



THE STATE OF DEMOCRACY IN
NORTH MACEDONIA IN THE TIMES
OF THE COVID-19 PANDEMIC

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1. The essence of “state capture” and how its remnants could be exposed during a state of emergency

Since 2016, North Macedonia’s progress in the processes of EU integration has been evaluated against the backdrop of the established systemic defect termed, in the EU progress report of that year, “state capture.” In his second report released in September 2017, Reinhard Priebe described the “Macedonian case of state capture” as a problem of profound asymmetry between the three branches of power whereby the power of the executive branch is excessive at the detriment of the judiciary and, indirectly, the legislature. In order to remedy the stated problem, first established by Priebe’s Senior Expert Group in 2015, the European Commission set a number of “Urgent Reform Priorities” that have become the main backdrop against which the democratic capacities of the institutions have been measured in the subsequent EU progress reports. The priorities in question concern the basic democratic values and human rights standards. They are the benchmark that divides a “soft authoritarianism”¹ – a hybrid regime, an illiberal democracy, and the like – from a democracy, moreover European democracy.

¹ Shalini Randeria, *Is each “illiberal” democracy illiberal in its own way?*, London School of Economics (28 November 2019), <https://blogs.lse.ac.uk/brexit/2019/11/28/are-all-liberal-democracies-alike-while-each-illiberal-democracy-is-illiberal-in-its-own-way/>, accessed on 29 April 2020

Consequently, we can infer that since the change in government in 2017, North Macedonia has been expected to demonstrate its ability to adhere not only to the form but also the substance of European democracy: division of powers, democracy and rule of law that espouse the principles of the freedom of expression as well as those which respect fundamental human rights. The latest update of the EU progress report, released in March 2020,² praises North Macedonia’s remarkable progress, in particular in the areas of the independence of the judiciary, combating corruption, and other aspects of what essentially comes down to the “decapturing” of the once captured state of “illiberal democracy.”³ Therefore, the fundamental values have been at stake since the resolution of the crisis in the spring of 2017. Democratic checks and balances, the functioning of the oversight institutions – above all the parliament as an oversight institution of the executive branch – and the strengthening of the autonomy of the legislature vis-à-vis the executive branch are the main substantial advances that

² European Commission: “Commission Staff Working Document Update on the Republic of North Macedonia” (Brussels, 2.3.2020), available at <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/update-on-the-republic-of-north-macedonia.pdf>, accessed on 29 April 2020.

³ Cf. Anna Lührmann & Staffan I. Lindberg “A third wave of autocratization is here: what is new about it?,” *Democratization* (2019, 26:7), 1095-1113, DOI: [10.1080/13510347.2019.1582029](https://doi.org/10.1080/13510347.2019.1582029); Michael F. Plattner, “Illiberal Democracy and the Struggle on the Right,” *Journal of Democracy* (January 2019, Vol. 30, Issue 1), 5-19.

were to be achieved if we were to declare the exit from the form of governance “diagnosed” as state capture by the European Commission itself.⁴ In the current state of exception, the emergency provoked by the COVID-19 pandemic, when the parliament of the Republic of North Macedonia has been dissolved, one can estimate the capacity of the overall political elite and the society to transcend the authoritarian penchant in governance, operating through the models of illiberal democracy and state capture. So, how has the current interim government handled the state of emergency, and has it demonstrated the capacity for non-authoritarianism or has it demonstrated the opposite, the inertia of an illiberal democracy? An Institute in Sweden, dedicated to the study of democratic backsliding, has placed North Macedonia among the countries who have exercised excessively restrictive measures in response to the COVID-19 pandemic, which include: disproportionate lockdown measures, excessive restriction of movement, and draconian penal responses, thus demonstrating a high risk of sliding back into an overt authoritarianism.⁵ Let us now explore the

⁴ Gordan Georgiev and Katerina Kolozova, *Deliberation: The Path of Dismantling the #StateCapture in Macedonia. Policy Reflections on Macedonia 2016-2018* (Skopje: Institute of Social Sciences and Humanities, 2018).

