PANDEMIC FOR DIGITAL RIGHTS

South East Europe Report

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Introduction

The global public health crisis caused by the COVID-19 pandemic confirmed that the decades-long discussion on striking a better balance between security and privacy interests still hasn't provided the world with a better framework. Moreover, efforts to contain the outbreak in various countries justified turning a blind eye to misuses of technology and abuses of power, coupled with ever stronger political attempts to renegotiate human rights as such. We've seen decisions that were unthinkable only months earlier and now face anxiety over what will be dubbed normal in years to come.

On top of burdens of the recent past and today's overwhelming political and economic challenges, parts of the region of Southeast Europe have felt strong pressure exerted on existing rights and freedoms throughout the course of the pandemic. Though some impact on human rights was expected, and at times needed in a limited scope, the authorities were supposed to introduce restrictions while observing the balance between their impact on human rights and the respect of human rights. However, there has been an increase in incidents of censorship, fines and arrests of citizens and journalists, leaks of personal data, privacy violations and the denying of free access to information.

The digital rights monitoring that SHARE Foundation has been running since 2014, in order to sample violations and assess overall conditions in the online sphere of Serbia, expanded as of last year, when we partnered with the Balkan Investigative Reporting Network (BIRN) to keep track of incidents in Bosnia and Herzegovina, Croatia, Hungary, Kosovo, Montenegro, North Macedonia and Romania. Our first joint effort inadvertently coincided with the global pandemic, which uncovered worrisome events and trends in the region.

The latest monitoring report covers the period from 31 January to 30 September 2020.

Trends on the rise: Human Rights and COVID-19 in South-east Europe

Attempts to take control of information related to the spread of the virus backfired in most countries in the region. The rise of fake news and fearful rumours on social media was met with censorship, arrests and fines, a strategy that soon escalated to target traditional media outlets and professional journalists. Sensitive health data of citizens was often handled with incompetence, if not ill intentions, while surveillance technologies were rolled out without proper oversight.

In many cases, measures introduced to combat the spread of COVID-19 that impacted on the work of state institutions – such as suspending the work of lawmakers, organizing "Skype" court sessions and limiting access to public services – came as aggravating circumstances to the overall situation.

At the outbreak's onset, numerous violations of digital rights were noted - violations of the privacy of persons in isolation, manipulation, the dissemination of false information, internet fraud and the like. During the eight months covered by this report, we have recorded 221 violations of digital rights in the context of COVID-19.

The largest number of violations of digital rights was recorded[+] in March and April, 67 and 79 respectively. Following the pandemic's initial peak, that number started slowly declining. The countries with the highest number of violations to date are Serbia, with 46 observed incidents in this period, and Croatia, where 44 violations of digital rights were recorded during the ongoing COVID era.

	Jan.	Feb.	Mar.	April	May	Jun.	Jul.	Aug.	Sept.	Total
Bosnia and Herzegovina	1	0	9	8	0	0	1	0	0	19
Croatia	0	1	12	15	3	3	3	3	4	44
Hungary	0	2	11	9	2	2	0	1	0	27
Kosovo	0	0	5	4	2	0	0	0	0	11
Montenegro	0	0	3	3	2	2	4	0	2	16
North Macedonia	0	1	8	10	5	3	3	0	1	31
Romania	0	3	6	10	4	0	2	1	1	27
Serbia	0	1	13	20	9	1	1	1	0	46

The most prevalent violation in the observed period is manipulation in the digital environment caused by news sites that published unverified and inaccurate information, and by the circulating of incomplete and false data on social media. About half of all cases recorded so far were connected to manipulations. One of the reasons for the high number of incidents of information manipulation is the low level of media literacy in the countries of the region, where few people actually check the news and

information served to them, while the media themselves often[+] publish unverified information.

Pressure against free expression and online activities in general were also noted as being frequent. Insults, threats, hate speech and false information intended to damage reputations, commonplace under normal circumstances, accounted for almost a third of cases in the observed period.

Another category - violations of information privacy and personal data protection, although not as numerous, is certainly important to mention, as it affected a large number of citizens, exposing serious failures of states in handling personal data.

