the intended purpose. However, if the ACLP Council had carried out a three-part test, as required by the ECHR, and had requested information from the competent authorities on how well the self-isolation check had been carried out on the ground and why such a procedure had proved unsuccessful, this might have been avoided. However, faced with the choice between the professional assessment of and unqualified support for the government's measure, the PDPA Council opted for the latter - in violation of European standards and Montenegrin laws.

The night when the government published the list of persons in self-isolation with addresses of residence, an additional list of persons in self-isolation with even deeper intrusion into personal data (identification numbers, residence addresses, telephone numbers, etc.) also appeared on social networks. Although the government quickly disassociated itself from that list, it is not known whether it requested or undertook any action to determine how the list, which resembles a working document of certain institutions, had been leaked to the public.

Also, a *web application* was created by the publication of personal data of Montenegrin citizens in self-isolation, thus violating a number of legal requirements and international standards. This application provided an opportunity for citizens of Montenegro to

43 Vijesti (online) "Bjeković: 'Even if he wants, the Ombudsperson can't interfere', published on 22 April 2020. Available at <https://www.vijesti.me/vijesti/drustvo/bjekovic-i-da-hoce-ombudsman-ne-moze-da-se-mijesa>

44 Vijesti online (2020) 'We did not forget about Montenegro, Europe's answer on pandemic is on the rise', published on 28 April 2020. Available at <https://www.vijesti.me/vijesti/politika/nijesmo-zaboravili-crnu-goru-odgovor-evrope-na-pandemiju-se-zahuktava>

45 Document of the Government of Montenegro 'Response on COVID-19 pandemic' from 20 April 2020. Available at <https://documentcloud.adobe.com/link/track/?pageNum=78&uri=urn%3Aaaid%3Ausc%3AUS%3A8f7f2f80-d7c2-49f1-a11e-48b9fc305438>

monitor their distance from persons who were issued a measure of self-isolation. At the same time, in a state of heightened tensions and lack of valid information, using the application, they gave their consent to activate their own geolocations, allowing others to track their own movement. This can have far-reaching and unprecedented consequences. The CCE requested the competent authorities in Montenegro to remove this illegal application, but they never acted on the initiative<sup>46</sup>. In so doing, the government sent a message that it does not safeguard the personal and health information of citizens, although it is its obligation to do so.

*'By publishing a list of persons in self-isolation, the government has given the trigger for individuals to 'take matters into their own hands'. Following that decision of the government, we have witnessed the publication of a parallel and more detailed list of persons in self-isolation, the creation of an application to identify the proximity of these people, and finally the publication of the list of patients with coronavirus in Podgorica. So, it is undoubted that the first decision of the government on this issue indirectly encouraged these other actions and that each of them constituted a violation of human rights'<sup>47</sup>* the interviewee from the civil sector said.

One of the interviewed journalists expressed the same opinion: *'The publication of the list of persons in self-isolation acted as an incentive for the publication of the same list with personal data, and later of the list of infected persons. Also, the publication of these lists reminds that insufficient attention is paid to the protection of personal data in Montenegro. It raises the question of how much citizens are in control and who is in possession of personal data that could become subject of serious misuse in the future.'*<sup>48</sup>

On 3 April 2020, data of coronavirus patients in Podgorica were provided to the public. The first reaction of the government recalled the reactions of NGOs. The executive condemned this by urging the competent institutions to urgently examine the source of this list and identify those who disseminated the information. At that time, the government was quick to examine and the already 'old' case of 21 March 2020, when an additional list of persons in self-isolation with identification numbers was released to the public. On the motion of the Basic State Prosecutor's Office, the Basic Court ordered one month of detention for an officer of the Public Health Center Podgorica, on suspicion that he had committed the criminal offense of unauthorized collection and use of personal data. The defence stated that it was an officer who was not in charge of storing and processing personal data of persons who were infected with the coronavirus, and that the person was not data controller in line with the Law on Personal Data Protection. Moreover, according to testimony in the Basic State Prosecutor's Office, he was not even aware that it was proprietary information<sup>49</sup>. This example is, in a way, a consequence of inadequate education within the system, but

46 Announcement of the CCE 'Remove web application crnagorakorona.com and prosecute its creators,' published on 26 March 2020, available at <http://cgo-cce.org/2020/03/26/ukloniti-web-aplikaciju-crnagorakorona-com-i-procesuirati-njene-kreatore/#.Xp6T9FMzau4>

47 Interview no. 8, conducted on 16 April 2020

48 Interview no. 2, conducted on 9 April 2020

49 Radio Free Europe (2020) 'Arresting for a list of infected in Podgorica,' published on 09 April 2020. Available at <https://www.slobodnaevropa.org/a/spiskovi-problemi-crna-gora/30544289.html>

also of what the government has done by publishing the first list.

Following the government's reaction, the Ombudsman's reaction ensued. *'The Ombudsperson of Montenegro strongly condemns the publication of the list of infected and ill persons on social networks, which represents not only stigmatization but also violation of the right to privacy of these persons ... Another aggravating circumstance is the fact that the lists contain information on minors'*<sup>50</sup> said the statement on the Ombudsperson's website. *'The publication of the list is a clear example of violation of the right to privacy, and I am glad that the police have taken measures to find those responsible for such a violation'*, Bjeković said in the media. He added as that *'by publishing the list of infected persons, these people were exposed to stigmatization and the eye of the public, always keen to look into someone else's privacy.'* These conflicting positions of the Ombudsman on the lists, which in fact had the same effects and consequences, undermined the credibility of the very person that even a part of the opposition had voted for. This person did not contribute to positioning the Ombudsperson as an institution independent in its work and consistent in its defense of human rights.