⁵ Anna Lührmann, Amanda B. Edgell, Seraphine F. Maerz, Policy Brief No. #23: “Pandemic Backsliding: Does Covid-19 Put Democracy at Risk?,” V-Dem Institute/Variety of Democracy Institute, Department of Political Science (Gothenburg, Sweden: 2020), available

validity of this estimation and see if the interim government and the leading political elite could have done more to insure democratic checks and balances mechanisms were in place. First and foremost:

2. Could and should the parliament reconvene?

The parliament was suspended on 16 February, 2020, due to the early elections scheduled for 12 April, 2020. Nonetheless, the Constitution of the Republic of North Macedonia unequivocally states, in article 63–line 4, that in a state of emergency, such as the current pandemic, the national assembly can reconvene and its mandate can be extended. The executive branch has exercised the power of the legislative branch since the declaration of a state of emergency on 18 March, 2020, without any parliamentary deliberation and therefore without any oversight. Even though the Macedonian parliament has always been too instrumentalized (by the biggest political parties) to execute a genuine oversight of the executive branch, the parliamentary legitimization of the executive branch is the “form” without which no self-declared democracy can function. The continuation of the state of emergency has not been approved by the parliament but only declared by the President of the Republic on April 18th. The ruling coalition and the smaller opposition

at https://www.v-dem.net/media/finder_public/52/eb/52eb913a-b1ad-4e55-9b4b-3710ff70d1bf/pb_23.pdf, accessed on 28 April 2020.

parties (including the independent MP's formerly part of VMRO-DPMNE) on 23 April, 2020 submitted to the Speaker of the parliament an initiative to reconvene. The speaker, representative of the biggest ethnic-Albanian party in the parliament, rejected the request to reconvene (the reason for the rejection borders on a banal and meaningless excuse: "To reconvene a parliament after it's been dissolved is an attempt at a coup.")⁶ Regardless of the failed attempt to reconvene, North Macedonia, next to Serbia and Hungary remains one of only three countries in Europe to function during these times of crisis without a parliament.

The fact that the initiative to reconvene arrives after two months of a state of exception is a worrying indicator of a reluctance to govern with oversight. The technical government composed of the ruling coalition and the opposition has seemed to act unison in their adoption of measures that have been evaluated by BiEPAG as overly restrictive, oftentimes without any conceivable positive effect in combatting

⁶ "I am not reconvening the parliament, speaks up Talat Xhaferi after a 4-day long silence about the initiative," *Sakam da Kazam* (27 April 2020), available at <https://sdk.mk/index.php/makedonija/ne-go-svikuvam-sobranieto-se-oglasiva-vecherva-talat-dhaferi-po-4-dneven-molk-za-initsijativata/>, accessed on 28 April 2020. [„Не го свикувам собранieto, се огласи Талат Џафери по 4-дневен молк за иницијативата,“ Сакам да кажам (27 април 2020), достапно на <https://sdk.mk/index.php/makedonija/ne-go-svikuvam-sobranieto-se-oglasiva-vecherva-talat-dhaferi-po-4-dneven-molk-za-initsijativata/>, пристапено на 28 април 2020.]

the pandemic, other than delivering an authoritarian signal to the populace. The UN policy brief on the pandemic released on 27 April, 2020 argues that the excessive and/or disproportionate restrictions of the freedom of movement can prove to be both counter-productive with regard to combatting the pandemic as well as in the socio-political sense, i.e., they can provoke civil unrests.⁷ Likewise, comparisons between North Macedonia and Serbia are often made in the aforementioned study by BiEPAG in the sense of indiscriminate, quasi authoritarian and counterproductive measures which are overly restrictive (my paraphrase).⁸ The measures in question concern the right to

⁷ UN Policy Brief Covid-19 and Human Rights: "We are All in this Together", available at https://www.un.org/sites/un2.un.org/files/un_policy_brief_on_human_rights_and_covid_23_april_2020.pdf, accessed on 28 April 2020, pp. 3-4, 8, 13. Regarding the warning of possible civil unrests, consider the following quote from page 8 of the Brief: "Around the world, millions of people already live hand to mouth. Before this crisis, street protests against inequalities and falling living standards were common. People were frustrated and angry. Against this backdrop, the pandemic is creating further hardship that, if not mitigated, will raise tension and could provoke civil unrest. This could in turn generate the kind of security response, as argued later, must be avoided, undermining the effectiveness of the response to the pandemic. There is an opportunity to 'build back better' on the basis of new economic and social thinking, building on States' human rights commitments and learning, for example, from mistakes in the economic responses to the 2008 global financial crisis.

