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National Security vs Protection of Human Rights in Emergency



National Security vs Protection of Human Rights in Emergency

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ABBREVIATIONS

ALL	Albanian Lek
AMA	Albanian Media Authority
CoE	Council of Europe
COVID-19	Coronavirus disease that first appeared in 2019
CSSE	Center for Systems Science and Engineering at Johns Hopkins University
ERTV	Edi Rama (Albanian Prime minister) Youtube channel
EU	European Union
ICU	Intensive Care Unit
IDEA	International Institute for Democracy and Electoral Assistance
ISP	Instituti i Studimeve Politike
NGO	Nongovernmental Organization
RCC	Regional Cooperation Council
OxCGRT	Oxford Coronavirus Government Response Tracker
WFD	Westminster Foundation for Democracy
WHO	World Health Organisation
OSCE	Organisation for Security and Cooperation in Europe

1. EXECUTIVE SUMMARY

The challenge of the COVID-19 pandemic endangered the right to life of the citizens around the world. Within the Albanian context, a natural disaster such as the COVID-19 pandemic is a national (public) security threat in that it poses risks to the security and wellbeing of the population. Throughout this report, the concept of national security and public security (*siguria publike*) are used interchangeably to refer to the broader safety of the society and its members. The Albanian Constitution (Articles 37, 45, 173, 174, and 175) refers to public security to justify the imposition of extraordinary measures to protect the country “because of a state of war, a state of emergency, or a state of natural disaster” (Article 170 :1). The pandemic has demonstrated that the scope of what is understood to be included in national security must be expanded to encompass wider security threats such as environmental and global public health crises.

To limit the spread of the COVID-19 pandemic, a natural disaster, the government is empowered to take extraordinary measures that would temporarily limit particular human rights. However, democratic governments must be held accountable for any tradeoffs made in terms of civil liberties and human rights that are authorized in the name of national (public) security. Reflecting these issues, this study contextualizes and compares Albania’s response to the COVID-19 pandemic within a framework of national security and human rights perspectives. The government response to the COVID-19 pandemic in Albania is compared with the following states in the same region: Serbia and North Macedonia (hybrid regime), Slovenia and Greece (consolidated democracy).

To investigate the national security claims of such extraordinary measures, we examine data about whether the security measures that were implemented limited the spread of COVID-19 in Albania. In addition, we look at secondary survey data to understand the public acceptance of government measures. To examine Albania’s response to the pandemic in the context of human rights, this report was guided by four established democratic principles: legality; a bounded timeframe for emergency measures; necessity; and distributed power with legislative and judicial actions and checks on executive actions taken during the first six months of the pandemic. Within the framework of these four democratically established principles, governments may temporarily override particular human rights in order to address the national security threat posed by the pandemic. Our analysis shows that Albania met the principles of legality and bounded timeframe for emergency measures, and partially met the principles of necessity and distributed power with checks on executive action.

When situating Albania in a regional context, several patterns can be observed. During the period of extraordinary measures, the Albanian government enacted laws that limited the spread of COVID-19 within its

territory. Most countries implemented temporary measures of quarantine that limited certain human rights. In particular, the rights of freedom of movement and assembly were directly affected by governments' responses to the COVID-19 pandemic. Hybrid democracies with weak institutions demonstrated certain risks to democracy and human rights in their implementation of emergency measures during the early stages of the pandemic. In these cases, as the executive expanded its power, the legislature and the judiciary were limited in their ability to oversee the measures and their implementation. Thus, hybrid regimes such as Albania, North Macedonia, and Serbia did not fully meet the four principles of legality, a bounded timeframe for emergency measures, necessity, and distributed power with checks on executive action. On the other hand, Greece, a consolidated democracy, met all four principles, while Slovenia, also a consolidated democracy, met three of the principles including legality, a bounded timeframe for emergency measures, and distributed power with checks on executive action, while partially meeting the principle of necessity. This analysis yields important implications for future democratic consolidation. It shows that in times of national emergencies such as a pandemic, there is a risk of the use of excessive force conducted in the name of public security. In order to guarantee the protection of human rights during these times, hybrid democracies, in particular, must focus on strengthening their democratic institutions and procedures in order to prevent executive overreach and ensure the continuation of free and fair elections.

2. INTRODUCTION

The COVID-19 pandemic was a public health emergency that threatened citizens' lives around the world. Governments responded to it with various measures, and many enacted emergency laws intended to stop or limit the spread of the virus and protect the lives of citizens. Such emergency laws curtailed freedoms and rights, such as freedom of movement, speech, work, among others, in the interest of protecting public health and safety. Were such measures proportional to the dangers? What lessons can be learned from comparing governments' responses to such an extraordinary public health crisis? How can these insights be applied to future emergencies?

Since the COVID-19 virus threatened the life of citizens, protecting the public health of the population is considered part of national (public) security. In this report, the concept of national security and public security, (*siguria publike*) in Albanian, are used interchangeably to refer to the broader safety of the society and its members. To limit the threat of the COVID-19 pandemic, a natural disaster, the government is empowered to take extraordinary measures that would temporarily limit particular human rights. This study examines whether emergency measures were justified in terms of the protection of life and citizens' human rights. Governments must be held accountable for any tradeoffs made in terms of civil liberties and human rights that were authorized in the name of national (public) security. Reflecting these issues, this study contextualizes and compares Albania's response to the COVID-19 pandemic within a framework of national security and human rights perspectives.

Because the COVID-19 pandemic challenged aspects of national security in each state, governments placed restrictions on human rights. To investigate Albania's response in terms of national (public) security, we examine data on the extent to which the government's restrictive measures limited the spread of the virus and protected public health. To examine Albania's response in a human rights perspective, this report was guided by four established democratic principles: legality; a bounded timeframe for emergency measures; necessity; and distributed power with legislative and judicial actions and checks on executive actions taken during the first six months of the pandemic. This study provides findings and recommendations about the tension between the protection of national (public) security and the right of life versus other human rights in the special situation presented by the COVID-19 pandemic. We also compare the government's response to the COVID-19 pandemic in Albania with the following states in the region of the Western Balkans: Serbia and North Macedonia (hybrid regime), Slovenia and Greece (consolidated democracy).

Specifically, this report investigated the following questions:

- To what extent could the protection, respect and guarantee of human rights be overridden to enable the protection of the citizens? Were the emergency measures adopted in line with the principles of legality and rule of law? Which key rights were affected by the laws and practices enacted by the government? How could the concept of national (public) security be defined in the case of an emergency and what does it include?

- To what extent can the restrictive security measures enacted to protect the citizens be implemented in a proportional and balanced way that secures the implementation of the human rights corpus? Have these security measures been used as a last recourse and considered the least restrictive of all the options that could have been applied? How have the powers and weight of specific institutions changed during this emergency situation? Finally, what is the potential risk of these actions to the future of democratic consolidation in these countries?

3. RESEARCH METHODOLOGY

This report is based on rigorous comparative desk research and qualitative empirical research focused on government response in a select group of countries in the face of the COVID-19 pandemic. The report compares Albania with the following states in the same region: Serbia and North Macedonia (hybrid regime), Slovenia and Greece (consolidated democracy).

Our analysis incorporated quantitative and qualitative data from the following international sources: Oxford [Coronavirus Government Response Tracker \(OxCGRT\)](#), [Freedom House, Global Monitor of COVID-19's Impact on Democracy and Human Rights](#) hosted by IDEA, [WFD Pandemic Democracy Tracker](#), and the Council of Europe Resources such as [Treaty Tracker](#).

Qualitative research in Albania focused on stakeholders' perspectives on the government response during the emergency period, especially the measures undertaken by the Interior Ministry and the Health Ministry. To this end, we conducted 7 semi-structured interviews and two focus groups with representatives of NGOs, Public Health experts, Interior Ministry, Ministry of Justice, and media using a purposive sampling technique. The goal of this methodology was to understand the constitutionality and proportionality of the emergency measures as they relate to human rights protections in Albania. Interview and focus group questions also focused on the level of transparency of government policies, participation in discussions of experts and various interest groups during the policy-making process, and the public response to the emergency measures. The legal acts promulgated by the Albanian government during the period of March-September 2020 were also analyzed. While the primary focus of this research is on the initial six months of the pandemic (March-August 2020), some comparative evidence is presented from the latter stage of the crisis (September-December 2020). Interviews and focus groups were conducted in Albanian, and the qualitative data was then translated into English. The final report was written and edited in English, and then translated into Albanian.

4. CONCEPTUAL FRAMEWORK

The COVID-19 pandemic impacted the world's health and their political systems. To address the danger to the health of the populations as part of national (public) security protections, governments took extraordinary measures. Within the Albanian context, a natural disaster such as the COVID-19 pandemic is a national (public) security threat in that it poses risks to the security and wellbeing of the population. In this report, national security and public security are used interchangeably to refer to the broader safety of the society and its members. The Albanian Constitution (Articles 37, 45, 173, 174, and 175) refers to public security to justify the imposition of extraordinary measures to protect the country "because of a state of war, a state of emergency, or a state of natural disaster" (Article 170 :1). The pandemic has demonstrated that the scope of what is understood to be included in national security must be expanded to encompass wider security threats such as environmental crises and global public health crises. To limit the spread of the COVID-19 pandemic, a natural disaster, the government is empowered to take extraordinary measures that would temporarily limit particular human rights.

Most governments have responded with stricter measures to protect public health and security as COVID-19 cases have increased. This suggests that there is some international convergence around public expectations for government protections as the world faces such an unprecedented public health crisis. According to a comprehensive study on global democratic trends before and during the COVID-19 pandemic conducted by the International Institute for Democratic and Electoral Assistance (IDEA), 59 percent of the world's countries declared a National State of Emergency that limited basic civil liberties, such as freedom of movement and assembly (IDEA, 2020, 1). Furthermore, this study found that 61 percent of countries implemented problematic measures from a human rights perspective; such measures violated international human rights standards because they were either "disproportionate, illegal, indefinite or unnecessary in relation to the health threat" (IDEA, 2020, 1). While the COVID-19 pandemic represented an unprecedented challenge to democratic governments, the standards of human rights protections are firmly established and must be upheld even during protracted emergencies.