*'Most of the opposition reacted sharply to the publication of names and lists of people in isolation, and strongly condemned the leak of the list of names of infected persons in Podgorica'* highlights one interlocutor from the NGO sector<sup>51</sup>.

The comprehensive report submitted by the government to the Parliament of Montenegro on the response to the COVID-19 pandemic does not mention the publication of the list of persons in self-isolation, and consequently there is also nothing on these public reactions.<sup>52</sup>

## STAY AT HOME AS MONTENEGRIN NORMALCY

The Constitutional Court has not yet decided on the initiative to review the constitutionality of Article 398 of the Criminal Code (CC)<sup>53</sup> submitted by the Human Rights Action (HRA). The Prosecutor's Office has been intensively using this article at the time of the pandemic. The problematic practice of detention on suspicion of committing the criminal offense of causing panic and disorder under Article 398 of the CC continued. However, it caused a great deal of controversy and warning in early 2020 because it was a restriction

50 Statement by the Ombudsperson of Montenegro Concerning the Publication of Personal Information Infected with the COVID 19 Virus, published on 3 April 2020. Available at <https://www.ombudsman.co.me/article.php?id=34348&display=1>

51 Interview no.6, conducted on 14 April 2020

52 Document of the Government of Montenegro 'Response on COVID-19 pandemic' from 20 April 2020. Available at <https://documentcloud.adobe.com/link/track/?pageNum=78&uri=urn%3Aaaid%3AAscds%3AUS%3A8f7f2f80-d7c2-49f1-a11e-48b9fc305438>

53 PCNEN (2020) 'HRA initiated the constitutionality review of Article of the CC for causing panic and clutter', published on 24 January 2020. Available at <https://www.pcnen.com/portal/2020/01/24/hra-inicirala-ocjenu-ustavnosti-clan-kz-koji-se-odnosi-na-izazivanje-panike-i-nereda/>

on freedom of expression, contrary to international standards. It had an impact on the creation of the atmosphere of a police state<sup>54</sup>. A further illustration is the example of a citizen (and an activist of the opposition DF) who shared a post from a Serbian tabloid on his Facebook account. It was easy to check that this was fake news, but it was not easy to assess how it could really upset the Montenegrin public<sup>55</sup>. The practice of detention in these cases, which was not accompanied by convincing reasons or justified which was the opinion of human rights activists, was also noted.

Outside the constitutional procedures, the Ministry of Health has adopted temporary measures for limiting movement and forbidding gatherings to prevent the spread of the COVID-19 virus and to protect the health of the citizens. Namely, the government had introduced a curfew from 7 pm to 5 am on working days and from 1pm on Saturday until 5am on Monday. Then, this measure was relaxed by allowing movement on Sunday from 5am till 11am. Significant easing of measures was enacted on 22 April when the curfew was enforced from 11pm to 5am next day. The Constitution of Montenegro allows the possibility for limiting freedom of movement in order to stop spreading infectious diseases and the Law on the protection of the population against infectious diseases prescribes measures for limiting movement. For these to take place, it is necessary to declare state of emergency through parliamentary procedures as well as to adopt regulations for limiting human rights and freedoms. The government announced *'there is no curfew – but life, work and movement are conducted in a manner*

## THE CONSTITUTIONAL COURT: REACTS ONLY ON THERAPY GIVEN BY THE GOVERNMENT



In the context of protection of human rights, the Constitutional Court's silence on the requests for review of the constitutionality and legality of measures adopted by NKT is worrying. The Constitutional Court has 'suspended' its jurisdiction under Article 149 of the Constitution, which obliges it to monitor the implementation of constitutionality and legality and to publish all relevant acts (decisions, opinions and conclusions) on its website. Media reported on a number of initiatives addressed to them by the NGO sector and the opposition. According to the Constitutional Court's website, from the beginning of the implementation of the first measures of the Government and the NKT, no sessions of the Constitutional Court of Montenegro were held. From 8 to 24 April, four sessions of the Council for deciding on merits were organized but have not discussed issues related to the pandemic. In contrast, the constitutional courts in the region were active, pointing to the unconstitutionality of national governments' decisions and invalidating them (e.g. Kosovo, Bosnia and Herzegovina).

54 Human Rights Action (HRA) documented 11 cases of citizens who have been deprived of their liberty since the beginning of 2020, because of that form of expression (three journalists, six citizens for writing on social media (five of them during the pandemic COVID-19) and one prisoner for falsely reporting a bomb), or the publication of unverified news

55 CdM portal (2020) 'Human Rights Action on arrest of citizen of Bijelo Polje: the state violates freedom of expression', published on 10 April 2020. Available on <https://m.cdm.me/hronika/akcija-za-ljudska-prava-o-hapsenju-bjelopoljica-drzava-krsi-slobodu-izrazavanja/>

*appropriate to the current situation*'. Instead of precise legally based explanation for these measures, the government noted that measures are adopted by *'listening and assessing citizens' concerns and guided solely by the interest of their health, ... as part of the comprehensive, responsible and humane process.*' In so doing, the government dismissed all allegations of illegitimacy as being part of a political action and urged anyone who considered these measures controversial to verify them through existing legal procedures and courts.<sup>56</sup>

A part of the interviewees also pointed to the controversy of measures that encroach on the privacy of home and family life and which prohibit the presence of persons in non-household housing. According to these measures, it is unlawful to visit members of the immediate and wider family, even if the visit entails not only a form of socializing, but also providing various types of assistance to family members. Measures to ban activities on public lands are less controversial, since in this sphere the state has more legal basis for interference, even if these can be disputed and debated.