An additional category of violations relates to information security breaches, especially computer fraud. Spending extended time in the online environment significantly increases the risk of cyber attacks, computer fraud and sabotage, which did not bypass the countries of Southeast Europe.

The most common targets of digital rights violations were citizens and journalists. However, both groups were also among frequent attackers, alongside unidentified perpetrators.

Bosnia and Herze-govina

In Bosnia and Herzegovina (BiH), administrative divisions - into two entities (the Federation of Bosnia and Herzegovina and Republika Srpska), one district (Brčko District of BiH) and ten cantons in the Federation of BiH - seem to have become even more prominent during the pandemic. Each entity and each canton approached the struggle against the pandemic in line with their authorisations, with differences among these approaches causing both confusion and worry among the citizens.

The media landscape in Bosnia and Herzegovina saw problems with personal data protection, free access to information and disinformation. In terms of disinformation, citizens were exposed to various false and occasionally outlandish claims. These included allegations that aircraft were spraying citizens with the virus, misinformation about supposed cures for COVID-19, conspiracy theories about the origin of the pandemic etc.

When it comes to media freedoms, the most troubling issue was a type of censorship introduced when the Republika Srpska (RS) entity introduced a decree prohibiting the spread of panic and disorder. According to this legislation, anyone using social and traditional media to spread fake news and cause panic and disorder could be fined between 500 and 1,500 euros for private individuals and 1,500 and 4,500 euros for companies or organizations. RS officials defended this legislation by stating that some citizens were "irresponsible" in creating fake news that caused panic and consequently interfered with measures introduced by the RS authorities to combat the pandemic. The implementation of this legislation began almost immediately, with one person

from Gradiška fined 500 euros for "causing panic and disorderly conduct during an emergency situation" on their Facebook page, which also offended RS public bodies, despite them being supposed to have a higher level of tolerance to criticism. Moreover, a doctor was fined for saying that there was not enough equipment in RS hospitals, despite the fact that such claims could have been treated as matters of public interest. This decree was assessed by both local and international actors as restricting freedom of expression. Journalists' associations in Bosnia and Herzegovina, Transparency International, the Council of Europe, OSCE and others urged the RS authorities to repeal this legislation, claiming that it introduced a form of censorship and interfered with the right to freedom of expression. Troubles afflicting the BiH media landscape further deepened with claims that the authorities in the Federation of BiH had also started monitoring social media and initiated criminal proceedings for spreading fake news and panic in five cases. Ultimately, in mid-April, the RS Interior Ministry stated that the decree would be revoked and that no offenders would be prosecuted. However, the justification for this decision was not an acknowledgement that the decree was problematic and limited human rights, rather that the citizens were respecting all the rules imposed by the state of emergency and that citizens relied on information received from official sources.

These events were particularly troubling, as the RS authorities already tried to regulate freedom of expression on social media in 2015, by including social media in the definition of a public space in the Law on Public Peace and Order. Both pieces of legislation could signal a tendency to restrict freedom of expression in this entity. Such tendencies could ultimately cause a chilling effect among citizens and media not close to the authorities, who would then refrain from exercising their right to freedom of speech.

BOSNIA AND HERZEGOVINA

Croatia

Debate on the use of contact tracing apps as a method of combating the spread of the pandemic was one of the most important discussions, both in the country and at the EU level. The Croatian digital environment has also proven to be a very fruitful environment for the flourishing of multiple conspiracy theories.

Conspiracies over the introduction of 5G networks have been trending on social media platforms in previous months. They even include theories that the COVID-19 pandemic could be linked to the new networks in some way. One Croatian citizen even destroyed WiFi equipment, believing it was 5G infrastructure.

Several social media users in Croatia have been spreading false information about the pandemic, saying that the pandemic was planned even before the disease was named, and misinterpreting data from the World Bank's website, which allegedly showed that COVID-19 testing kits were purchased in 2018.

Misinformation was circulated on social networks claiming that the FBI arrested Bill Gates on charges of biological terrorism. The false announcement was supplemented by an article describing the operation to detain Gates, with information that the FBI arrested him thanks to a report by Australian protesters against the 5G network. But Croatian fact-checking website Faktograf said that the "news" actually came from an Australian satirical website called The Betoota Advocate.