Many countries postponed or otherwise altered elections as well, curtailing electoral processes such as rallies and in-person voting that could lead to further spread of the COVID-19 virus. Countries that did not declare a National State of Emergency still implemented protective measures that were required to combat the virus, such as confinement measures. In addition, governments used public information campaigns to recommend individual measures of hygiene (particularly hand-washing and wearing facial coverings) and physical isolation (social distancing).

Quantitative evidence suggests that extraordinary measures of lockdown reduced infection and mortality rates in countries that acted faster to prevent the spread of COVID-19, and where there was government economic support for the citizens who stayed home (Bonardi et al., 2020). Maintaining lockdown measures for a long time is not sustainable for economic and social reasons, so governments ease restrictions when the virus spread goes down. If the virus spread increases, governments may increase the levels of restrictions again.

Democracies that commit to upholding the rule of law must follow their country's constitutional legal framework when implementing restrictions during an emergency such as a pandemic. There is significant concern that countries with weak democratic consolidation that lack robust institutions will be more likely to exhibit serious threats to democracy including the adoption of measures that violate human rights standards as a result of the pandemic. Globally, measures of National State of Emergencies that represent risks to democracy include: lack of sufficient scrutiny by the legislature or the judiciary of the executive decisions and implementation; concentration of power within the executive branch of the government; the inclusion of societal measures that go beyond limiting the spread of the virus (particularly measures that harm the media and/or entail the excessive use of force against citizens during the enforcement of emergency restrictions) (IDEA, 2020). As we will discuss in the empirical analysis below, in hybrid democracies such as Albania, Serbia and North Macedonia,¹ these risks have been observed during the governments' initial response to the COVID-19 pandemic.

The most common restrictions imposed during the pandemic have been infringements to freedom of movement and assembly. The International IDEA's (2020) global report highlights concerning developments in the freedom of expression, media integrity, and personal security. Furthermore, half the elections scheduled between February and December 2020 were postponed, indicating another area of potential infringement on democratic rights and processes (IDEA, 2020).

The Council of Europe's (CoE, 2020a) toolkit on respecting democracy, rule of law, and human rights in times of emergency provides an important framework with which to assess the legality and proportionality of the COVID-19 pandemic response in its member states. The CoE recognizes that by making confinement measures to address COVID-19, states may decide to derogate (temporarily suspend) safeguarding of particular rights; however, restrictions should always be proportional to the threat and time-restricted.

The COVID-19 pandemic challenged the public health of the populations in each state, which constituted a threat to national (public) security and thereby provided justification for some temporary, proportional, and constitutional

¹Freedom House uses the Partly Free category to refer to hybrid democracies in which the democratic rules of the game are not consolidated. Albania, North Macedonia and Serbia are coded as Partly Free Regimes; for more information, see: <https://freedomhouse.org/explore-the-map?type=fhw&year=2020>.

restrictions on human rights. According to the Council of Europe, “Article 5.1(e) [of the European Convention for Human Rights] specifies that the prevention of the spreading of infectious diseases is one of the grounds for which a person may be deprived of his or her liberty. Before resorting to such measures, states are expected to control the existence of a relevant legal basis and consider whether measures amounting to deprivation of liberty are strictly necessary against any less stringent alternatives” (CoE, 2020a, 6).²

If member states decide to enact emergency measures that temporarily restrict human rights, the Council of Europe (2020a) mandates that states must follow four key democratic legal principles. First, the principle of *legality* specifies that the rule of law should prevail even during an emergency. States should follow constitutional provisions when coming up with new legislation and executive decrees. New laws passed during the pandemic should comply with the domestic constitution, as well as international standards, and they must be reviewed by the Constitutional Court as well as the European Court of Human Rights (CoE, 2020a, 2). The parliament should provide necessary oversight of the emergency legislature.

The second principle that applies during the pandemic is the *limited duration of the state of emergency and its measures*. The power that governments receive during the state of emergency to issue decrees with the force of law should be temporary. Parliaments must decide whether, and under what conditions, it would be necessary to prolong the emergency measures. The indefinite continuation of emergency powers is not permitted by international human rights and democratic principles.

According to the Council of Europe, the third principle of *necessity* stipulates that emergency measures should achieve their goals with as few as possible changes to normal democratic rules and procedures. Furthermore, measures should be as narrow as possible in scope and should not result in a “*carte blanche* given by the legislator to the executive” (CoE, 2020a, 4). Thus, while the executive may issue emergency decrees, it should not make broad fundamental legal reforms during the state of emergency that would lead to abuse of power.

The fourth principle that applies to states during an emergency refers to the *distribution of powers and checks on executive action*. During a crisis such as a pandemic, the executive must be able to act quickly to address the situation and protect public health in the interest of national security. That may involve the central authorities bypassing local and regional authorities in order to coordinate the crisis response until the situation is resolved. On the other hand, Parliaments must still oversee the executive by verifying that emergency measures are justified. Dissolving the Parliament during the emergency is not a proper measure. Similarly, the judiciary—especially the

²The Council of Europe clearly stipulates that certain fundamental rights cannot be derogated: for example, “the right to life, except in the context of lawful acts of war (Article 2), the prohibition of torture and inhuman or degrading treatment or punishment (Article 3), the prohibition of slavery and servitude (Article 4§1) and the rule of ‘no punishment without law’ (Article 7)” (CoE, 2020a, 2).

Constitutional Court—should still be able to investigate the limitations to human rights introduced during the emergency. Finally, the Council of Europe cautions that holding elections and referendums during an emergency would be problematic, due to limitations placed on campaigning (CoE, 2020a, 4).

5. ALBANIA'S RESPONSE TO THE COVID-19 PANDEMIC IN THE CONTEXT OF NATIONAL (PUBLIC) SECURITY



In order to analyze the response of Albania to protecting the public security during the emergency measures, we use data on whether the measures limited the spread of COVID-19. In addition, we look at secondary survey data to understand the public acceptance of government measures. Since COVID-19 is a global pandemic, we also compare Albanian measures and health indicators with several countries in the Western Balkans region.

Albania initially responded to the national security threat of the COVID-19 virus using lockdown measures. In terms of the timeline of the government's response, the first COVID-19 case was detected in Albania on March 9th, 2020. On March 11th, the World Health Organization³ named COVID-19 as a global pandemic, and Albania imposed partial lockdown measures. To enforce the curfew rules, the government used the military during March 9-15th. On March 24th, the Council of Ministers⁴ proclaimed a State of Natural Disaster for 30 days, following Articles 170-175 of the Constitution, thereby restricting air, land and sea traffic, suspending education, and setting procedures for quarantine and self-isolation among other measures. On April 21st, the Albanian Parliament approved a proposal to extend the State of Natural Disaster⁵ until June 23rd.⁶ To ameliorate the economic impact of the pandemic, on March 25th, the Albanian government provided social and economic protections, including two aid packages for small, medium and large companies⁷, food subsidies and distributions, and subsidized job furlough programmes.⁸ The aid was distributed widely, and media has not reported on cases of pandemic aid abuse by the government.

The strict lockdown during the emergency measures of Natural Disaster in Albania limited the spread of the virus and the number of related deaths. According to Johns Hopkins Coronavirus Resource Center, by January 31st, 2021, Albania had 49 deaths due to COVID-19 per 100,000 citizens, a lower ratio than the other comparative cases of Greece (55 deaths), Slovenia (172 deaths), Serbia (58 deaths) and North Macedonia (138 deaths).⁹

³<https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19--11-march-2020>

⁴<https://rm.coe.int/jj9020c-tr-005-231-en-annex-1/16809e0fe7>

⁵Decision No.243, dated 24.3.2020 on The Declaration of the State Of Natural Disaster, page 1

⁶<https://gbz.gov.al/eli/vendim/2020/04/23/18>

⁷<https://financa.gov.al/raporte-per-covid-19/>. See also https://assets.ev.com/content/dam/ev-sites/ev-com/en_al/generic-content/pdf/ev-government-support-package-albania-and-kosovo.pdf, pg. 6.

⁸<https://tracker.wfd.org/country/albania/>

⁹<https://coronavirus.ihp.edu/data/mortality>. We should interpret such data with caution, since there might be underreporting of deaths by governments, especially in Albania and North Macedonia that had fewer tests per capita.

Figure 1, below, compares daily COVID-19 deaths with the degree of stringency of government response in Albania. The Government Stringency Index is calculated on the basis of the following metrics: school closures; workplace closures; cancellation of public events; restrictions on public gatherings; closures of public transport; stay-at-home requirements; public information campaigns; restrictions on internal movements; and international travel controls.¹⁰ We notice the decline in deaths during the State of Natural Disaster period of April and May 2020, while the most daily deaths have occurred during September to December 2020. Thus, evidence shows that the initial restrictive lockdown measures lowered the rate of disease transmission and mortality. The increase in COVID-19 deaths during the post-lockdown phase led to renewed government restrictions, but not another lockdown.

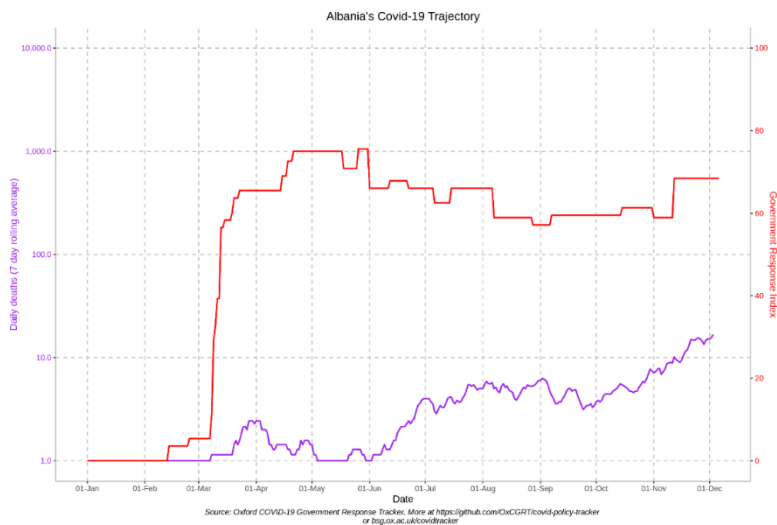


Figure 1. Albania's COVID-19 trajectory

While the government reserved the right to take restrictive measures during September-December 2020, it did not enforce another lockdown, despite the rise in infections and deaths from COVID-19. On June 1, 2020, by order no. 351, dated 29.5.2020, "On taking special measures and restrictions to prevent the spread of Covid-19" through an action plan, the most stringent restrictions were lifted.¹¹ Instead of a complete lockdown, the Albanian government

¹⁰<https://ourworldindata.org/coronavirus>.