Most of the other restrictive measures adopted by the Government of Montenegro are justified by in law and international instruments related to health protection, as well as some exceptional measures that may require derogations from the ECHR. An adequate assessment deviation from measures is necessary and proportionate is however needed.

## MEASURES AND ORDERS LIKE INFECTIONS – SOMEONE LAYS DOWN, SOMEONE EASILY GETS OVER IT

*'Most citizens support NKT measures and follow the instructions. There are many reasons for this, above all, the fear of an epidemic. An authoritarian political culture and consciousness also have some influence'*<sup>57</sup> an interviewee from the media said. Another journalist is of the opinion that *'the citizens largely support the measures, trust the doctors and believe that the professionals are making decisions. Citizens are informed about the situation in the region, mostly in Serbia, and I often hear that' [we] are doing great, look at what's going on in Serbia'*.<sup>58</sup>

While agreeing that the measures are respected by large, some interlocutors also highlight that they are illogical and ambiguous, and therefore could cause practical problems. For example, no more than two adults may be transported in a vehicle, and no two persons are

<sup>56</sup> Announcement of the Press Office of the Government of Montenegro 'There is no curfew, the measures adopted according to Constitution and Law', published on 31 March 2020. Available on <http://www.gov.me/vijesti/223447/Nema-policijskog-casa-mjere-donijete-na-osnovu-Ustava-i-Zakona.html>

<sup>57</sup> Interview no.1, conducted on 10 April 2020

<sup>58</sup> Interview no. 3, conducted on 18 April 2020

allowed to be together in a public area. That is, it is illogical that members of the same family can stay in the car, but cannot stay in a public area at the same time...

The number of individuals caught by the police in violation of NKT measures and orders has attracted a great deal of public attention. By 20 April 2020 the police had filed 741 criminal charges against 994 persons for crimes and acts related to public health and other offenses related to COVID-19 infectious disease, in accordance with Articles 287, 398 and 412 of the Criminal Code. In terms of the structure of criminal offenses, the highest number of violations was recorded in the prohibition of leaving the residential facility within the prescribed time (452), and the least non-compliance was recorded with the measure of limited working time (1). Most criminal charges were filed in Bar (148), the highest number of individuals included in the filed charges was in Podgorica (220), while the least criminal charges were filed in Šavnik (1)<sup>59</sup>.

The public has also raised the issue of equal treatment when it comes to sanctions for breaking the measures. The inconsistency of the practice is also confirmed by the interlocutor from the judiciary: *'When it comes to initiating criminal proceedings and criminal responsibility, offenders are sanctioned by fines in the seafront for violations of individual orders; there were also effective prison sentences in the north, imposed after very quickly organized trials. In addition, charges are filed against some offenders in regular proceedings without imprisonment, some are imprisoned and detained, and a plea bargain is concluded with some, who are released with no detention immediately after their imprisonment and hearing.'*<sup>60</sup>

There is a mandatory written instruction in the Prosecution to work in the context of a specific situation, with guidance on which situations should determine detention and suggest ordering detention, and which should not. According to this instruction, all violators of the measure are deprived of their liberty and detained. They are charged during detention and ordered to stay in custody. *'However, in practice, based on verbal instructions and orders, this has been slightly changed. So, the differences are now being made about who the offender is, whether the person has been previously convicted or non-convicted, how many measures the person had violated - one or more, and why. They, and they follow the messages of the NKT and the Government, which is important for deciding whether an individual will be imprisoned, detained or remanded in custody,'* explains the interlocutor from the judiciary.<sup>61</sup>

When it comes to the conclusion of a plea agreement in cases of violation of measures and orders, there is no information that the competent prosecuting authority has issued mandatory instructions for work as provided by law. The interviewee from the judiciary, however, thinks that this is regulated. *'There are verbal instructions from executives about which sanctions are taken into account in the plea, under what conditions they are accepted and offered, which again depends on who the offender is, whether the person has previously been convicted or not, how many measures has he or she violated, and for what reason...'*<sup>62</sup> he states.

59 Document of the Government of Montenegro 'Response on COVID-19 pandemic' from 20 April 2020. Available at <https://documentcloud.adobe.com/link/track/?pageNum=78&uri=urn%3Aaaid%3Ascds%3AUS%3A8f7f2f80-d7c2-49f1-a11e-48b9fc305438>

60 Interview no.5, conducted on 18 April 2020

61 Interview no. 4, conducted on 14 April 2020

62 Interview no. 5, conducted on 18 April 2020

## OPPOSITION IN (SELF)ISOLATION

The ruling DPS has been dominantly present through full support for the measures introduced by the Government or the promotion of these measures. This approach was also followed by smaller coalition partners. Conversely, opposition parties have been marginalized in the first weeks, although they have shown their willingness to contribute to the fight against the pandemic and to donate funds through the NKT or directly to specific vulnerable groups/organizations.

It is difficult to determine when exactly the fight against the coronavirus became part of the DPS's direct election campaign, but the visibility of party members, especially from the healthcare system, became more pronounced over time.