Another conspiracy theory published on the website Zajednohrvatska.wordpress.com claimed that there is a secret plan to mi-

crochip the global population and that Croatian politicians have⁺ signed agreements pledging to microchip Croatian citizens. The article also implied that the measures taken to combat the COVID-19 epidemic were introduced in order to microchip citizens.

In late October, a group of EU countries demanded measures be taken to counter disinformation surrounding 5G technology, emphasising the urgent need for a communication strategy that provides reliable information to the bloc's citizens, as Reuters reported. The 15 countries – including Croatia, Bulgaria, Czechia, Poland and Slovakia – listed their concerns and proposals in a joint letter to officials of the European Commission.

At the very beginning of the pandemic, the government led by the conservative Croatian Democratic Union, HDZ, proposed a change of the Electronic Communications Act under which, in extraordinary situations, the health minister would ask telecommunications companies to provide data on the locations of users' terminal equipment.

While MPs agree that the aim of the proposal is legitimate, many of them complained that the government did not elaborate the proposal clearly, or include enough safeguards.

As the debate was becoming very dynamic, on 19 April, more than 300 scientists and researchers published an open letter urging governments not to introduce systems that could "allow unprecedented surveillance on society at large". Although the open letter does not name any specific initiative, the criticism is widely seen as being directed against the PEPP-PT social-tracing approach, until then favoured by key EU member states Germany and France.

CROATIA

In May, PM Andrej Plenković said that, under an agreement⁺ among EU member states, Croatia was working on the development of an application to monitor COVID-19 cases. EU Telecommunications Ministers gathered for an informal video conference, organized by the Croatian Presidency, to discuss the implications of the COVID-19 crisis on the telecommunications and digital sector. They stressed the need for a coordinated approach at the EU level and underlined that contact tracing applications will be important for the gradual relaxation of measures.

At the end of July, Croatia joined a number of other European countries that have introduced coronavirus contact tracing mobile applications, launching its very own "Stop COVID-19" app. During the launch, Health Minister Vili Beroš said that the application will not include geolocation tracking. However, comparing the success of contact tracing mobile applications across Europe, Croatian media reported that the local version was a "fiasco".

Local media reported that the "Stop COVID-19" application, launched in Croatia at the end of July, had been downloaded by less than two percent of mobile phone users by the end of August, while in order for it to be successful, as reported, it should be downloaded by 60 percent.

Finally, on 19 October, in order to to tap into the full potential of contact tracing and warning apps "to break the chain of coronavirus infections across borders", the European Commission set up an EU-wide system – a so-called "gateway" – to enable national coronavirus apps to interact with each other.

CROATIA

Hungary

The first arrest in Hungary for fake news was reported on 13 March, but this didn't stop fake news or false content from spreading in the country during the health crisis. The first person arrested under these allegations was a YouTuber, who had claimed on social media that the capital city of Budapest would soon be closed due to the pandemic. The anti-cybercrime unit of the police detained him, and he faces criminal charges of threatening public safety.

Arrests for social media posts continued, with the police detaining and questioning János Csóka-Szűcs, a member of local political group Kossuth Kör and the Momentum Party, raiding his home and seizing his mobile phone and computers. Police said that Csóka-Szűcs was interrogated in connection with a Facebook post of 20 April, in which he shared a call for an anti-government demonstration with the comment that "1,170 beds have been emptied in [the town of] Gyula" to make way for COVID-19 patients. In reality, the local hospital has almost 1,200 beds emptied to care for potential COVID patients.

In May, police also detained a man and placed him in custody on suspicion of fear-mongering via a Facebook post in which he claimed that the country's leaders had deliberately timed the lifting of curfew restrictions to coincide with the peak of the coronavirus pandemic, which he suggested could lead to mass infections.

Fake news in Hungary has been spread by the media, political parties and influencers, but citizens were also exposed to fraudulent actions through phishing campaigns. In April, following

an investigation, police uncovered a network operating dozens[+] of fake news sites that regularly published clickbait fake news about COVID-19.

Influencers in Hungary were engaged in downplaying the COVID-19 pandemic. Fashion model Timea Vajna, who has 379,000 Instagram followers, posted that wearing a mask does not protect against the coronavirus. After the media reported about her post, Vajda claimed that she was only joking.