¹¹<https://www.wfd.org/wp-content/uploads/2021/01/WFD-Report-Follow-the-Money-Shendetesi-Shqip-FINAL.pdf>, pg. 12

chose to emphasise less restrictive sanitary measures and the mandatory use of face masks. Interviewees note that Albania followed the examples of other countries in these measures. For example, individuals noted the following:

Albania did not follow a completely individual and unique approach but got involved in managing the situation by imitating models of other countries. The Prime Minister followed others' examples very often, as he took some measures or restrictions.¹² At least compared to the neighbors, the government did not bring any different management model.¹³

Furthermore, as in other countries during this period, the decision of the Albanian government to avoid the imposition of a new lockdown was likely due to the inability of the government to cope with the negative economic impacts of the restrictions¹⁴, including the increased national debt after the issuance of a 650 million Eurobond.¹⁵

Table 1 below compares the total number of people affected, as well as recoveries and deaths due to COVID-19 at different stages of the pandemic with different government measures in Albania. The data indicates that the lockdown measures during the emergency situation limited the spread of the virus and the number of deaths. The increase in the number of tests after the emergency lockdown measures was accompanied by an increase in the detection of persons infected with COVID-19 during the period September - December. The number of COVID-19 infections and deaths is higher in this period compared to March - June.¹⁶

¹²Interview with experts of security issues, 2020

¹³Interview with experts of security issues, 2020

¹⁴<http://pubdocs.worldbank.org/en/254111588143425920/RER-17-Setting-the-Stage-ALB.pdf>

¹⁵<https://www.intellinews.com/albania-issues-650mn-eurobond-with-3-65-coupon-185059/#:~:text=Albania%20has%20issued%20a%20seven,a%20coupon%20rate%20of%203.65%25.>

¹⁶According to data by the Ministry of Health and processed by "Monitor," the age group with the highest mortality in the country from COVID-19 is 60-69 years old followed by 70-79 years old and over 80 years old for the period March - September. However, there is a significant increase in the number of deaths under the age of 60, which on July 28 accounted for 23% of the total, from 8.7% in mid-April. <https://www.monitor.al/gati-10-e-vdekjeve-nga-covid-19-ne-vend-nuk-kishin-semundje-shoqeruese-moshamesatare-zbret-ne-66-8-vjec/>

	Patients tested	Positive tests	Currently in Hospital	Cured patients	Active Cases	Total Deaths	Administrative measures
Up to 23 March 2020	853	104	49	5	99	4	Order no. 193, on 20.3.2020 "On the Closure and Restriction of Movements in the Republic of Albania.
Up to 1 June, 2020	14824	1143	28	877	233	33	Order no. 351, on 29.5.2020, "On taking special measures and restrictions to prevent the spread of COVID-19"
Up to 22 October, 2020	114381	18556	258	10395	7390	469	Instruction no. 1163/1, dated 13.10.202, of the Institute of Public Health "On the mandatory use of masks outside home"
Up to 14 January, 2021¹⁷	299560	65994	271	39246	25487	1261	

Table 1. COVID-19 Cases and the action by the Ministry of Ministry of Health and Social Protection¹⁸

¹⁷<http://open.data.al/covid-19/>

¹⁸https://www.wfd.org/wp-content/uploads/2021/01/WFD-Report_Follow-the-Money_Shendetesi_Shqip-FINAL.pdf, page. 12

6. ALBANIA'S RESPONSE TO THE PANDEMIC IN A REGIONAL AND GLOBAL CONTEXT



In order to contextualize Albania's response to the pandemic in a comparative perspective, this section discusses findings based on a desk review of neighboring country responses. Since most countries faced the same threat to public health, examining similarities and contrasts in patterns of response provides important

information on our research questions about public health measures adopted in the name of national security and the protection of human rights during the pandemic. The countries selected for regional comparison with Albania include Serbia and North Macedonia (hybrid regimes), and Slovenia and Greece (consolidated democratic regimes).

The Albanian emergency measures can be explained with the recognition by the government and the public that the health infrastructure was weak and would be overwhelmed by rapidly increasing COVID-19 infection rates. Across the Western Balkans, public health institutions have been neglected by the government and undermined by a lack of investment and migration of skilled professionals (Beiber et al., 2020). The systematic neglect of the health systems in these countries meant that hospitals had difficulty dealing with many COVID-19 cases, which increased the urgency for the government to use restrictive measures and steep penalties to prevent the rapid spread of the virus. According to interviews in Albania, the alarming epidemic situation in Italy in March increased fear of COVID-19, and, as a result, the public mostly complied with the extraordinary measures that limited some human rights in favor of the supporting the right to life (Kamberi, personal interview). When we investigate the data about healthcare capacity before the COVID-19 emergency, Albanian health care infrastructure is weak. Albania had fewer physicians, nurses, and beds per capita before the COVID-19 emergency than all the comparative countries. Albania's initial emergency response to the pandemic can thus be understood as a preventive measure toward the virus threat, that would allow the government to better prepare for the unfolding emergency. The official testing data during the emergency period also indicates that Albania's tests per capita were the same as in North Macedonia, but lower than the other countries (Figure 2). The extraordinary lockdown measures in the spring of 2020 allowed the governments to build more healthcare capacity in terms of intensive care unit (ICU) hospital beds for seriously ill COVID-19 patients, as well as Personal Protective Equipment (PPE) for the hospital staff. For instance, Albania

increased the number of ICU beds from 250-300 prior to the pandemic to 553 by July 2020. Greece increased its number of ICU hospital beds from 565 prior to the pandemic to 1017 in April 2020. In North Macedonia, the government worked with the military to create a mobile hospital that would add 130 ICU beds. Serbia created a temporary hospital in a Belgrade sports area that contained 500 ICU beds. Slovenia invested in ventilators to add 300 more ICU beds to its health infrastructure.¹⁹

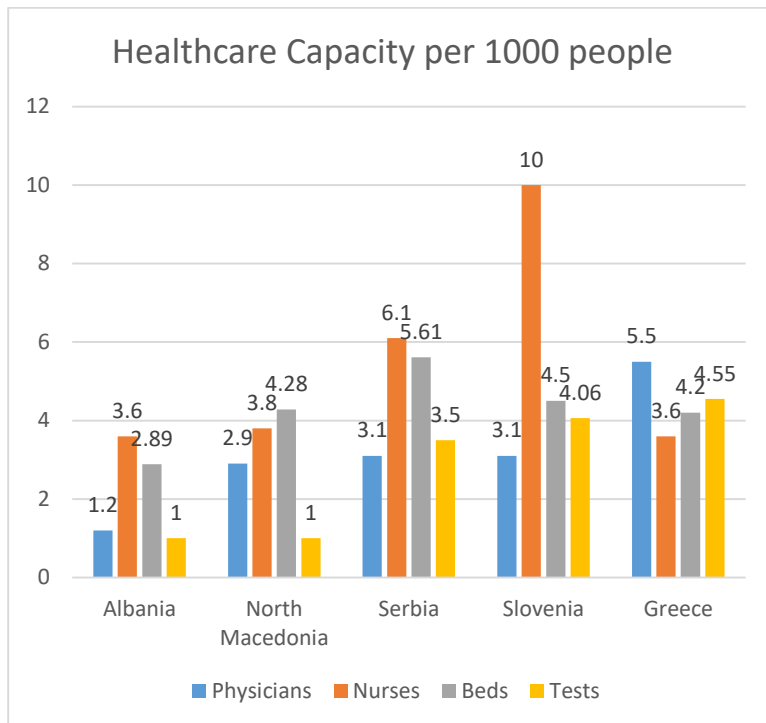


Figure 2. Health care Capacity

Note: The data for physicians, nurses, and beds reflects the pre-COVID-19 data. Source: World Bank Indicators. The COVID-19 test data is weekly per 1000 people and reflects the average during spring 2020. Source: Health Care Response Monitor. www.covid19healthsystem.org

¹⁹www.covid19healthsystem.org

During May-December 2020, the threat to global public health increased as COVID-19 spread exponentially. The fact that asymptomatic people could spread the virus without detection contributed to the dangerous growth of cases and confounded efforts to limit its spread. As depicted in Figure 3, trends of increasing daily new confirmed infection cases are evident in the countries under comparison, with an initial spike in March and April, followed by a decline in overall cases in April and May during the emergency lockdown measures, and a more sustained increase in confirmed cases during June through December 2020 as countries eased their restrictions during the summer months.

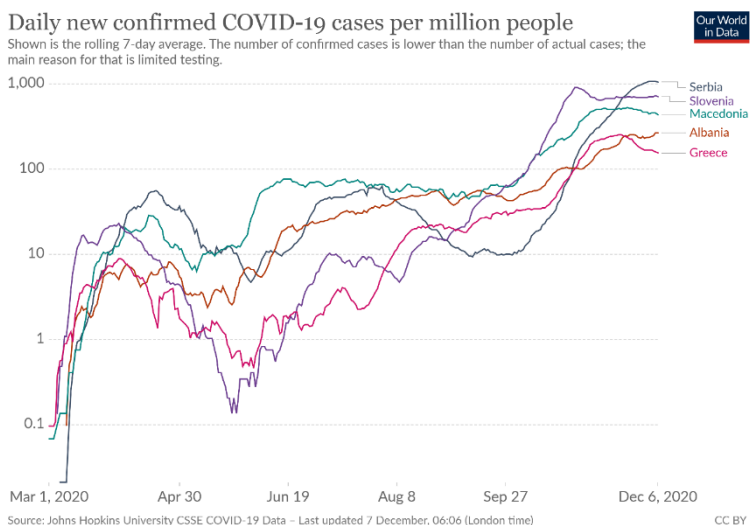


Figure 3. Daily new confirmed COVID-19 cases per million people

Based on data from the Center for Systems Science and Engineering (CSSE) at Johns Hopkins University, Figures 3 and 4, respectively, show trends in confirmed cases and the case fatality rates—the ratio between confirmed deaths and confirmed cases—which is a key indicator of the challenge that the pandemic posed to these countries.

