



OPENING GOVERNMENTS IN TIMES OF LOCKDOWN LESSONS LEARNED FOR CITIZEN-ORIENTED ADMINISTRATIONS FROM THE COVID-19 CRISIS IN THE WESTERN BALKANS

JUNE 2020

**This policy brief was published under the framework of the WeBER project.*



This project is financed by the European Union

Authors: Marko Sočić and Milena Lazarević

With contributions by: Miloš Đinđić, Alban Dafa, Arberesha Loxha, Haris Čutahija, Julijana Karai, Angel Mojsovski

The ongoing coronavirus crisis has spurred a myriad of measures from governments in the Western Balkans to better inform their citizens and provide services in emergency circumstances. Yet, responses to the pandemic and the institution of unprecedented lockdown measures have introduced various challenges to already fragile standards of transparency, accountability and rule of law, as well as have exposed shortcomings in the functioning of public administrations, in the Western Balkans. The crisis is increasingly being used as an excuse to backslide on previously achieved progress. The way emergency measures were adopted and enforced, and how citizens were informed, require close scrutiny, so as to ensure that the practices developed during this crisis do not become the "new normal".

This policy brief, developed as part of the regional WeBER initiative¹, examines the approaches of public administrations in the Western Balkans to the COVID-19 crisis. It looks at the quality of communication and implementation of the measures taken by the governments of the Western Balkans to respond to the pandemic. It argues that simple and streamlined communication and transparency in the implementation of such measures are equally, if not more, important in times of emergencies and crises, when citizens are more vulnerable in their relationship with the government than in normal times. Based on an overview of positive and negative practices exhibited in the region, this brief offers a set of recommendations for governments to consider as soon as possible, in order to ensure maximum learning from this experience. There is a two-fold benefit to considering these recommendations. Firstly, they may prove valuable in the event of a second wave of pandemic (as is projected by epidemiologists), which might require the re-imposition of some measures in the coming months. Secondly, certain precautionary measures are likely to remain in place even after lockdowns and restrictions across the region are ended, with the implementation of these recommendations potentially of benefit to citizens in the near future as well.

STATE OF PLAY

Lockdown measures challenged

The Western Balkans has seen some of the toughest lockdown measures in Europe, in particular with regards to the strict curfews enforced.² During these curfews, no movement was allowed without having obtained a special permit (for food delivery services, for example) or without the granting of a special general exception (such as for walking dogs within strictly defined areas in very short period). Grocery stores had to be closed at least 2 hours before the start of the curfew to allow employees to return to their homes on time. These curfews were occasionally announced abruptly, coming into force immediately after their announcement, with restrictions often unclear, insufficiently explained to the citizens, and imposing nearly impossible restrictions.³ As a result, they were frequently met with objections and resistance. Moreover, such strict curfews resulted in contractions of opening hours of supermarkets and grocery stores, often leading to long queues and large numbers of people almost storming shops to obtain groceries before long weekend curfews. Arguably, in many cases the short opening hours of grocery stores unnecessarily increased risks of infection among shoppers and employees at stores, which were excessively crowded at times. This also led to added stress for the population, especially for employed individuals forced to shop during the busiest working hours.

1. More information on WeBER is available at www.par-monitor.org.

2. Milica Stojanović et al., "Serbia, North Macedonia Impose Harsh Weekend Curfews", Balkan Insight, 10 April 2020, available at: <https://balkaninsight.com/2020/04/10/serbia-north-macedonia-impose-harsh-weekend-curfews/>.

3. Such as restrictions of people gathering in private homes and the unclear meanings of "private residence" and "family household"; more details are available in the protest letter from CSOs regarding the imposing of new measures in Montenegro, available at: <http://www.hracion.org/2020/03/31/ustavni-sud-da-ocijeni-ustavnost-mjera-u-borbi-protiv-korona-virusa/>.