*'The government has done nothing to involve representatives of the opposition, including some prominent experts (doctors, scientists, economists, etc.) in addressing the deep health, economic and global crisis. Although the Government has accepted some proposals from certain political parties, there was a lack of real dialogue and cooperation, which is a further cause of concern and testifies to the deep division of Montenegrin society',<sup>63</sup> interviewee from the media said.*

### ELECTIONS IN TIVAT DELAYED BY PANDEMIC, NOT BY LAW



Local elections in Tivat were originally scheduled for 5 April 2020, but even the parties that submitted the list did not run an effective campaign as it quickly became clear that the pandemic of the coronavirus was also approaching Montenegro. There were also additional warnings from the public about the dangers that holding elections in such circumstances could bring. On 20 March 2020, the CCE sent an Initiative to consider delaying local elections in Tivat to the President of the State Electoral Commission (SEC)<sup>64</sup>.

On the same day, the President of Montenegro, Milo Đukanović, made the Decision to delay all electoral actions in view of elections for councilors in the Municipal Assembly of Tivat<sup>65</sup>. However, that decision is illegal. The President of Montenegro had three options to delay the elections, while complying with the legal framework of Montenegro. He could do this through: 1) initiating amendments to the Law on Election of Councilors and Deputies, which required a 2/3 majority in the Parliament of Montenegro; 2) declaring a state of emergency and making a decision in this context; 3) initiating of a *lex specialis* in the Parliament of Montenegro which requires a simple majority. Đukanović did not take advantage of any of these opportunities. His decision has no legal basis. The CCE indicated this in a letter to the SEC and the President of Montenegro. Opposition parties and NGOs that monitor the elections did not attach importance to this issue.

<sup>63</sup> Interview no.1, conducted on 10 April 2020

<sup>64</sup> Announcement of the CCE about postponement of elections in Tivat, published on 20 March 2020, available on <http://cgo-cce.org/2020/03/20/izbori-u-tivtu-ne-mogu-biti-vazniji-od-zdravlja-gradana/#.Xp20h1MzZp8>

<sup>65</sup> Decision of the President of Montenegro of changing Decision to call election for councilors to Municipal Assembly in Tivat, published on 20 March 2020. Available at [http://predsjednik.me/view\\_page.php?id=995](http://predsjednik.me/view_page.php?id=995)



Opposition parties are, over time, returning to media discourse with a strongly confrontational stance. The first set of economic measures to mitigate the crisis has given the impulse to this stance. The SDP has initiated several economic and social legislative proposals or changes to existing laws in this area; Democrats have made numerous proposals, with occasional reviews on the real benefits and costs of measures proposed by the Government; while URA has proposed specific measures for specific target groups. In general, many of these were serious and valuable proposals, but the opposition could not resist including those populist measures acceptable to the electorate. In parallel, a part of the opposition parties pointed to the inconsistency and double arches in the implementation of the measures adopted for the gathering and distribution of humanitarian aid. Abuse and selectivity in granting aid according to the criteria of party affiliation were the primary concern. The opposition called for greater transparency, especially as regards expenditure of donations or budget funds, for activities to curb the coronavirus pandemic. One of the DF's crucial points was the legality and legitimacy of the NKT.

The government has accepted only a few concrete measures of a largely symbolic scope from all that the opposition has proposed. All the legislative proposals of the SDP were rejected in the Parliament by the will of the governing majority<sup>66</sup>. *'To sum up, the government has ignored the opposition so far'*<sup>67</sup> one of the interviewed journalists noted.

On the one hand, an NGO sector activist appreciates that the opposition has not succeeded either: *'As in regular circumstances, there is no comprehensive and continuous action and reaction that would contribute to a synergistic effect and a 'more serious' perception of the opposition's capacity'*<sup>68</sup>

The DPS initiated the formation of a parliamentary committee to monitor the pandemic and sign a Resolution on Unity, which did not find support in the opposition because it came too late. The government has failed to make this process more inclusive towards the opposition, but also towards other dissenting voices, especially in the process of creating economic aid packages, etc. The government's commitment to solely consult the eligible entities has not contributed to the necessary building of trust on the political scene.

Relations with Serbia continue to go downhill. They have been recalled by a brief media controversy over the purchase and donation of ventilators, in which Montenegrin authorities directly confronted the Serbian President Vučić, supported by leaders of the DF and some other opposition parties to which he is politically close<sup>69</sup>. It remains

66 CdM portal (2020), 'SDP's economic and social proposals have been rejected', published on 22 April 2020. Available at <https://www.cdm.me/ekonomija/odbijeni-prijedlozi-ekonomsko-socijalnih-zakona-sdp/>

67 Interview no.2, conducted on 9 April 2020

68 Interview no.7, conducted on 17 April 2020

69 Antena M portal (2020) 'Simović to Vučić: Thanks, but we will figure it out, luckily there are other countries and markets', published on 27 March 2020. Available at <https://www.antenam.net/koronavirus/153496-simovic-vucicu-hvala-ali-snaci-cemo-se-mi-ima-srecom-drugih-drzava-i-trzista>; Vijesti online (2020) 'Mandić: I am shocked with Simović's statement, I cannot believe that hatred goes that far', published on 27 March 2020. Available at <https://www.vijesti.me/vijesti/politika/mandic-sokiran-sam-izjavom-simovica-ne-mogu-da-vjerujem-da-mrznja-ide-do-te-mjere>; CdM portal (2020) 'Šćekić called Vučić to donate respirators to Berane', published on 28 March 2020, available at <https://www.cdm.me/drustvo/scekic-pozvao-vucica-da-respiratore-donira-direktno-beranama/>

to be clarified exactly what happened in the process of buying three ventilators for Montenegro.<sup>70</sup>

A part of the opposition also showed some activism in the defense of church leaders when they were detained for violating measures related to religious ceremonies. Some religious leaders continuously fostered a climate of intolerance against anyone in disagreement with them about the church or, anyone who would dare to point out the documented violation of the measures by the SPC priests.