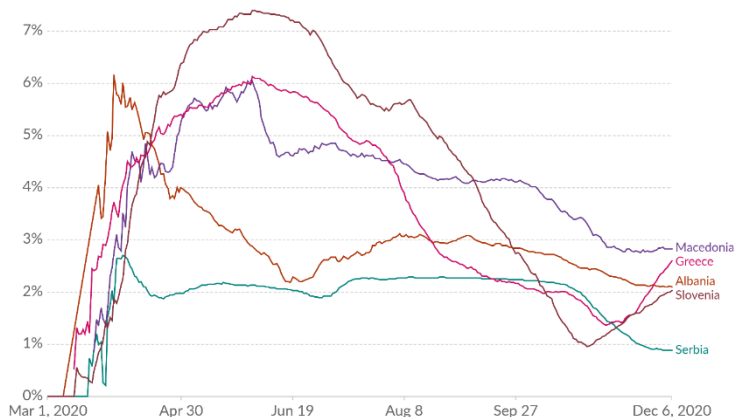
As the spread of the virus threatened to deprive citizens of their right to biological life and exponentially grew to threaten wider public health, governments responded with various measures.

Particularly in the early days of the pandemic, when case fatality rates were higher, governments enacted more restrictive measures. As evident in Figure 5, many of the most stringent government responses in North Macedonia,

Greece, Albania, Slovenia, and Serbia occurred during the months of March through June 2020.

Case fatality rate of the ongoing COVID-19 pandemic

The Case Fatality Rate (CFR) is the ratio between confirmed deaths and confirmed cases. During an outbreak of a pandemic the CFR is a poor measure of the mortality risk of the disease. We explain this in detail at OurWorldInData.org/Coronavirus



Source: Johns Hopkins University CSSE COVID-19 Data – Last updated 7 December, 06:06 (London time)

CC BY

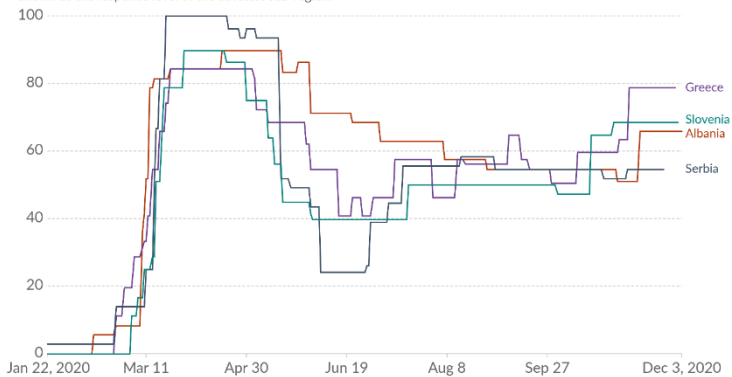
Figure 4. COVID-19 case fatality rates

As indicated in Figure 5, countries followed similar trends in the degree of the stringency of government responses measured by a composite of several indicators. These trends indicate a general increase in stricter measures in the early months of March through May, with some relaxation of restrictive measures during June through September, followed by an increase in stringency during October through December as confirmed COVID-19 cases continued to rise.

COVID-19: Government Response Stringency Index



This is a composite measure based on nine response indicators including school closures, workplace closures, and travel bans, rescaled to a value from 0 to 100 (100 = strictest). If policies vary at the subnational level, the index is shown as the response level of the strictest sub-region.



Source: Hale, Webster, Petherick, Phillips, and Kira (2020). Oxford COVID-19 Government Response Tracker - Last updated 7 December, 03:01 (London time)

Note: This index simply records the number and strictness of government policies, and should not be interpreted as 'scoring' the appropriateness or effectiveness of a country's response.
OurWorldInData.org/coronavirus • CC BY

Figure 5. COVID-19: Government Response Stringency Index²⁰

²⁰Note that the Oxford research group did not have the comparative data on North Macedonia on government response stringency metrics.

7. COUNTRY-SPECIFIC RESPONSES TO THE COVID-19 PANDEMIC

In the section below, we briefly discuss the country-specific trajectories of government responses to the COVID-19 pandemic.



Serbia

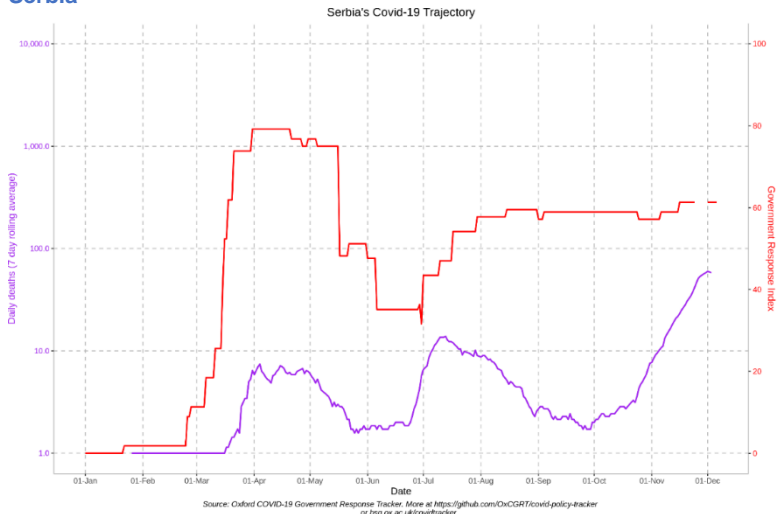


Figure 6. Serbia's COVID-19 trajectory

The first COVID-19 positive case was identified in Serbia on March 6th. By March 13th, the government established two crisis headquarters (HQ): Crisis HQ for Combating Disease, led by the Prime Minister with membership of medical experts, and 2) Crisis Headquarters for the Economy, co-chaired by the President and Minister of Finance. On March 15th, Serbia declared a

State of Emergency, sending the country into lockdown, including the closing of educational establishments. Serbia followed Article 20 of its Constitution when it declared the emergency (Tsifakis, 2020, 199). On April 10th, Serbia's government adopted economic and social measures to support people during quarantine. The Parliament ended the State of Emergency on May 6th, 2020. On June 21st, Parliamentary elections were held. The Serbian Parliament discussed re-imposing a State of Emergency on July 6th, 2020. Following violent protests with the police in Belgrade, the government initially said that they would not introduce such measures. However, on the 17th of July, the government again introduced emergency measures (Tepavac & Brankovic, 2020b, 34).

Overall, Serbia's trajectory of government measures compared to daily COVID-19 deaths (Figure 6) showed an increase in the stringency of measures during the State of Emergency in March to May that lowered the daily deaths by limiting the spread of infection. The government briefly relaxed restrictive measures in June before another increase in stringency measures during July through September 2020.

North Macedonia

The government response to the COVID-19 pandemic followed a similar pattern in North Macedonia as in the other countries in the region (no graph was available for this country). The first case of COVID-19 was confirmed on February 26th. On March 13th, two municipalities, Debar and Centar Zhupa, were placed under quarantine. The government in North Macedonia declared a State of Emergency from March 18th through June 13th, but it could not get parliamentary approval because the legislature had dissolved prior to the pandemic (Tsifakis, 2020, p. 198). On April 30th, the government announced that the school year would be completed online on June 10th. The emergency measures caused declines in the spread of the virus in North Macedonia (see Figure 3). On May 12th, the government adopted a plan for the gradual removal of restrictions; however, on June 15th, the President again declared a State of Emergency (the fifth time) lasting for 8 days. On July 15th, Parliamentary elections were held.

Greece

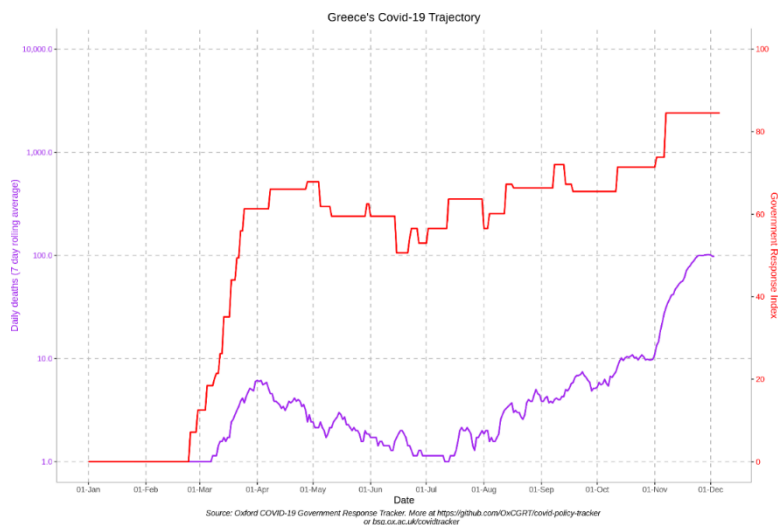


Figure 7. Greece's COVID-19 trajectory

The trajectory of government response compared to daily deaths due to COVID-19 in Greece indicates a very close correspondence between the government's response and the COVID-19 threat. The early lockdown measures decreased the spread of virus in Greece. While the threat during the months of March through May was addressed by restrictive measures, Greece did not declare a national State of Emergency. Restrictive measures were relaxed during June through August. Following this, targeted increases in measures occurred to address the increase in COVID-19 cases during September through October. With increased cases as well as deaths due to COVID-19, Greece introduced another lockdown during November 7-30, banning all gatherings. The country also banned entry in late September for all non-EU citizens, and changed the restrictions based upon visitors from low-infection countries.²¹ Human rights advocates have criticized the government in Greece for not doing enough to protect vulnerable refugees who live in overcrowded conditions (Cosse, 2020).