Sanctions threatened for violation of curfews were in several cases draconian and imposed in dubious circumstances. Amendments to the Penal Code in Albania prescribing imprisonment for up to 15 years for breaking quarantine with a life-threatening effect on another individual, and for up to 10 years for general breaches of quarantine measures, came under heavy scrutiny from civil society organisations (CSOs) as disproportionate.⁴ In Serbia, in several cases individuals were detained for alleged breaches of self-isolation measures they claimed had never been communicated to them in any form.⁵ Restrictions on the movement of specific categories of the population in Bosnia and Herzegovina (BiH), more specifically the underaged and persons over 65 years of age, were criticised by human rights organisations.⁶ Moreover, the BiH Constitutional Court declared these measures unconstitutional.⁷ In Montenegro, confusion and uncertainty were sown with a ban on gatherings of people not belonging to the same family household in private residences, with both the terms “private residence” and “family household” left unclear. Moreover, it was announced that the police would inspect the implementation of this ban.⁸ The Constitutional Court of Kosovo found the decision restricting the freedom of movement during the pandemic was inconsistent with the Constitution of Kosovo, though it decided it should remain in place until 13 April in order to prevent a negative impact on public health.⁹ The situation in Kosovo was particularly complex during this time, due to the passing of a no-confidence motion and the acting government’s not being in a clear legal position in terms of the scope of its competencies during the pandemic, as well as the management of measures taken in the northern municipalities.

Access to information during the pandemic

Channels for providing information on COVID-19 appeared from the outset of the crisis in all countries of the region. Special websites were set up quickly to serve as single-point addresses for information on the virus in all countries except BiH, where entity-level websites were created instead. The use of existing e-services was promoted, while new ones were hastily introduced, primarily in the health and education sectors. Authorities used social media, infographics, apps, and animations to reach out to citizens and communicate essential information about public health and about the functioning of the state and society in unprecedented lockdown measures. A deeper look at the quality of the information provided, however, reveals a plethora of problems in how it was communicated and made available.

To begin with, the centralised websites did not necessarily provide easily accessible and understandable information about the measures to the public. The Serbian website “covid19.rs” presents basic statistics on cases and contact information of the relevant health authorities, but the section on government measures for fighting the pandemic simply takes visitors to the webpage of the official legal-information system (the central database of legislation), where measures are presented in a manner difficult to understand, even for an expert visitor. The Albanian COVID-19 website, “coronavirus.al”, includes information and data related to health, restriction measures, and economic relief packages. While data on the spread of the disease is presented clearly through charts and infographics, information on restriction measures and relevant relief packages is not presented in a user-friendly manner. This information is frequently unclear and outdated. The Ministry of Health of Kosovo also established a website dedicated to the COVID-19 pandemic,¹⁰ on which information is published on the latest statistics, COVID-19 symptoms, preventive measures to be taken by citizens, options for volunteering, contact information, and a section on movement schedules. Yet, decisions, measures, and guidance for citizens and businesses taken by the government are only published on the website of the Ministry of Health.

While Macedonian authorities used numerous channels for communicating their decisions, as a result of the subscription required for access to the Official Gazette, government decrees were not available to the public at the onset of the crisis. The paywall for the gazette was lifted on 1 April, which could be considered a positive development in terms of government transparency.¹¹ The website of the government was updated with a special section on COVID-19,¹² including overall measures and recommendations for protection from, and prevention of the disease, press conferences of the government and Ministry of Health, information on the disease, links to the legal decree adopted in response to the pandemic, and links to ministry websites with specific measures and recommendations. There is also a separate specialised government website, “koronavirus.gov.mk”, that was created in order to inform citizens in a timely manner about measures for protection and prevention of the disease. The latter website has more functionalities and is more citizen-friendly, containing, for instance, information on how to obtain a movement permit or where to report a case of domestic violence. Despite some repeated information, both websites efficiently communicated information about the pandemic in a user-friendly manner: the first one with more general information and the second in a more specialised and detailed way.

