



THE CORONA VIRUS EPIDEMICS BROUGHT NUMEROUS HUMAN RIGHTS VIOLATIONS THE CONSTITUTION VIOLATED DURING CORONA CRISIS

Authors: Danica Bogdanović and Svetlana Eraković

The corona virus epidemic brought about numerous human rights violations. Since March 16, when the first case of infection was reported in Montenegro, the Police Directorate has filed 2,211 criminal charges against 3,378 people on grounds of having committed the criminal offense of failing to comply with health regulations to combat a dangerous infectious disease.

The Institution of the Protector of Human Rights and Freedoms explains that human rights have been violated on several grounds. Since the proclamation of the pandemic infectious disease of the coronavirus until December 15, this institution has received 771 complaints *.

„I find that the pandemic period has caused a partial stagnation of human rights in the economic and social spheres and the time behind us opened up a number of dilemmas in relation to other dimensions of human rights especially when it comes to civil rights. Although we cannot talk about mass and systemic violations of human rights, there were obvious violations in the sphere of restrictions on rights and freedoms, especially if we take into account international standards and the way they are implemented in the national legislation, namely the way state bodies apply these standards for a specific case or cases“, the Ombudsman Siniša Bjeković told us.

The consequences of the pandemic already show the exposure to additional risk of several social categories (unemployed, low-income people, elderly households, people with disabilities, women and children, victims of domestic violence, LGBTIQ population).

„From our practice, it is quite certain that care must be taken not to exceed the threshold established by international standards during the restriction if it is not prescribed in a sufficiently clear and precise manner by domestic legislation. In the same vein, regardless of the fact that we have a legitimate aim as a motive for establishing a restriction, it cannot be introduced without a clear basis in the law. Otherwise, human rights will always be at risk of arbitrary interference by the state in the protected sphere of the individual,

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which can neither be justified as a goal, nor can the means to achieve that goal be necessary or proportionate in terms of achieving the public interest sought to protect", states Bjeković.

Freedom of movement was restricted at first after the declaration of the state of epidemic in Montenegro. The freedom of movement is a human right from the corpus of personal rights and freedoms, guaranteed by the Constitution. This freedom may be restricted in justified cases and one of the restrictions is the need to prevent the spread of infectious diseases. Closely related to it is the right to leave the country, which can be restricted for the same reason.

On the pillar of shame for the sake of health

The human rights were unquestionably endangered with the publication of the list of persons in self-isolation on the official website of the Government of Montenegro, with the prior consent of the Agency for Personal Data Protection. The list contained the name, surname and residential address. Regarding that decision of the National Coordination Body, the Government announced that it was "made after it was determined that certain persons were violating the measures, exposing the whole of Montenegro at high risk". Following the publication of a list that directly stigmatized a number of citizens, a numerous human rights NGOs criticized the move. On March 23, the NGO Civic Alliance submitted to the Constitutional Court an initiative to assess the constitutionality and legality of the Decision of the National Coordination Body to publish the names of persons who have been issued decisions on mandatory self-isolation.

The Constitutional Court did not react in a timely manner, but a few months later overturned the decision to publish lists of persons in self-isolation. The Constitutional Court initiated the procedure for assessing the constitutionality of the National Coordination Body decision, at the initiative of the non-governmental organization Civic Alliance, at its session on May 29.

In case U-II No. 22/20, the Constitutional Court issued a Decision repealing the Decision of the National Coordination Body on publishing the names of persons in self-isolation, No. 8-501 / 20-129, dated 21 March 2020, and ceases to be valid on the day of publication of this Decision - it was published on the Court's website.

- *u predmetu U-II broj 22/20, donio Odluku o ukidanju Odluke Nacionalnog koordinacionog tijela za zarazne bolesti o objavljivanju imena lica u samoizolaciji, broj 8-501/20-129., od 21. marta 2020. godine i prestaje da važi danom objavljivanja ove Odluke.*

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Serious human rights violations occurred when the list of infected with the corona virus "leaked" to the public, because publishing information about the health status of patients is a heavy violation of the right to privacy. Following this event, the Government of Montenegro issued an official statement, calling on the competent state institutions to urgently investigate the source of this list and identify those who distribute the information. The suspect was then arrested.

One of persons whose human rights were violated during the epidemic is Ž.M, whose identity is known to the students who worked on this text. Namely, due to health problems, she stayed in Belgrade, from where she returned at the moment when the epidemic was declared in Montenegro.

„In mid-March, my name appeared in the infamous list, published on the Government's website, in which I was labeled as a person who potentially has the virus and could pass it on to others. Thus, I was directly exposed to stigmatization, to condemning looks of my neighbors when I went out on the balcony of the apartment where I live, which is why I later decided to sue the state“, says Ž.M.

This situation, she says, is not the only one in which her basic human rights were denied.

„I was sentenced to 14 days of isolation, and after that time I was informed that my isolation was being extended for another 14 days, even though I had no symptoms and I informed the Institute of Public Health about it every day.