²¹See Greece country profile: <https://www.idea.int/qso-d-indices/#/indices/countries-regions-profile>

Slovenia

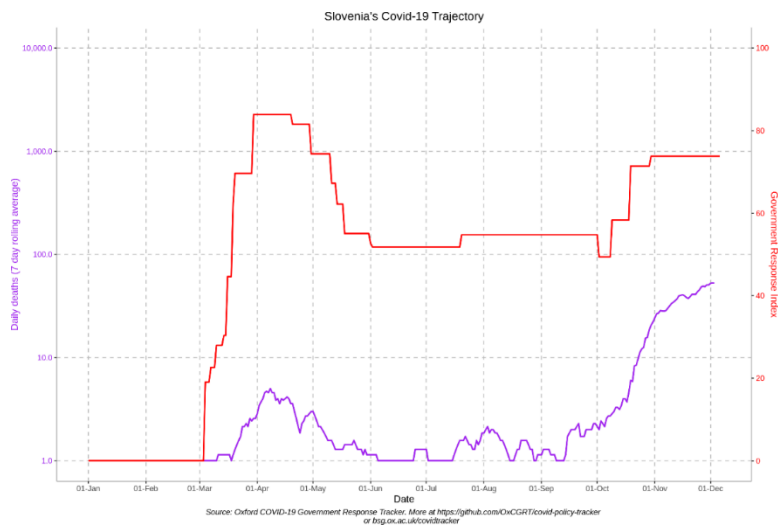


Figure 8. Slovenia's COVID-19 trajectory

Slovenia did not declare a state of emergency, even though Article 92 of its Constitution allows an emergency to be declared when a great danger threatens the existence of the state. Instead, the Slovenian government took on measures based upon ordinary legislation, including Article 7 of the Communicative Disease Act.²² On the 4th of March, Slovenia declared their first confirmed COVID-19 case. Slovenia was the first country in the EU to declare a lockdown, and those measures significantly lowered the spread of the virus (Figure 8). Initially, during March 12th through April 15th, the government adopted a decree on the declaration of the COVID-19 epidemic. The government adopted several measures, such as prohibiting or restricting movement of the population in protected areas and prohibiting the gathering of people in schools, cinemas, and other public places. On March 30th, Slovenia added a prohibition of movement outside the municipality of permanent or temporary residence; this act was suspended by the Slovenian Constitutional Court which ordered the government to review the justification of the measures immediately, and then at least every seven days (European Parliament Briefing, 2020, 11). The COVID-19 epidemic declaration decree ended on May 14th when measures were relaxed, and outdoor dining was again allowed. Experts reviewed emergency measures every seven days,

²²See: http://www.pisrs.si/Pis_web/pregledPredpisa?id=ZAKO433#

and the government announced whether the measures would be continued or changed. Subsequently, the Parliament and the public were notified. This procedure indicates a high degree of responsiveness from the government to experts and the public (Luksic, 2020, 36). COVID-19 cases were very low from June through mid-September; indicating that the measures effectively lowered rates of infection and deaths. However, cases began to tick up again by the end of September and spiked in November and December 2020. Slovenia's government followed up with more restrictive measures to address the rise in COVID-19 cases and deaths.

In light of the trends described, it is important to examine whether the public in these Western Balkans' countries understood the rationale and offered their general support of these restrictive government measures. Public perception polls in the Western Balkans (including Albania, Bosnia and Hercegovina, Kosovo, Montenegro, North Macedonia, and Serbia) conducted in May 2020 by the Regional Cooperation Council (RCC) indicate that citizens and residents perceived the threat posed by the pandemic and thus mostly supported government measures to contain the virus' spread (Talevska & Zoric, 2020). According to that survey, more than 70 percent of overall respondents in the Western Balkans indicated their significant fear of the threat of the pandemic on the global and national economy. Citizens across the region were mostly in favor (83 percent) of the mandatory quarantine for those that could have the infection. Similarly, 79 percent of respondents supported imposing mandatory self-isolation or travel bans to and from the economies most affected by the pandemic. Similarly, 76 percent of the respondents supported precautionary measures that were undertaken to help control the virus, such as social distancing and wearing face masks and gloves. There was consistent support in most countries for such precautionary measures with 85 percent of respondents in Albania, 87 percent in North Macedonia, and 78 percent in Serbia indicating their support (Talevska & Zoric, 2020). According to a European Parliament (2020) survey, 77% of the respondents in Greece and 54% of respondents in Slovenia are satisfied with the measures the government has taken thus far against the coronavirus pandemic. These data indicate that the publics generally supported the measures that governments took in order to protect national security and prevent the death of their citizens during the pandemic.

The public's perception of the quality, reliability, and availability of information represents another important aspect of the functioning of democracy during a public health emergency such as the COVID-19 pandemic. According to the Regional Cooperation Council's Balkan Barometer 2020 COVID-19 Impact Assessment (Talevska & Zoric, 2020), respondents from the Western Balkans stated that medical professionals (such as doctors and nurses) provided the most reliable information on the crisis, followed by government officials or television. In the case of Albania, trust in professionals increased during this period, following on the existing trend of the previous emergency, the earthquake of November 26, 2019 (WFD, 2020b). This indicates the increasing trust that citizens have for medical professionals during these

crises. As shown in Figure 9, respondents from Albania were more likely to trust medical professionals and government officials than television and other sources of information compared to respondents from North Macedonia and Serbia. According to survey data from the European Parliament (2020), scientists were the most trusted professionals for information in Greece (58%) and Slovenia (37%).

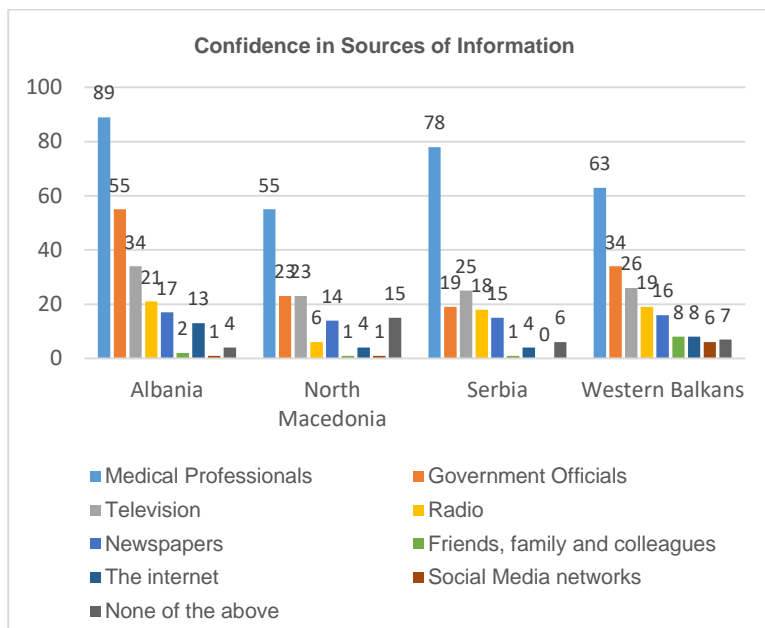


Figure 9. Comparative responses to the question: Which of the following sources of information do you have the most confidence in with regards to the accuracy of information they provide on the coronavirus?

(Note: All respondents, N=3078; maximum 3 answers; percentage share of total. This survey did not include Greece and Slovenia. Source: Talevska & Zoric, 2020).

From an economic perspective, the restrictive measures enacted during the pandemic caused major disruptions regionally and globally. According to the RCC Balkan Barometer report, only 32 percent of overall respondents were satisfied with the way in which their government ensured that people did not lose their jobs as a result of the pandemic (Talevska & Zoric, 2020). Individuals ranked their satisfaction with the government response differently, with 31 percent of respondents in Albania, 30 percent of

respondents in North Macedonia, and 61 percent of respondents in Serbia indicating their satisfaction with their government's response toward economic downturn (Talevska & Zoric, 2020). Albanian respondents also indicated that they trust the information from their government more than respondents in North Macedonia and Serbia. Together, these various indicators paint a complex picture of how citizens view the governments' performance in containing the pandemic. While the publics seem to favor restrictive measures to limit the spread of the virus and protect life, citizens are also concerned about the economic downturn such restrictive measures cause.

In summary, while restrictions due to the COVID-19 pandemic clearly disrupted normal life, many citizens viewed them as necessary. When asked about the restrictions imposed on their freedom during the pandemic, an average of only 26 percent of respondents were angry about them. Specifically, 28 percent of respondents in Albania, 27 percent of respondents in North Macedonia, and 20 percent of respondents in Serbia felt angry about such restrictions (Talevska & Zoric, 2020). This indicates further support for national security measures. The evidence from public polls suggests that the public supported government measures that prevented the spread of COVID-19, and they were most likely to trust information from scientists, medical professionals, and health experts.

8. RESPONSE TO THE COVID-19 PANDEMIC IN THE CONTEXT OF HUMAN RIGHTS

In assessing Albania's response to the COVID-19 pandemic in a human rights perspective, the four principles of legality, a bounded timeframe for emergency measures, necessity, and distributed power with checks on executive action serve as a useful framework for evaluating the government's adherence to established norms, standards, and practices of democracy and rule of law.

During the first months of the pandemic, how did the Albanian government meet the principle of legality which requires that the rule of law prevails even in a state of emergency? In the context of the pandemic, the danger to public health was seen as a threat to national security, and thereby justified the temporary restriction of certain human rights in a proportional and legal way. The legal basis for the management of emergency situations in Albania is sanctioned in the Constitution of Albania (1998), the law "On civil emergencies" (2019), the law "On prevention and fight against infections and infectious diseases" (2016), and the law on Public Health (2009). The Constitution of Albania (1998) regulates the decision-making practices of the state of emergency. Article 170 of the Constitution stipulates that "acts taken in the framework of extraordinary measures must be proportionate to the degree of risk and must aim at restoring as soon as possible the conditions for the normal functioning of the state. In situations that require extraordinary measures, none of the following laws can be changed: the Constitution, the laws on elections to the Albanian Parliament and local government bodies, and the laws on extraordinary measures" (ISP 2020, 18). Article 74 of the Constitution allows for the convening of an extraordinary session of Parliament in order to review the adoption of emergency-related measures, limited in time and scope, as provided in Article 174. Furthermore, Article 84 states that in the case of extraordinary measures, as well as in cases of urgency, with the consent of the President, the law will enter into force immediately, but only after it has been publicly announced. Furthermore, the law should be published as soon as possible in the next issue of the Official Gazette (WFD and Krasniqi, 2020).