Moreover, in several cases, important data and information has been lacking. Medical data, on the basis of which key decisions and measures were adopted, has not been published in Serbia, for example.¹³ In Montenegro, information regarding donations for COVID-19 was left unclear,

4. The joint reaction of a group of Albanian CSOs to this policy is available at: <https://bit.ly/3eZgVxL>.

5. In Serbia, a student was arrested and spent 21 days in jail for breaching self-isolation measure upon her return from Montenegro before the start of the state of emergency. She and her defense claimed that such measures had never been officially communicated to her. More information available at: <http://rs.n1info.com/Vesti/a592544/Jovana-Popovic-lz-jednog-zatvora-sam-usla-u-drugi-i-dalje-cekam-odgovor-suda.html>.

6. Emina Cerimović et al., “Bosnia and Herzegovina’s Coronavirus Curbs on Children and Older People Are Ill-Conceived”, *Balkan Insight*, 2 April 2020, available at: <https://bit.ly/2Y5tukc>.

7. N1, “Zabranom kretanja mlađim od 18 i starijim od 65 godina prekršena ljudska prava”, 22 April 2020, available at: <https://bit.ly/3cA8RSu>.

8. Lockdown measure number 3, which concerns this right of authorities, is available in its official form at: <https://bit.ly/2BCHiuT>.

9. Tringë Sokoli, “Court keeps ‘unconstitutional’ COVID-19 measures in place”, *Kosovo 2.0*, 1 April 2020, available at: <https://bit.ly/3eU6X0i>.

10. This website is available at: <https://kosova.health/>.

11. PLUS Info, “Читajte ги бесплатно Уредбите со законска сила во Службен весник,” 1 April 2020, available at: <https://bit.ly/2AFfxBl>.

12. This website is available at: <https://vlada.mk/covid19>.

13. Vanja Dolapčev, “A Lack of Transparency: The COVID-19 Pandemic in Serbia”, *CEP*, 25 April 2020, available at: <https://bit.ly/2BwfM1X>

in terms of amounts of funds available and who managed them.¹⁴ Kosovo's Ministry of Health based its decision-making, for all decisions taken regarding the pandemic, on recommendations of the National Institute for Public Health of Kosovo (NIPHK). Yet, as in Serbia, the NIPHK data and recommendations which informed decision-making processes were not published in Kosovo either. In BiH, information on government practices was scattered between all levels of government, including the state, entities, cantons, and municipalities in some cases, proving difficult to find.

Furthermore, access to information was negatively affected by states of emergency in various ways. In Serbia, a government decree limited the right to free access to information for all requests not related to COVID-19 during the state of emergency. While some institutions provided access to information despite this regulation, others completely ignored requests, in keeping with their already established practices.¹⁵ In BiH, journalists accused authorities of restricting access to important information about COVID-19 and the country's response to the pandemic.¹⁶ In Montenegro, the government attempted to amend the country's freedom of information (FOI) law, introducing significant limitations to accessing information and continuing the public consultation process, in the midst of the lockdown, only to abandon this plan after public outcry from a number of CSOs.¹⁷ At the same time, important FOI requests related to the specifics of the government's handling of the crisis have been left unanswered.¹⁸

Personal data protection issues

While the innovative use of data to fight the virus has been examined around the world and has applications in the Western Balkans as well,¹⁹ the proper management of personal data is paramount. In both BiH²⁰ and Montenegro,²¹ CSOs have criticised the publishing of personal data related to individuals under observation or in isolation for COVID-19 precautions or symptoms. In Serbia, one CSO discovered that login information for an online system containing sensitive personal data on patients and deceased in the country's COVID-19 pandemic was available on the website of a public health institution for eight days.²² Naming infected or quarantined people, along with publishing their other personal data, medical status, age, gender, contacts, and address is unacceptable and cannot be justified by the crisis. The publication of such data can harm the people in question, invade their privacy, and prove to be a deterrent against reporting their symptoms. In North Macedonia, a problem arose after the introduction of the "StopKorona!" contact-tracing app which gathers users' personal data and geolocations. Once activated, the application communicates via Bluetooth with other users, and exchanges data with all devices that come nearby (at a distance relevant to the spread of infection) for a period of 14 days.²³ The Ministry of Health asks infected users of the application to share lists of registered devices that were in their vicinities, after which authorities will access the phone numbers of the owners of these devices and inform them that they have been in contact with an infected individual. Although the Minister of Informational Society and Administration, responsible for the implementation of the app, stated that the information gathered would not be used for any other purposes and that the app functioned based on anonymous codes,²⁴ doubts remained about how data would be used. As a result, very few people (an estimated 50,000) actually installed the application, which thwarted its use in managing the pandemic.