⁸ Florian Bieber et al. Policy Brief: "The Western Balkans in Times of the Global Pandemic" (BiEPAG: April, 2020), available at <https://biepag.eu/wp-content/uploads/2020/04/BiEPAG-Policy-Brief-The-Western-Balkans-in-Times-of-the-Global-Pandemic.pdf>, accessed on 28 April 2020, p. 9.

the freedom of movement, a fundamental right most affected by the current quasi-global state of exception, as argued in the policy brief.⁹

Let us explain, North Macedonia (following the example of Serbia in virtually every step of deepening the restrictions) has introduced a military type curfew: no exceptions – excluding life and death emergencies – are allowed in certain periods of the day (between 16.00 and 05.00), and a complete lockdown during weekends and holidays of 60-85 hours was introduced in the beginning of April. In the name of the protection of the health of the most vulnerable, a segregation in the right to move was imposed first on the elderly and later on minors: they could leave their houses in particular timeslots, for a duration of only two hours a day during workdays. The narrow timeslots caused the overcrowding of stores, banks, etc. and undermined the government's own agenda of enacting social/physical distancing. The narrow timeslots of those physically disadvantaged have been a psychological and physical burden whereas the segregation itself, by definition, is an affront to human dignity. Therefore, the curfews imposed in North Macedonia, following the example of Serbia led by the avowed illiberal Aleksandar Vučić, have been something fundamentally different from the “curfews” (lockdowns and

quarantines) imposed in the rest of Europe that, according to our analysis, have been overwhelmingly intersectional, proportionate and allowed for the granting of exceptions based upon individual decision (in the cases of strictest lockdown: always reported to the authorities). The Individual right to choose when to exercise the permitted exception has been respected throughout Europe, whereas age based segregation in the restrictions to the right to movement could be noted only in North Macedonia and the overtly illiberal democracy of Serbia.

The absence of a functioning parliament leaves us with no insight as to which political parties, and personalities favor more authoritarian solutions: we are left in the dark as to who the real carrier of the illiberal inertia in the current government is, and whether the illiberal or authoritarian mindset is reserved for only one party in the government. It is for this reason that we cannot determine which political parties have overcome the reasoning of “state capture” as the philosophy of governance, or whether to blame it on the party openly supported by Orbán's Fidesz, VMRO-DPMNE, or whether we have also witnessed backsliding in SDSM, thus fulfilling the warning made by Priebe in 2017 – that there is danger that one form of state capture would be replaced by another, namely the seemingly liberal SDSM might perpetuate illiberal governance due to systemic reasons. The latter,

⁹ UN Policy Brief Covid-19 and Human Rights: “We are All in this Together,” p. 4.

as already stated, refers to the excessive power of the executive branch that currently governs alone – with the judiciary *de facto* (although *not de jure*) suspended¹⁰ and the parliament dissolved.

3. How the myth of mentality can serve as a justification for heavy-handed security policies: the authoritarian symbolic order justifying the absence of an intersectional approach.

In the UN's brief on the status of human rights in the era of the Covid-19 pandemic, as well as in the EU guidelines on comprehensive public policy making that seeks to curb the tendencies toward authoritarian abuse, one encounters constant repetition, reminders and advice that "measures" ought to be proportionate and intersectional and not indiscriminate vis-à-vis specific social groups.¹¹ To avoid any misunderstanding, let us note that "not indiscriminate" in this context refers to positive discrimination or demographically sensitive policy making. The implication is that one has to take into account the specific socio-economic, cultural, gendered and other needs of the different social groups. In other

¹⁰ Judiciary Council of the Republic of North Macedonia: Decision About the Work of the Courts in During the Covid-19 Related Emergency [Судски совет на РСМ: За постапување на судовите во Република Северна Македонија во услови на зголемена опасност од вирусот КОВИД-19], available at <https://tinyurl.com/y6tvondv>, accessed on 29 April 2020.