On March 31st, the Albanian government notified the Council of Europe that it would be delaying the implementation of human rights laws (derogation from obligations) under Articles 8 and 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms. The rights impacted under derogation were Article 8: Right to Privacy; Article 11: Right of Assembly and Association; Article 1, Protocol 1: Protection of Property; Protocol 1, Article 2: Right to Education; and Article 2, Protocol 4: Freedom of Movement.²³ The

²³Notification - JJ9020C Tr./005-231. 1 April 2020. Declaration related to the Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5). <https://rm.coe.int/16809e0fe5> Macedonia

government withdrew the derogation, thereby committing to fully implement the obligations from the convention, on June 24th 2020.²⁴ Following these legal provisions, the Albanian government mostly met the requirements of the Council of Europe's (2020) first principle of legality.

Albania also met the second principle of the limited duration of the emergency and its measures. The emergency laws applied for three months in Albania. During the period March - June, in the measures taken by the government, the tendency of minimizing the spread of COVID-19 at the expense of economic effects on different social categories and different sectors of the economy predominated. The lockdown was accompanied by aid packages from the government for various social categories and businesses.

Albania's government only partially met the third principle of necessity in achieving its goals with the minimum change possible to normal democratic rules and procedures. In some instances, excessive responses were criticized by human rights' defenders. For example, the Albanian government passed disproportional sentences as a penalty for breaking the lockdown, up to 15 years proposed prison sentence. Furthermore, the Albanian government deployed the army and police²⁵ to patrol the streets to enforce the curfew.²⁶

During the first month of the lockdown, the Police administered 7,107 fines for pedestrians and 1,941 fines for drivers.²⁷ The government fined 266 businesses for breaking the quarantine rules. On April 23rd, the government decided to increase the penalties for people who broke quarantine rules by making changes to the criminal code. The Albanian Penal Code²⁸ was amended to introduce sanctions for violations of measures imposed by state authorities during an epidemic, or state of natural disaster, as well as the voluntary spread of infectious diseases. Non-compliance with quarantine or compulsory isolation was deemed punishable by fine or imprisonment of up to three years. According to the law, in cases where failure to comply caused the spread of infectious disease with high risk to human health, this is punishable by up to five years in prison. Where such a spread has produced serious consequences for human health or life, it is punishable by three to ten years imprisonment and five to fifteen years imprisonment when the

submitted the derogation for the same list of rights, while Serbia submitted its derogation without a list of rights.

See: <https://rm.coe.int/16809e1288>.

²⁴See: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/declarations>.

²⁵See: <https://www.usnews.com/news/world/articles/2020-03-21/albania-deploys-troops-to-enforce-40-hour-coronavirus-curfew>

²⁶In December 2020, the fatal shooting of a 25-year old unarmed male by a police officer led to protests and riots and the resignation of Interior Minister of Albania. See:

<https://balkaninsight.com/2020/12/11/albania-police-clashes-with-protesters-as-minister-of-interiors-resigns/>

²⁷See: Euronews Albania. 2020. Falen Gjobat e COVID-19. Rama: S'do te ekzekutohen.

<https://euronews.al/al/aktualitet/2020/04/17/falen-gjobat-e-covid-19-rama-s-do-te-ekzekutohen>

²⁸For some additions and amendments to Law N.7895, 27.1.1995, "Penal Code of the Republic of Albania," as amended.

offense has caused the death of one or more persons.²⁹ Civil Rights Defenders, an international organization that focuses on the protection of human rights, joined 29 Albanian civil society organizations to decry the proposal by the Albanian government to sentence people up to 15 years in prison for violation of the lockdown.³⁰

Following the adoption of amendments to the Albanian Penal Code, some months later the government passed an act to pardon financial and administrative fines and sanctions such as the fines for 7,107 pedestrians and 1,941 drivers as well as businesses fined during the first month of the lockdown. The government claimed that their measures were successful in combatting the spread of the virus; however, the cancelling of the fines and sanctions of the first month of the lockdown indicates a backtracking of the government from the implementation of the more severe sanctions. According to the focus groups and interviews conducted in this study, the suspension of fines during the quarantine period by the government created a strong belief among some citizens that the same would happen with the fines imposed during the subsequent period of October – December; however, this was not the case. The measures during October-December 2020 included the mandatory placement of the mask in public places, the prohibition of protests, and safety protocols for businesses. In sum, as of December 2020, Albania collected 2,781,920,000 thousand old ALL from the fines imposed for non-compliance with these safety measures.³¹

The Albanian government was also criticized for restricting the media based upon an anti-defamation law that was passed before the pandemic. In December 2019, the Albanian Parliament passed the anti-defamation law to regulate online media, extending to online media the authority of the Albanian Media Authority (AMA). The government was authorized to block such online media citing misinformation. Extending the regulation to online users would harm pluralism of media and possibly lead to self-censorship by online media outlets and individual bloggers. In June 2020, the Venice Commission of the Council of Europe issued an opinion that the amendment should not be

²⁹See: Albania Penal Code. Articles 242/1 and 89 /b

³⁰See: <https://crd.org/2020/04/16/albanias-government-unconstitutionally-pushes-draconian-sentences-in-fight-against-covid-19/>

³¹See. <https://www.asp.gov.al/>. From the data published by the police, from October 15 until December 28, these measures for not wearing a mask in public places have been fined in total 40,854 citizens, with 30 thousand old ALL, in total 1,225,620,000. For non-implementation of the protocol in pandemic conditions, 130 businesses were fined with 10 million old ALL, in total 1,300,000,000 (one billion three hundred million) old ALL. For breaking the curfew, 233 citizens with 130 businesses were fined with 100 thousand old ALL, in total 23,300,000 (twenty-three million three hundred) thousand old ALL were collected. While for organizing protests in times of pandemics, 2 citizens were fined with 50 million old ALL, in total 100,000,000 (one hundred million) old ALL. For breaking the curfew, 233 citizens were fined with 100 thousand old ALL, in total 23,300,000 (twenty-three million three hundred) thousand old ALL were collected. In total, Albania has collected 2,781,920,000 thousand old ALL from the fines imposed from October 15 until today, December 28.

adopted due to concerns over self-censorship and limiting freedom of expression in the media.³²

In Albania, during the lockdown, the Prime Minister clashed with the media during his direct communication with the people through his personal media channels (ERTV) and social media platforms (foremost Facebook). PM Rama was criticized for stating, “Wash your hands, don’t leave your house for fun, open the windows as much as you can, and beware of the media” in a voice message broadcast for all mobile subscribers of Vodafone’s network in Albania during the first week of extraordinary measures (Erebara, 2020). Rama also referred to media as “trash bins,” as media organizations criticized the government for monopolizing information (WFD, 2020b, 77). Print media incurred major losses from the COVID-19 restrictions, since printing presses froze during March and April 2020, and newspapers published only online. Due to new rules to not allow more than two people in a room at one time, TV shows were also cancelled. Reporters found it difficult to work in the field, since they did not have good procedures to protect themselves and the people they interviewed. During this period, the Prime Minister also used “war” metaphors such as “wartime wages” (state financial aid), “war hospitals” (COVID-19 medical facilities), “resistance in times of war” (quarantine), “fake news at war times” (media criticism)” (WFD and Krasniqi, 2020, 13). This behavior of the government and the Prime Minister in particular during this period is confirmed by the opinions expressed in the interviews and focus groups conducted with representatives of the main media, civil society and academics in Albania. Focus group respondents stated that:

At the beginning of the pandemic, we had the impression that the government and the government institutions were open to exchange any information regarding the management of the emergency situation. However, as the days went by, the information started to diminish. In other words, we faced the phenomenon of the funnel that was opened initially by the government and then, as the situation worsened, began to close. What is the number of infected cases? How does the health care chain work? How about the infection tracking? How many tests have been used? etc.³³ At the beginning of the pandemic, the government was more willing to cooperate with the media and provide information, while, as the situation worsened, this spirit of media-government cooperation began to fade.³⁴

According to focus group participants, the problem of media censorship in the first weeks of the pandemic is not only related to the role of the Prime Minister to censor the media, but members of the media themselves were found unprepared to face such a situation. The emergency period of the pandemic served as a lesson for the media, which had to learn how to inform the public in such an extraordinary situation.

³²See: [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2020\)013-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2020)013-e)

³³A2 CNN journalist participating in the focus group

³⁴TVSH journalist participating in the focus group.

Focus group participants from the health sector, civil society and media also viewed decision-making in Albania as dominated by the Prime Minister, and they questioned the independence of the experts who worked in the government. Albanian focus group participants also supported the inclusion of civil society and the media in consultation over emergency measures.

During October-December 2020, the government was more open and transparent with the media. At the same time, the media were much more active in reporting from the field. In general, experts played a key role in reporting and commenting on the situation. As one of the journalists in the focus group put it, "the media-government relation for the period October-December reversed - compared to the period March-June".³⁵

Similarly, experts became more prominent in communication about the pandemic after the extraordinary measures ended. In the September – December 2020 period, the presence of the Prime Minister and the Minister of Health in the media and social networks was greatly reduced in relation to the presence of health experts. The Technical Committee of Experts became the main source of information on the pandemic situation; their presence in the media, press conferences, and public debates was more noticeable in this period. The Technical Committee of Experts made public their recommendations before every decision taken by the line ministries. This point is also supported by the interviews conducted with researchers and experts in the field as well as by the opinions given by the journalists in the focus group.