GOING FORWARD

The threat of COVID-19 will ultimately diminish and eventually pass, giving the region's governments time to consider and analyse the mistakes made in handling the crisis, and providing for better preparation by public administrations for addressing similar challenges in the future. At present, however, governments still need to act and fix what can be repaired. In order to gain trust of citizens, which is required for them to heed calls to respect preventive measures or recommendations which remain after abolishing states of emergency, governments in the Western Balkans ought to consider the measures listed below. In this way they will demonstrate an aspiration to increasing their transparency and accountability in handling this and other potential upcoming crises.

I. Making measures crystal clear

Since the outset of the pandemic, citizens have had to adapt their lives to new and different measures adopted by their governments, often severely curtailing their basic freedoms and forcing them to overhaul their habits. For these measures to be effective, every possible effort has

14. Nikola Cuckić, "COVID-19 donations in the Western Balkans: More transparency needed", European Western Balkans, 4 May 2020, available at: <https://europeanwesternbalkans.com/2020/05/04/covid-19-donations-in-the-western-balkans-transparency-needed/>.

15. YUCOM, "Human Rights and COVID-19", available at: <https://bit.ly/2UeAZ77>

16. BH Novinari, "Zaustavite cenzuru informacija o Covidu-19 i institucionalnu represiju nad slobodom izražavanja", 7 April 2020, available at: <https://bhnovinari.ba/bs/2020/04/07/bh-novinari-zaustavite-cenzuru-informacija-o-covidu-19-i-institucionalnu-represiju-nad-slobodom-izrazavanja/>.

17. Ivana Nikolić et al., "Central and Eastern Europe Freedom of Information Rights 'Postponed'", Balkan Insight, 6 April 2020, available at: <https://balkaninsight.com/2020/04/06/central-and-eastern-europe-freedom-of-information-rights-postponed/>.

18. FOI requests sent by Institute Alternativa regarding data on finance, documents, and plans produced to cope with the crisis were left unanswered by Montenegro's General Secretariat, the Ministry of Finance, and the Ministry of Health.

19. Bojan Stojkovski, "North Macedonia Leads Region in COVID-19 Tracing App", Balkan Insight, 16 April 2020, available at: <https://balkaninsight.com/2020/04/16/north-macedonia-leads-region-in-covid-19-tracing-app/>.

20. Inicijativa za monitoring evropskih integracija BiH, "Objavlivanje imena osoba u izolaciji uzrokovat će više štete od koristi", March 2020, available at: <https://eu-monitoring.ba/objavlivanje-imena-osoba-u-izolaciji-uzrokovat-ce-vise-stete-od-koristi/>.

21. Human Rights Action's letter to UN's special rapporteurs on the rights to physical and mental health and privacy, 24 March 2020, available at: <http://www.hraction.org/wp-content/uploads/2020/03/Urgent-appeal-HRA-24-03-2020-spec-rapp.pdf>.

22. SHARE Foundation, "Pandemija jedne lozinke", 20 April 2020, available at: <https://www.sharefoundation.info/sr/pandemija-jedne-lozinke/>

23. Radio MOF, "Tешko се наоѓа и има нејасноти – Први реакции на граѓани за апликацијата 'СтопКорона!'", 13 April 2020, available at: <https://www.radiomof.mk/teshko-se-naogja-i-ima-nejasnotii-prvi-reakcii-na-gragjani-za-aplikacijata-stopkorona/>.