## ACTIVISM TO THE EXTENT POSSIBLE

The activities of NGOs were not particularly visible to the public. Most NGOs have changed their mode of work. They predominantly worked from home, which narrows their scope of work. The pandemic has overshadowed almost all other topics in the NGO sector.

*'Civil society is doing what they normally do: controlling, pointing out irregularities, not allowing simulating of public hearings, analyzing undertaken measures, analyzing the impact of the crisis. In other words, civil society is active and visible and does everything the opposition does not do'*<sup>71</sup> one of the interlocutors from the NGO sector said.

Similarly, some media interviewees said that *'NGOs continued to point to human rights abuses, with several influential NGOs at the forefront'*<sup>72</sup>.

By contrast, there are also opinions that the civil society was under-active and critical. *'None of the activities of the Government or the NKT have been strongly criticized or debated, except for when it comes to the Government's decision to publish a list of about 6,000 people in isolation. This has generated a significant response from several established NGOs. There were a number of other reactions related to the public debate on the new Free Access to Information Act or the way the PDPA Council selected the new director. I think the Union of Doctors of Medicine stood out, at the right moment, publicly warning that medical professionals lacked equipment'*<sup>73</sup> another journalist stated.

*'The most vivid activity of NGOs was noticed when announcing the decision on the names of persons in self-isolation. Also, the emphasis was placed on how the measures affect human rights'*<sup>74</sup> notes an interlocutor from the judiciary.

70 Vijesti online (2020) 'Čirgić: Serbia confiscated three respirators of Montenegro, delivery is not possible', published on 26 March 2020. Available at <https://www.vijesti.me/index.php/vijesti/drustvo/srbija-konfiskovala-tri-respiratora-crne-gore>; Vijesti online (2020) 'Supplier reported confiscation to the Fund, Serbia redeemed respirators', published on 27 March 2020. Available on <https://www.vijesti.me/vijesti/drustvo/bez-tri-respiratora-ni-cijom-krivicom>

71 Interview no.7, conducted on 17 April 2020

72 Interview no.3, conducted on 18 April 2020

73 Interview no.2, conducted on 9 April 2020

74 Interview no.4, conducted on 14 April 2020

The NGO also had objective limitations, because *'The government did not have enough understanding for proposals from the civil sector nor did it include representatives of the civil sector in the bodies dealing with the current crisis. This corroborates that the so-called Alliance for Europe, launched by Prime Minister Marković a few months ago, is only a façade, and not a genuine attempt to reach a solution in the public interest through cooperation with various actors,'*<sup>75</sup> another media interlocutor remarks.

The activities of organizations targeting marginalized groups, which were further affected by the pandemic, such as those that pointed to the particular vulnerability of Roma, were noted, as well as restrictions that NKT measures bring to persons with disabilities and those who raised concerns about the increase in violence against women in this situation. It seems that the authorities were more open to hearing such NGOs and, on several occasions, responded by promising to pay special attention to these groups.

Civic activism has also come to the fore through a large number of individuals who have demonstrated solidarity and a willingness to help voluntarily or through some organized fora. *'Some of them are also organized through informal citizens' associations, such as 'Heroes from the Neighborhood' which primarily aim at helping the elderly and the most vulnerable citizens. The large number of Red Cross volunteers is also encouraging, as well as the fact that at no time was the number of volunteers lower than what was needed,'*<sup>76</sup> an interlocutor from the judiciary noted.

All interlocutors appreciate that in this unexpected and difficult situation, Montenegrin citizens have proven to be responsible. Interlocutors have also noted that citizens are slowly detaching from the pervasive focus on the pandemic and are beginning to return to other topics, such as economics and democratization.

## **MEDIA IS IMMUNE WHEN THE GOVERNMENT GIVES THE SAME THERAPY TO ALL**

The government has had a proactive approach since the onset of the pandemic and information has been more transparent than the usual. The official website of the Government and the National Infectious Diseases Coordination Body - <https://www.coronainfocg.me/> - has been set up relatively quickly and has been reviewed and updated with key information on the front page. However, some sections are not up to date, which can be confusing<sup>77</sup>.

75 Interview no.1, conducted on 10 April 2020

76 Interview no.4, conducted on 14 April 2020

77 For example, in section 'Decision of the Government of Montenegro' which includes measures and orders, last information has been updated on the end of March and since then there were new measures and extensions.

The pandemic of the new coronavirus has proven to be a rare topic that has put the deeply polarized Montenegrin media on the same side. They paid great attention to this topic, through daily and free information on the situation in the country, as well as in the region and internationally. *'Fact-based information is especially important in crisis situations, such as the current global pandemic of the COVID-19 virus, and the most influential Montenegrin media has shown a high degree of responsibility here,'*<sup>78</sup> an NGO sector interviewee said.