Due to my health problem with my leg, the isolation fell even harder for me, because in a small apartment it was difficult for me to move. Also, considering that I am not from Podgorica, and that I have no relatives here, having not been able to go out for almost a month, I had to ask other people for providing me services in order to feed myself“, says Ž.M.

She's not the only one. Residents of Niksic V.C. and A.E. they believe that they did not enjoy all human rights during the corona virus epidemic.

„I was punished at the end of April or the beginning of May, because I sat on a bench in the park with a friend. We were fined 400 euros for staying long in a public place and for violating a prescribed social distance. I think they acted unfairly, because the park was full, and only the two of us were arrested and punished“, said V.C.

„I think it was the beginning of May when I was punished for not respecting curfew. They found me after 7 pm and sentenced me to two years of probation, which I think is too much“, says A.E.

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On the other hand, experts have been assuring us that human rights were violated on several grounds during the corona period.

Freedom of movement, the right to profess one's religion, the right to a trial within a reasonable time. Rights that are also restricted or endangered: the right to freedom, the right to respect for private and family life, freedom of religion, freedom of assembly and association, the right to unhindered enjoyment of property, the right to education (these rights and freedoms are from the European Convention and its protocols). From the Constitution of Montenegro: the right to a fair and public trial, the right to freedom of movement, the right to privacy, the protection of personal data, the right to freedom of religion, freedom of assembly.

"Prison" in prison

The enjoyment of certain human rights has also been denied to persons deprived of their liberty, who are in certain departments of the Directorate for the Execution of Criminal Sanctions. Namely, they were absolutely forbidden to have visits during the epidemics. Also, the overcrowding in police detention was registered, in the situation of the epidemics.



Photo: Private archive, Danica Bogdanović

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Forbidden or not?

The freedom to assemble in public places belongs to the group of human rights denied by the measures of the National Coordinating Body.

Measures banning public assembly prevented religious ceremonies from being held in the presence of believers.

According to the NGO Civic Alliance's publication "Testing society on Covid 19", there was selective approach in the implementation of preventive measures. Therefore, for violating measures of movement between the cities, the priest of the Metropolitan of Montenegro and the Littoral was fined 4,500 euros, while for the same acts of violations public persons were fined 500 euros or less.

There were daily violations of the public assemblies which were banned according to the preventive epidemiological measures of the National Coordination Body.

Liturgies, namely prayer walkings, characterized as a protest against the Law on Freedom of Religion, which was adopted at the end of 2019, organized by the Metropolitanate of Montenegro and the Littoral, were not organized during the epidemics.

However, on May 12, in Nikšić, there was a mass assembly on the day of the Saint Vasilije Ostroški. The gathered people went for a walk, which is why the Bishop Joanikije of Budva and Niksic was arrested, together with eight other Serbian Orthodox Church priests. After the liturgy, the bishop and priests were detained in the building of the Niksic Security Center for 72 hours.

Measures were taken, measures were violated

After this, the pre-election campaign for the parliamentary elections began, which was a suitable ground for violating the measures. However, a more serious violation of epidemiological measures occurred only after the election.

Namely, on election night, a celebration of the election results was organized throughout Montenegro. The "masks" and "social distance" were, one might say, forgotten. Non-compliance with the measures could also be seen by those who won on the election night. Besides the election night, a celebration was organized in several cities on August 30 and a day after.

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Photo: Private archive, Danica Bogdanović

Only a few days later, so-called "patriotic rallies" were organized. First in Cetinje, and then in Podgorica, where several cases of violations of epidemiological measures by those who, in a certain way, passed them, were registered.

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Thus, a member of the then National Coordination Body and the mayor of Podgorica, Ivan Vukovic, was filmed at the rally in Cetinje. He did not wear a mask, did not keep social distance, but violated the measures by his presence at the rally, given that the public assemblies were banned at that time. The Prosecutor's Office, however, found that there was no criminal offense in this case.



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A large number of public assemblies took place without an adequate reaction from the competent institutions. The funeral of the Metropolitan of Montenegro and the Littoral, Amfilohije, was also a sign of violation of measures. In addition to the large number of citizens who attended the funeral, a significant number of officials were in the church of the Christ's Resurrection that day. The Prime Minister Zdravko Krivokapic, the then prime minister-designate, who did not wear a mask, was the most condemned. While the measures have become meaningless to those who should set an example on how the decisions of the competent authorities are to be respected, the number of people infected with the corona virus have been growing day by day.



Photo: Private archive, Danica Bogdanović

The new elections brought a new violation of epidemiological measures. Following the March 14 local elections, a large number of gatherings were recorded in Niksic, despite calls from political parties to respect the restrictions.

Whether it is the irresponsibility of the individuals, the institutions or society as a whole, it seems no longer matters. The Corona virus crisis, unfortunately, infamously confirmed the old people's saying - the rules are there to be broken!

*** Complaints on all grounds are included in these statistics.**

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