¹¹ UN Policy Brief Covid-19, 10.

words, even if the government were in fact in compliance with the basic human rights stated in the European Convention (in spite of the derogation from a number of those rights), the Government is nonetheless responsible for developing a *proportionate* response: the lockdown of the entire nation without any exceptions allowed, except for the most severe medical emergency, is neither proportionate nor does it serve to combat against the pandemic. Moreover, it is intersectionally blind. After an uproar in the social media of those concerned with the elderly who depended on their care, of parents of young children who required at least 30 minute walks a day with their children, of those suffering from rare diseases left without access to medication, some exceptions were allowed based on a permit which again implied limitations. For example, the care for the elderly was allowed only upon a proof certified by an authorized institution that the person dependent on the care of their close ones suffered from a chronic disease. Distrust in the nation was such that initially state controlled volunteers were proposed but only after the 61 hour and 85 hour curfews were declared, which was a patently rhetorical move and an impossible idea to execute. Excessive bureaucracy implies distrust in the nation, as does the proposition that state controlled "volunteers" would provide the care usually received from members of the family. It is appro-

priate to quote here BiEPAG's analysis:

Similar long curfews affecting citizens, in particular the elderly, have been imposed in all countries of the region. The primary focus of the state has been enforcing physical distancing through restrictive measures and repression, including steep penalties, instead of education and communication. This approach reveals that the relationship between the state and society across the region is shaped by mutual distrust.¹²

The “mentality” of the nation has often been invoked by the officials, such as the Minister of the Interior, as an argument in favor of excessive and draconian measures. In other words, the officials did not deny that the measures at hand were draconian but rather admitted them and justified them through the myth of “mentality.” It is a myth, indeed, as neither the minister of interior nor anyone else have based their policy on any reliable study that would explain the “mentality” of a nation that has lived under a hybrid regime for almost three decades.¹³ The latter can only imply that we are dealing with a docile, submissive and disciplined population—disciplined by an alienated and

intimidated state and bureaucracy. An individual sense of public responsibility is lacking, as several field research studies of ISSHS have demonstrated, but discipline in obeying the state and political elites seems to abound, as other studies have demonstrated.¹⁴ However, these are only indicators and, unlike the government, we would not venture any double-guessing. Let us infer the main consequences of the “myth of mentality” perpetuated by the representatives of the government: 1) authoritarianism is acceptable and justifiable (the nation is incompetent), 2) the state, or the political elite, presupposes it is competent as opposed to the nation and therefore superior, 3) discipline is not self-discipline and as such a sense of public responsibility or civic engagement, but submission to an exterior disciplinary entity (the State, the political elites) and this fact about the “mentality” is presumably immutable.

In conclusion, if all of these positions are held by the current government as they were openly held and promulgated in the era of Nikola Gruevski, the authoritarian “mentality” of the political elites is probably not an exclusive characteristic of VM-RO-DPMNE, although it is more prominent in the center-right wing party than, for example, in SDSM. Instead of recommendations: as myths cannot be eradi-

¹² Florian Bieber et al. Policy Brief: “The Western Balkans in Times of the Global Pandemic” (BiEPAG: April, 2020), available at <https://biepag.eu/wp-content/uploads/2020/04/BiEPAG-Policy-Brief-The-Western-Balkans-in-Times-of-the-Global-Pandemic.pdf>, accessed on 28 April 2020.

¹³ Steven Levitsky and Lucan Way, *Competitive Authoritarianism: Hybrid Regimes After the Cold War* (Cambridge UK: Cambridge University Press, 2010).

¹⁴ Martin Galevski, *Socio-Political Participation of Youth in North Macedonia*. Skopje: Westminster Foundation for Democracy, Western Balkans Democracy Initiative, 78-82.

cated – except through indoctrination, which is something we would certainly not recommend – insistence on effective policies and on government's accountability when democratic and human rights principles are negatively affected is the recommended way of changing the *authoritarian mentality* of the local political elites. In order to demonstrate that state capture has been overcome, one needs to focus on the authoritarian mentality of the political elite rather than the mentality of the masses.

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