The emerging circumstances were a particular challenge for the commercial media outlets as many advertisers withdrew, further complicating their already poor financial situation. However, this did not affect the intensity of reporting. It is noticeable that some media recorded an upsurge in readership/viewership. *'It is worrying, however, that some commercial media have covered the crisis more professionally than the RTCG, which repeatedly violated journalistic standards and ethics by covering this crisis'*<sup>79</sup> one journalist assessed. The prevailing view is that RTCG's public service broadcasting was below expectations and did not provide an adequate and impartial analysis of the preparedness of institutions to combat the pandemic and its consequences, especially as regards the rule of law and public finances. During this period, the RTCG Council responded only once, following an open controversy in the public. Its editorial was asked to control the content of one TV show and to oversee *'reporting that includes unscientific information, prophecies, unproven treatment failures, and the absence of framing examples (such as an Italian physician) in the context of analysis and evidence.'*<sup>80</sup>

One of the first measures taken by the Government to curb the spread of the coronavirus was that the media could not directly take part at the Crisis Staff and NKT press conferences. The Broadcasting Centre allowed radio stations and televisions to receive a signal from the RTCG, which installed direct transmission equipment in the Public Health Institute room. A platform has also been set up to allow journalists to ask questions during conferences, and the recorded material has been further distributed to the media. Also, communication is centralized so the media sends requests for guest appearances and interviews through a PR team that coordinates government's communications on the issue<sup>81</sup>. No Montenegrin media or media association has objected to this type of organization. By comparison, such decision was made on 11 April 2020 in Serbia. It caused an avalanche of reactions from independent media, journalists and associations. By 21 April this measure was abolished. In Croatia, whose practices the Montenegrin Government seems to be following in this situation, there is no such a measure.

However, some journalists noted during the interviews that in the first few weeks they themselves 'dulled the blade' and that the activities of the government did not put enough

78 Interview no.6, conducted on 16 April 2020

79 Interview no.1, conducted on 10 April 2020

80 Vijesti online (2020) 'Resentments to the show of Nebojša Šofranac: rely on science not on prophecy', published on 3 April 2020. Available at <https://www.vijesti.me/vijesti/drustvo/zamjerke-na-emisiju-nebojse-sofranca-manite-se-prorocanstava-oslonite-se-na-nauku>

81 Announcement of the Government of Montenegro about measures for protecting health of journalists, published on 16 March 2020. Available at <http://www.gov.me/vijesti/222957/Vlada-uводи-nove-mjere-zastite-zdravlja-novinara.html>

pressure on the magnifying glass<sup>82</sup>. *'One of the key strategists of the government's communication with the media has publicly pointed out that the Montenegrin media have never been better. That statement is enough to say that, in my opinion, the media did not do its job well. Because being praised by PR means that you have not responded to the public interest'*<sup>83</sup> is noted by a representative of a media outlet close to the government. This was reiterated by some representatives of the non-governmental sector, who stated: *'It seems that journalists have the freedom to criticize the actions of the authorities and decisions, but for the most part they do not.'*<sup>84</sup>

Journalists point to the reduced capacity they have worked with and the unavailability of adequate interlocutors. This is reflected in reporting, but an increasing number of issues emerges as time goes on. *'We can conclude that the government has centralized the information, announcing those that are relevant to it, but also that the media are not seeking answers'* the journalists admit.<sup>85</sup>

Milutin Simović, the Deputy Prime Minister and President of the NKT, did not hide his satisfaction with the reporting of the Montenegrin media. He said: *'We have made significant efforts to provide the media with all the information in the fastest and best way. We are glad that it is recognized, and we will continue to do so until the end. Throughout this process, the media has shown creativity, understanding and resisted sensationalism.'*<sup>86</sup>

Obviously, the senior government official was pleased because there were hardly any embarrassing questions for the government. One of them is the open letter of the Union of Doctors of Medicine of Montenegro to the Prime Minister, Duško Marković, pointing out the lack of adequate medical equipment for healthcare workers, and contrasting it to the use of masks for entertainment by children of the Minister of Health<sup>87</sup>. This alarmed the public, encouraged other doctors to speak out about the conditions in which they were working<sup>88</sup>, but also speeded up institutions to address this problem. The President Milo Đukanović, confirmed that the problem existed even though it was denied by the Minister of Health. During a visit Tuzi, after the end of quarantined period for this municipality, Đukanović said: *'Today we witnessed that our healthcare system is well equipped and that topics which have dominated our public only seven, eight days ago, have been taken off the agenda, that the healthcare system is provided with all that is necessary to effectively combat the risk of spreading the infection.'*<sup>89</sup>

82 Interview no.2, conducted on 9 April 2020

83 Interview no.3, conducted on 18 April 2020

84 Interview no.9, conducted on 10 April 2020

85 Interview no.3, conducted on 18 April 2020

86 Session of Parliament on 22 April 2020

87 Vijesti online (2020) 'Union wrote to Markovic: Doctors do not have masks, but the minister's kids use them for entertainment', published on 23 March 2020. Available at <https://www.vijesti.me/vijesti/drustvo/sindikata-pisao-markovicu-ljekari-nemaju-maske-djeca-ministra-ih-koriste-za-zabavu>

88 Vijesti online (2020) 'Jakupi: We don't have conditions for coronavirus, we need equipment for a long time', published on 31 March 2020. Available at <https://www.vijesti.me/vijesti/drustvo/jakupi-nemamo-uslove-za-koronu-odavno-fali-oprema>

89 Statement of the President of Montenegro during the visit of Tuzi, published 9 April 2020. Available at [http://www.predsjednik.me/view\\_page.php?id=1021](http://www.predsjednik.me/view_page.php?id=1021)

There were several other examples of positions that denied what some officials had claimed, including those in the healthcare profession who were clearly trying to hide certain facts. This is a good example of how similar intentions could be prevented in the future, but also an indication of the corrective role media should perform<sup>90</sup>. There were no such stories at RTCG.