The fourth principle which is relevant in determining the legality and proportionality of Albania's response to the pandemic relates to the distribution of powers and checks on executive actions. In Albania, as a normative act, the March 24th "State of Natural Disaster" should have been approved within 5 days by the sitting parliament. However, the Parliament voted on the decision on April 16th, focusing on the duration of the implementation of the measures (ISP, 2020, 1); instead of deciding on their necessity, or supervising their implementation, this delay was justified due to the emergency situation.³⁶ Due to the vetting process, the Constitutional Court of Albania was not functional during the emergency period, and therefore could not check executive actions.

For the period of March – May 2020, the Albanian Parliament did not hold a single question-and-answer session on the COVID-19 situation.

Furthermore, Parliament did not set up a commission to investigate the epidemic and did not set up a monitoring structure on the measures taken by the executive branch. The same situation was repeated during the periods September-October and November-December, despite the fact that the Parliamentary life took place normally, except for the obligatory wearing of the mask during the plenary sessions (ISP, 2020).

³⁵Euronews journalist participating in the focus group.

³⁶It should be noted that one part of the Albanian territory was already in the State of Natural Disaster due to the devastating earthquake of November 26th.

According to the monitoring conducted by ISP (2020, 27), for the January - July 2020 period, the Albanian Parliament approved a record number of laws; a total of 115 laws were approved, as compared to 55 and 57 laws in the same periods for 2018 and 2019. During the March 15 - June 23 period, the Council of Ministers adopted 30 normative acts with the force of law. The Constitution of Albania, article 101, recognizes the right of the Council of Ministers, in case of need and under conditions of urgency, to issue normative acts that have the force of law, as temporary measures (WFD and Krasniqi, 2020, 5). The large number of laws issued during the initial phase of the pandemic raises concerns about the time available for due process and public consultation. The consultation of legal initiatives with interest groups is a standard procedure, legal requirement, democratic practice, and necessary criteria to implement the rule of law. The lack of consultations and involvement of stakeholders is evidenced in the reaction of some associations to specific laws as well as in the focus group with civil society representatives.³⁷ Several of the initiatives, such as fiscal amnesty, and changes to the legislation on the State Police, were criticized by international organizations for their lack of consultation and problematic content. Under this international pressure, Parliament postponed or withdrew from these initiatives (ISP, 2020, 27).³⁸ Since the Parliament and the judiciary did not properly monitor the implementation of the emergency measures, the fourth principle was only partially met.

In a comparison of how governments responded to the pandemic in the Western Balkan region, several themes emerge. Importantly, the countries that declared a State of Emergency or equivalent status were the hybrid democracies of Albania, Serbia, and North Macedonia. In these countries in particular, the COVID-19 crisis demonstrated existing weaknesses in democratic institutions and rule of law.

First, the Parliaments in these countries found it difficult to oversee the executive rules and implementation. In Serbia, the government bypassed Parliament when declaring the State of Emergency without legal basis (Cuckić & Ivković, 2020). The pandemic increased polarization in Serbia, as several political parties boycotted parliamentary proceedings, due to perceived breach of procedures by the ruling party. The elections in Serbia scheduled for April 26th were also postponed and rescheduled for June 21st. The OSCE Election Assessment Mission pointed out the concerns that despite efficient elections, the government dominated the media, and there was limited policy debate in Serbia.³⁹ Thus, Serbia did not fully meet the legality principle and the distributed power with checks on executive action

³⁷<https://ahc.org.al/deklarate-e-perbashket-per-median/>

³⁸For the period October - December 2020, the parliament approved 50 laws and only one normative act. The very low number of normative acts compared to the period March - June is related to the lifting of the state of emergency. <https://www.parlament.al/LibrariaAkteve>. In this period, the lack of involvement of civil society was a problematic issue - as evidenced in the case of the electoral reform based on the draft report of the Venice Commission. See <https://www.osce.org/files/f/documents/7/2/473655.pdf>

³⁹OSCE 2020. ODIHR Special Election Assessment Mission. Republic of Serbia—Parliamentary Elections. <https://www.osce.org/files/f/documents/8/e/455155.pdf>

principle, partially met the necessity principle, and met the bounded timeframe for emergency measures principle.

In North Macedonia, the Parliament had already dissolved itself, and the country was preparing for parliamentary elections when the pandemic arrived in the country. The President Pendarovski declared a State of Emergency in the country that could not receive legislative approval. The caretaker government ruled North Macedonia by decree, while the President extended the State of Emergency four times without parliamentary approval. Since only one-third of the decrees of the caretaker government related to the pandemic, critics stated that the government overstepped its mandate (Markovikj, 2020).

North Macedonia postponed elections scheduled for April 12 until July 15th. Political parties agreed not to organize public rallies before the elections, but instead agreed to hold campaigning events online and through traditional media. What hampered North Macedonia during the pandemic was the lack of a functioning Parliament. North Macedonia, along with Serbia, did not meet the principle of legality and the principle of distributed power with checks on executive action, while it did meet the principles of necessity and bounded timeframe for emergency measures.

In Albania, Serbia, and North Macedonia, the state focused on enforcing physical distancing through repressive measures, including high penalties during the early days of the COVID-19 emergency. In both Albania and Serbia, the government deployed the armies⁴⁰ to patrol the streets to enforce the curfew. The use of such repressive measures underscores the fear of the government and the public toward the spread of COVID-19, as well as a recognition of the weaknesses of the healthcare system (Beiber et al., 2020, 7).

Governments tried to control the media more in Albania, Serbia, North Macedonia, and, following its government change, in Slovenia as well. The civil society and media were more open in Greece. In Serbia, the government included in the measures a policy to make journalists liable for prosecution if they use “unofficial sources.”⁴¹ Furthermore, the OSCE Election Assessment Mission pointed out concerns that despite efficient elections, the Serbian government dominated the media, and there was limited policy debate.⁴²

In North Macedonia, freedom of the media remained intact during the emergency measures, since the government did not arrest or limit the reporting activities of journalists. The government held daily press conferences with the media (Minister of Health participated most frequently), and journalists had the opportunity to also ask questions virtually via Skype (Markovikj, 2020, 26).

⁴⁰See: <https://www.usnews.com/news/world/articles/2020-03-21/albania-deploys-troops-to-enforce-40-hour-coronavirus-curfew>

⁴¹See <https://www.oecd.org/south-east-europe/COVID-19-Crisis-in-Serbia.pdf>

⁴²See OSCE 2020. ODIHR Special Election Assessment Mission. Republic of Serbia—Parliamentary Elections. <https://www.osce.org/files/t/documents/8/e/455155.pdf>

In Slovenia, the new government, led by right wing hardliner Janez Jansa, limited access to media by suspending press briefings, as well as threatening journalists of the mainstream media outlets. A news outlet linked to Prime Minister Jansa's Slovenian Democratic Party threatened an investigative journalist affiliated with the organization Reporters without Borders.⁴³ Thus, while Slovenia meets the principles of legality, a bounded timeframe for emergency measures, and distributed power with checks on executive action, it only partially meets the principle of necessity.

The governments of Albania and Serbia also used emergency restrictions to limit the space for civil society activism. Albania banned protests and mass gatherings as part of the extraordinary measure to prevent COVID-19 infections.⁴⁴ According to monitoring by the Office of People's Advocate in Albania, during the March –July 2020 period, the police documented 27 protests or demonstrations in Albania, and the police sent 21 cases to the Prosecution for charges of "disruption of public order" and "organization and participation in illegal assembly"; furthermore, police made detentions of protest organizers in four cases, and the police rejected two requests for public demonstrations during this period.⁴⁵ The government in Albania also implemented a controversial legal decision to demolish the National Theatre in Tirana and used force to remove the few protesters present in the early morning of May 17th (Ruttershoff, 2020). In Serbia, activists protested the harsh curfew measures of the Serbian government by loudly hitting pots and pans while standing outside on their home balconies. Supporters of the government responded with counter-protests that included lighting torches on building rooftops, a violation of the curfew since they were outside their homes. The government did not intervene, signaling a double standard for its supporters (Dragojlo & Stojanovic, 2020). In North Macedonia, one notable incident of protests occurred in Skopje when 150 people assembled after curfew to protest the police arrests of three individuals who had broken the law that restricted the mobility of people (Markovikj, 2020, 25).

The Greek government also passed legislation to restrict or ban public protests in areas of high COVID-19 spread. In Greece, protests occurred in several prisons to address overcrowding and the demand for better protection from the virus (Council of Europe, 2020b). In addition, 10,000 people demonstrated in Athens, Greece to oppose legislation that restricted or banned public protests if they were deemed to threaten public safety. After a group of protesters threw petrol bombs at police, police officers replied with teargas.⁴⁶

⁴³See Anja Vladislavjevic. 2020. It'll be bloody: Under Jansa Troubled Times for Slovenian Media. Balkan Insight. <https://balkaninsight.com/2020/04/28/itll-be-bloody-under-jansa-troubled-times-for-slovenian-media/>

⁴⁴Neni 7 "Masa te vecanta" te Ligjit Nr 15/2016 "Per parandalimin e dhe luftimin e infeksioneve dhe semburndeve infektive, germa dhe pika 61 te VKMnr 234 date 24/03/2020 "Per shpalljen e gjendes se fatqesise natyrore".

⁴⁵<https://www.publeaks.al/wp-content/uploads/2020/09/1683.pdf>

⁴⁶<https://www.dw.com/en/greece-protests/a-54119094>

In Slovenia, the government did not limit the space for civil society activism during the pandemic. For instance, when 24 associations led by the Anarchist Initiative of Ljubljana organized a nonviolent protest, the police peacefully escorted the activists. Similarly, a thousand cyclists participated in an environmentalist demonstration in May 2020 without any incidents (Luksic, 2020, 38).