24. Ministry of Information Society and Administration of North Macedonia, "Презентирана апликацијата СтопКорона! Главна цел е намалување на ширењето на Ковид-19 и помош на епидемиолозите при детектирање на нови потенцијални случаи", 13 April 2020, available at: <http://www.mioa.gov.mk/?q=mk/node/2912>.

to be invested to make their meanings, durations and start and ending times abundantly clear. Having in mind the analysed practices, it is necessary to:

- ***Adopt measures in a timely manner and communicate them properly***

Although matters of urgency and public health can take priority in policymaking, citizens and businesses cannot be expected to follow measures that are adopted without even the minimal *vacatio legis*, entering force as soon as they are adopted. Announcing the substance of measures and giving appropriate time for their communication and the necessary preparations required of citizens is crucial for their orderly implementation and avoiding unnecessary sanctions and breaches. Necessary exceptions need to be determined in advance of, or very early in, the application of the measures, recognising the needs of the most vulnerable groups of citizens. Additionally, it is important to explain the reasoning behind measures to the public in order to maximise compliance and minimise psychological pressure.

- ***Make all measures centrally available and easy to access and understand***

Citizens need to be properly informed about the duration of measures, their expiry, and eventual changes of conditions. It is not enough to simply publish new measures in official gazettes or to announce them on the public broadcaster. All measures that are adopted need to be clearly and comprehensively published in a single place on the internet, easily accessible, consolidated, and widely advertised. This address should be advertised on all other governmental websites and promoted on all communication channels. For the most important measures that do not frequently change, user-friendly forms of presentation should be used, such as infographics and animations. At any given time, it needs to be perfectly clear which measures are currently in place, and abolished measures should be moved elsewhere, to avoid any confusion.

- ***Ensure easily accessible and reliable channels for the clarification of measures***

There should be central lines set up for all queries citizens might have about the details of measures in force, by phone, email, or direct messaging on site, if systems allow. Citizens must be able to get clear information, from properly trained/informed staff, about the precise meanings of the measures and limits imposed as well as how their particular personal situations are affected by them. Citizens and businesses need to be given opportunities to clarify and ask for interpretation of measures in their specific circumstances.

II. Make information reliable and accessible to all

Accessible, complete, and citizen-friendly information provided by governments to citizens, as is persistently advocated by CSOs in the region (including the WeBER initiative), nowadays represents one of the key instruments for containing the spread of the virus. Moreover, it increases individuals' trust in the institutions of government and supports responsible public behaviour.

- ***Streamlining information***

As the crisis has developed, various government institutions have become involved in different aspects of handling it, from health institutions, to those in charge of measures of prevention, donations, travel bans, and supply management, to name a few. Despite these complexities, it is important to have a central information point for citizens, who are not used to navigating through a myriad of government websites. It is important to set up central, widely advertised addresses, with complete and citizen-friendly information about health threats, measures imposed to tackle them, and restrictions on citizens' rights and freedoms. Information should also be regularly made available to those without internet access, preferably through national television and print media.

- ***Ensure continued free access to information***

It is important to ensure that free access to information systems functions normally, avoiding blanket delays. It is especially important to limit possible delays in granting access to information with the proactive publishing of information, especially that which has already been requested by citizens and reporters. Finally, the costs of digitally providing responses to FOI requests should not be used as a deterrent to the exercise of this right, where such costs are legally prescribed.

- ***Protect personal data***

Governments need to ensure the full protection of the personal data of infected, quarantined, and deceased persons, in line with national data protection legislation and best EU practices stemming from the Union's General Data Protection Regulation. This primarily refers to refraining from publishing information such as the medical statuses, ages, genders, contacts, and addresses of citizens. The amount of personal data that is being stored should be minimised, and the quality of the software for its protection should be prioritised. Moreover, any records that are not necessary after the pandemic is over should be erased from government systems, and the public should be duly notified about such changes.

For more information, please visit: www.par-monitor.org