Social media proved to be significant being faster in communicating news than the traditional media. They were also faster in spreading fake news. *'There is almost no misinformation about the current situation of the COVID-19 pandemic in the Montenegrin media, unlike in the first quarter of 2020 when a number of examples of media manipulation and abuse, including fake news, were noted'* one interviewee said<sup>91</sup>. Bearing in mind that the Global Open Society Foundation's Media Literacy Index for 2019<sup>92</sup> puts Montenegro at the bottom of the rankings of the countries in which the measurement was made, or 31<sup>st</sup> out of 35 countries, and that Montenegro, but also the region, have been held as susceptible to fake news, this can be considered a step forward. In this context, the contribution to dealing with fake news, manipulation and various conspiracy theories was also provided by the portal <https://www.raskrinkavanje.me>, publishing dozens of analyzes in which information previously by Montenegrin media without any factchecking has been rebutted

Finally, the polarization of the Montenegrin media scene has not been undone. Even in this situation, some media that gravitated towards the authorities used the context of the pandemic to deal with dissenting views, regardless of whether these would come from the opposition or the NGO sector. On the other hand, even some critically oriented media did not have the necessary level of criticism when it came to their closer opposition or church actors, and of course there were reasons for this.

## THE VIRUS OF WEAK INSTITUTIONS HAS NOT WEAKENED

Although it has halted many important processes, the coronavirus pandemic does not seem to have affected the continued systematic 'subjugation' of institutions that are independent by law.

The Council of the Anti-Corruption Agency (ACA) did not elect a director in its second attempt even though one candidate met all the requirements. It is not known to the public why the members of the ACA Council rejected that candidacy by unanimous

90 Vijesti online (2020) 'Doctor Ivovic: It's not true that nurses and myself got infected outside of the hospital', published on 11 April 2020. Available at <https://www.vijesti.me/vijesti/drustvo/doktor-ivovic-nije-tacno-da-smo-se-ja-i-medicinske-sestre-zarazili-van-bolnice>, CdM portal (2020) 'Doctor from Bar: thanks to immunity and caution I survived corona', published on 11 April 2020. Available at <https://www.cdm.me/drustvo/ljekar-iz-bara-uz-pomoc-imuniteta-i-opreznost-prebolio-sam-koronu/>

91 Interview no.6, conducted on 16 April 2020

92 Open Society Institute, Sofia (2019) 'Media Literacy Index', available at [https://osis.bg/wp-content/uploads/2019/11/MediaLiteracyIndex2019\\_-ENG.pdf](https://osis.bg/wp-content/uploads/2019/11/MediaLiteracyIndex2019_-ENG.pdf)

abstention, and whether they had put forward any objective basis to vote against him. The nomination of the current acting director has also been rejected by several votes against. According to media reports, some members of the ACA Council were in disagreement with the current acting director. Previously, during an interview, it was found that one candidate, while submitting the documentation, had concealed the information that until recently she was a local official of the ruling DPS, which would disqualify her legally. Then some Council members announced that they would file a criminal complaint. The request of the CCE, sent a few days after the completion of this proceeding, on whether the Council filed a criminal complaint and whether the proceedings had been initiated internally to determine how the candidate ACA Council could technically verify the candidacy, given that information on this her party engagement was readily available to the public<sup>93</sup>, has received no response so far. This discourages independent candidates from applying and reinforces the belief that the ACA Council is seeking a party-eligible candidate, especially given that the ACA Council itself was elected solely by the votes of the ruling coalition.

That same week, the Council of the Personal Data Protection Agency (PDPA) selected, with a questionable legal basis, a government official to serve as its director, trying to conceal his role in the executive through a press release that focused on his former prosecutorial functions<sup>94</sup>. In response to the CCE's remark that the choice was illegal and should be annulled<sup>95</sup>, the PDPA Council implicitly acknowledged the ambiguities concerning that decision.<sup>96</sup> In so doing provided new grounds for concern about its interpretation and application of the law<sup>97</sup>. Specifically, the CCE indicated that the Law prohibits the appointment of a government official to the PDPA leadership position. The Council defended the contested choice by a narrow linguistic interpretation of the regulations and emphasizing 'terminological arguments'. The purpose of the legal provisions that forbid the election of a person whose independence and impartiality could be a priori doubted in the capacity of director of the PDPA has been ignored. The CCE received the response from the PDPA Council on the same day it published its reaction, while there was no second response or counterargument. The latest EC Non-paper on Chapters 23 and 24<sup>98</sup> points to the limited capacity of the PDPA, and there can hardly be change in such an assessment if the unlawful appointment of a new director is taken into account.