In general, the role of expertise and political accountability was more visible in the consolidated democracies during the extraordinary measures. For example, in Slovenia and Greece, the government followed expert analysis of what needed to be done during the early lockdown measures. In Slovenia, the state relied upon medical experts to create a government call center to provide timely information on COVID-19 and preventative measures. The National Institute of Public Health in Slovenia became a hub for all materials related to the epidemic that could be downloaded by the public as PDF documents in four languages including Slovene, English, and two minority languages of Italian and Hungarian. The government also introduced a mobile application, #OstaniZdrav (#StayHealth), that the public could install on their smartphones voluntarily to help comply with preventive measures, such as maintaining distance from each other, regular handwashing, and wearing protective masks.⁴⁷ Furthermore, following the recommendation by the Constitutional Court, experts reviewed emergency measures every seven days in Slovenia, and the government announced whether the measures would be continued or changed, and would notify the Parliament and the public (Luksic, 2020, 36). These procedures indicate a high degree of government responsiveness to experts and the public.

In contrast, in the hybrid regimes of Albania, Serbia, and North Macedonia, the role of experts varied during the emergency measures. In North Macedonia, medical expertise was used to make decisions. With a technocratic caretaker government in power during its state of emergency, North Macedonia relied heavily upon medical experts to decide on measures and communicate frequently with the public via press conferences or TV (Markovikj, 2020). Meanwhile, in Serbia, the ruling party and government officials dominated the media space, despite regular press conferences with the Crisis headquarters medical expert team (Tepavac & Branković, 2020a). In Albania, the management of the crisis was supposed to be led by the Ministry of Health and the ad-hoc Committee of Experts. Yet, the composition and the role of the medical experts was unclear during the implementation of emergency measures,⁴⁸ but became clearer after lockdown measures ended.

In its overall response to the pandemic, Greece met all four principles of legality, a bounded timeframe for emergency measures, necessity, and distributed power with checks on executive action. The government also

⁴⁷[https://www.coe.int/en/web/good-governance/cddg-and-covid#/%2264787140%22:\[19\]](https://www.coe.int/en/web/good-governance/cddg-and-covid#/%2264787140%22:[19])

⁴⁸Friedrich Ebert Stiftung. (2020a). and., *Democracy and the state of emergency: Political battles emerging out of the Corona crisis in the Western Balkans, Croatia and Slovenia*, Report 2, pp. 4-7.

relied closely on scientific experts who oversaw COVID-19 and created daily response briefings.

The Greek Health Ministry created a new National Committee of Public Health Protection on February 23rd in order to design prevention and protection procedures during the pandemic. In Greece, the government began daily TV broadcasts on the situation that were conducted by an expert spokesperson for the Ministry of Health and professor of infectious diseases. Since the Greek government approach emphasized “deference to the experts, centralization of decisions and the depoliticization of the response,” the public accepted such restrictions. The Greek public was also aware of the limitations of the Greek health system compared to hard hit Italy, and they understood the risk, so they stayed home (Petridou & Zahariadis, 2021, 4-5). The Greek officials were also united and coordinated in their actions.⁴⁹ For example, the Greek authorities standardized the implementation of lockdown measures, cancelled large gatherings, and gave strict penalties of 150 Euros to individuals who broke lockdown measures imposed between March 23rd and May 4th.⁵⁰

In sum, governments with consolidated democratic institutions used experts to communicate directly with the public, and they were less likely to introduce harsh penalties or attempt to control public information. Alternatively, states characterized by weak public health capacity and fear of the unknown led governments in the hybrid democracies to introduce harsher penalties, authorize more militarized enforcement of restrictions, and attempt to control and manipulate public information.

⁴⁹<https://blogs.lse.ac.uk/greeceatlse/2020/04/13/regaining-trust-tackling-the-corona-virus-in-greece/>

⁵⁰See <https://euobserver.com/opinion/148397>

9. CONCLUSIONS

The COVID-19 pandemic endangered the right to life and national (public) security, and many governments took extraordinary measures to limit the spread of the virus. The pandemic has demonstrated that the scope of what is understood to be included in national security must be expanded to encompass wider security threats such as environmental and global public health crises. While the field of political science has traditionally referred to national security as the safety of the state, its territory, and the population from external military threats, this study linked national security with the concept of public security, in the Albanian context, in order to address the broader safety of the society and its members during an emergency such as a natural disaster or a global pandemic.

This study has shown that when placing Albania in regional and global context, several patterns can be observed. First, countries in the Western Balkans region implemented temporary measures of quarantine that limited certain human rights. We find evidence that extraordinary measures such as lockdowns effectively and temporarily limited the spread of COVID-19, thereby reducing illness and deaths. Most citizens viewed such stringent measures as necessary to protect national security and the right to life.

Our analysis relied on the Council of Europe's (2020a) four established principles – legality, a bounded timeframe for emergency measures, necessity, and distributed power with checks on executive action—to examine Albania's response to the COVID-19 pandemic in a regional and comparative perspective. In general, as long as these four democratic principles are met, governments may temporarily override particular human rights in order to address the demands of emergency situations. In their response to the COVID-19 pandemic, the Albanian government met the principles of legality and bounded timeframe for emergency measures, while partially meeting the principles of necessity and distributed power with checks on executive action.

The key rights affected by the COVID-19 emergency were the rights to freedom of movement and assembly. Hybrid democracies with weaker institutions and lower public trust toward the government demonstrated certain risks to democracy and human rights in their implementation of emergency measures. As the executive expanded its power, the legislature and the judiciary were limited in their ability to oversee the measures and their implementation. Thus, hybrid regimes in Albania, North Macedonia, or Serbia did not fully meet all four principles of legality, a bounded timeframe for emergency measures, necessity, and distributed power with checks on executive action. On the other hand, Greece, a consolidated democracy, met all four principles, while Slovenia, another consolidated democracy, met the principles of legality, a bounded timeframe for emergency measures, and

distributed power with checks on executive action, while partially meeting the fourth principle of necessity.

Certain measures went beyond what was necessary to control the spread of the virus. For example, when governments threaten the media or use excessive force during the enforcement of restrictions on the public, long term democratic processes can be harmed. Furthermore, when such restrictive measures are implemented and prolonged in the name of a national emergency, concerns over rule of law institutions, free and fair elections, and media freedoms may threaten to undermine future democratic consolidation.

As of December 2020, such emergency measures have only been temporary, so we are not seeing indefinite use of emergency powers by the government of Albania or other regional states. There is a legitimate concern, however, that the speed in which the executives in Albania, Serbia, and North Macedonia expanded their power during the emergency may suggest that the legislature and judiciary might not be able to provide sufficient checks and balances to executive overreach. In order to become resilient democracies that protect human rights, such countries need to strengthen their rule of law institutions and adherence to democratic procedures.

10. POLICY RECOMMENDATIONS FOR EMERGENCY SITUATIONS

As discussed in this report, in times of national crisis, in order to uphold the rule of law, the power of the executive may be strengthened under constitutionally allowed procedures, within a limited period of time, when overseen by the parliament and judiciary. While some temporary and proportional restrictions to civil and human rights may be implemented during an emergency in order to address the public security threat, an excessive use of force, militarization, or criminalization should not be used to enforce these rules. The following are specific policy recommendations that emerge from this study on Albania's response to the COVID-19 pandemic:

1. During prolonged periods of national emergency, the government should avoid resorting to the use of the military to implement restrictive measures. Human rights such as freedom of movement and the right to information must be safeguarded to the extent possible within the framework of public security. An alternative model to using the military and police to enforce restrictions during emergencies would be focusing on education and communication with citizens. In our two consolidated democratic cases, Greece and Slovenia, the governments engaged directly with citizens and used the expertise of the medical professionals to enact measures that varied appropriately according to the increase in COVID-19 cases.
2. To mitigate the threat of extraordinary public health challenges such as a pandemic, the government should invest in public health infrastructure that helps society in ordinary times. A strong public health infrastructure will help maintain public security in the face of future health emergencies.
3. Attacks on media by government officials undermine freedom of the press, an essential component of a consolidated democracy. The media, including online social media, plays an important role in informing the public and investigating the government's extraordinary measures enacted during the pandemic. In times of emergency, emphasis is needed on greater protection of media integrity in order to enhance transparency in government decision-making and limit the spread of harmful disinformation.
4. In a public health emergency such as the COVID-19 pandemic, the government should rely upon credible information from health and scientific experts on the disease to communicate with the public and maintain public health and safety. Throughout the Western Balkans region, medical professionals and Committees of Experts play an indispensable role in informing the public and recommending measures that governments should

enact to ensure public health during emergencies such as the COVID-19 pandemic.

5. To uphold strong democratic institutions and procedures during times of crisis, elections must be held with safety, regularity, and integrity. If elections need to be postponed due to a national emergency, postponement must be enacted with a political consensus and must include a timeline for rescheduling them. To ensure a process of free and fair elections, opposition parties need to have guarantees to campaign for office on an equal playing field with the parties in power.

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12. APPENDIX 1: ALBANIA INTERVIEWS AND FOCUS GROUPS.

List of interviews.

- Prof Dr. Arjan Starova, President, Atlantic Council for Albania.
- Geron Kamberi, Executive Director at Center for School Leadership
- Ilir Kalemaj, Ph.D, Professor and political science expert, Universiteti i New York
- Prof Asoc Dr Perparim Kabo, Mediterranean University of Albania, Social science expert
- Prof Dr Kristaq Xharo, European University of Tirana, Expert in Security and Strategic Studies
- Arjan Dyrmishi, Director, Center for Democracy and Government
- Av. Prof. Asoc. Dr. Jordan DACI, Executive Director, Albanian Rule of Law Center, Expert in Constitutional Law.

Participants from Focus Groups came from the following organizations:

- Albanian Helsinki Committee – Tirane
- Instituti i Studimeve Politike - Tirane
- Albania Initiative for development – Tirane
- Public Health Expert– Tirane
- Luigj Gurakuqi University Shkoder
- Qendra per Komunitetin ne ndryshim – Vlore
- Qendra e Zhvillimit te Shoqerise Civile – Durres
- INFOCIP – Tirane
- Durresi Aktiv - Durres
- Youth activity Center – Durres
- Vizion i Gjelber – Vlore
- Qendra e Koordinimit Kundra Ekstremizmit te Dhuneshem Tirane
- Shoqata Joni – Sarande
- Vizion Plus Media
- Top Channel Media
- Fax News
- Gazeta Liberal
- Euronews TV
- TVSH
- A2CNN
- TV Shijaku

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