93 Vijesti online (2020) 'Radonjić in charge of Anti-Corruption Agency?', published on 18 March 2020. Available at <https://www.vijesti.me/vijesti/drustvo/radonjic-opet-na-celu-agencije-za-sprecavanje-korupcije>

94 Announcement of PDPA about the appointment of the PDPA director, published 3 April 2020. Available At <http://www.azlp.me/me/agencija/20061>

95 Announcement of the CCE about the appointment of the PDPA director, published on 5 April 2020, available on <http://cgo-cce.org/2020/04/05/ponistiti-izbor-direktora-azlp-a/#.Xp3B9IMzZp9>

96 PDPA reaction on the CCE's announcement from 5 April 2020, published on PDPA site on 6 April 2020. Available on <http://www.azlp.me/me/agencija/20062>

97 CCE's announcement on reaction of PDPA from 6 April 2020. Available at <http://cgo-cce.org/2020/04/06/pravnim-akrobacijama-savjet-azlp-a-ne-moze-pokriti-nezakonitost-izbora-direktora/#.Xp3BG1MzYOo>

98 Non-Paper on the state of play regarding Chapters 23 and 24 for Montenegro (November 2019), European Commission, available on [https://www.eu.me/images/Nezvani%C4%8Dni\\_radni\\_dokument\\_Evropske\\_komisije\\_o\\_stanju\\_u\\_poglavljima\\_23\\_i\\_24\\_za\\_Crnu\\_Goru\\_novembar\\_2019.pdf](https://www.eu.me/images/Nezvani%C4%8Dni_radni_dokument_Evropske_komisije_o_stanju_u_poglavljima_23_i_24_za_Crnu_Goru_novembar_2019.pdf) (ME)

## LESSONS LEARNT

Pointing out the deficiencies in the application of democratic principles and respect for human rights at a time when public health is being prioritized is not popular. However, it is necessary and curative for the health of society during and after the pandemic. Countries that do not have a developed political culture, in circumstances that shift everything out of the ordinary state, easily slip into the so-called 'firm style' of government that chooses efficiency between democracy and efficiency. This efficiency shortly gets party colors and puts the particular interest before the public one.

*'Suspending democracy is not an option in these difficult times ...'* is a message from Tanja Fajon from the European Parliament<sup>99</sup>. The belief that democracy can or must be put in the corner for any higher interest and later returned as if nothing had happened is dangerous. Such a 'game' with the 'striving for democracy and human rights' is not a good path for any higher interest. *'Coronavirus must not kill democracy'*, is also a warning by the Chairman of the EU-Montenegro Parliamentary Committee for Stabilization and Association (SAPC), Vladimir Bilčik, who stressed the importance of *'a balance between protecting human health and continuing a regular democratic process, including control of the executive.'*<sup>100</sup>

Although many were happy to refer to the medical profession, the impression remains that those medical professionals who are not aligned with the party remained disappointed by a simulation of democratic approaches. *'In these times of existential threat, political interests are at the forefront. It is felt that political parties in power use this situation for the purpose of electoral campaigns. The opposition missed the opportunity to impose practical action and to demonstrate the capacity to overcome populist and identity issues. The profession has essentially once again remained in the background...'*<sup>101</sup> is the assessment of an interlocutor from the healthcare sector, who faces the danger of COVID-19 in his regular job.

Each crisis is also a new chance to transform ourselves as a society for the better. After the pandemic and the loosening of the measures, new uncertainties await us. These include getting used to new living conditions that will for some time be determined by the fear of the return of the coronavirus; existential and economic issues; as well as the unpacking of suitcases full of old and ongoing problems. These old problems are at the heart of the lack of social consensus on what kind of state Montenegro needs and what we all can and must do to make it an open society of active, responsible and free citizens who are equal before the law. In this context, it is necessary to analyze the measures adopted by countries that deal with the pandemic with a less repressive approach, focusing on education, trust, and open uncensored communication.

99 Radio Free Europe online (2020) 'Empty parliamentary benches because of DPS or virus', published on 16 April 2020. Available at <https://www.slobodnaevropa.org/a/prazne-poslani%C4%8Dke-klupe-zbog-dps-ili-virusa-/30559493.html>

100 Pobjeda (2020) 'Bilčik for Pobjeda: Coronavirus must not kill democracy in Montenegro', published on 19 April 2020, available on <https://www.pobjeda.me/clanak/bilcik-za-pobjedu-koronavirus-ne-smije-ubiti-demokratiju-u-crnoj-gori>

101 Interview no.10, conducted on 17 April 2020



*'Official communications cannot be the only information channel about the pandemic. This would lead to censorship and suppression of legitimate concerns. Journalists, media, medical professionals, civil society activists and public at large must be able to criticise the authorities and scrutinise their response to the crisis,'* <sup>102</sup> states the Council of Europe, an intergovernmental organization of which Montenegro is a member.

The formal dialogue through Alliance for Europe has not provided the necessary forum for confidence-building before the pandemic, and neither has the Alliance for Montenegro during the pandemic. These dialogues must lead to measurable results. Despite great promises by high officials and taking into account that the government made several decisions in this period, none of the important issues raised at the meetings held within the Alliance of Europe with critically oriented NGOs was addressed. Meanwhile, regression continued exactly regarding all of these issues. Trust-building requires much more sense and action for the public interest, openness to different opinions, inclusiveness and free institutions.

For this reason, it is an ephemeral pressing need, especially in times of pandemic, to always ensure the consistent application of the law and to strengthen democratic institutions and practices.

<sup>102</sup> CoE, Respecting democracy, rule of law and human rights in the framework of the COVID19 sanitary crisis – a toolkit for member states, published on 7 April 2020. Available at <https://rm.coe.int/sg-inf-2020-11-respecting-democracy-rule-of-law-and-human-rights-in-th/16809e1f40>