The outcome in these types of cases was not always a simple statement by those engaged in posting fake news or spreading falsehoods. In the case of the Hungarian Socialist Party (Magyar Szocialista Párt, MSZP), a video was published on the party's social media pages in which a woman who claimed to be a paramedic said that nine our of 10 patients had died as a result of a government-ordered release of hospital beds due to the coronavirus pandemic. In fact, it turned out the woman had never worked for any medical service. MSZP deleted the video and launched an internal investigation, while the police started investigating claims of fear mongering.

Fraudsters were very creative in exploiting the pandemic. They misused the names of the retail groups, while offering very low prices of mobile phones in exchange for citizens' bank card details. Some went even further by presenting themselves as tax authorities and requesting bank accounts details from citizens. The perpetrators in these cases remain largely unknown. In one case, emails were sent on behalf of local hospitals stating that recipients have been in contact with colleagues, friends or family members diagnosed with COVID-19. Users were then asked to go to the nearest hospital to complete tests after completing and printing an attached form, which actually contained malware.

HUNGARY

During the pandemic, the placement of commercial content as[+] news was also noticed in Hungary. Media outlet Index.hu published an article about a special protective mask developed by a Hungarian company. In reality, the article was merely the company's statement about its own product.

At the beginning of September, as the pandemic worsened in Hungary, the population was less worried than it had been when the first "wave" of COVID-19 hit in the spring. One consequence of this is less fake news about COVID-19 on social media.

Virus sceptics and fake news believers

BY ÁKOS KELLER-ALÁNT

Fake news about COVID-19 arrived in Hungary before the virus itself. Several clickbait fake news sites published articles about COVID-19 victims a month before the first confirmed case. The Anti-Cybercrime Unit of the Hungarian police arrested several people for spreading fake news, starting in early February, when police raided the operators of a network of fake news sites.

In March, the Hungarian government amended the criminal law to introduce punishments of one to five years imprisonment for spreading "falsehoods" or "distorted truth" deemed to obstruct efforts to combat the pandemic. This amendment was part of the controversial Coronavirus Bill.

Police also began monitoring Hungarian online media for coronavirus-related fake news. Several arrests were made during the

spring. A YouTuber was arrested for spreading fake news about⁺
a lockdown in Budapest, along with several others who ran net-
works of clickbait sites. Chain letters on Facebook with fake
statements about the pandemic also started to spread. László
Toroczkai, leader of the far-right Mi Hazánk party, launched a
series about the pandemic, with fake statements such as claims
that the coronavirus was fabricated and spread by the World
Health Organization and European Union.

It is also worth noting that, during the first weeks of the pan-
demic in Hungary, the government tried to fit the spread of the
virus into its anti-migrant narrative. To support the theory of "mi-
grants spreading COVID", several articles were published in gov-
ernment-related media that contained several fake statements
about migrants and the pandemic.

According to the latest police report, from 15 July, authorities
initiated 455 proceedings related to the coronavirus. Of these
455 cases, 135 were initiated for spreading rumours about the
pandemic and 29 for fear-mongering.

There were two extreme cases (one day apart) in which two men
were arrested just because their Facebook posts were critical of
the government. On 12 May, a 64-year-old man was detained by
police near Szerencs in Borsod County. He was questioned over
a Facebook post he'd published on 28 April in which he had
criticized the government's anti-pandemic measures, claiming it
had deliberately lifted the curfew restrictions at the peak of the
pandemic in order to cause mass infections. He also addressed
"Our dear dictator, our dear leader", saying: "You are a cruel ty-
rant, but remember, all dictators have failed so far".

The very next day, police detained János Csóka-Szűcs in Gyula,

a small town in Békés County. A local politician of the opposition Momentum party. Csóka-Szűcs was told that he was being questioned because of a Facebook post from 20 April that he'd published in a local Facebook group. On 20 April, when anti-government demonstrations were held in Budapest and Gyula, Csóka-Szűcs shared a call for the demonstration, adding that "1,170 beds were emptied in Gyula as well" to deal with the pandemic. His post referred to the nationwide anti-pandemic measure which saw 60 percent of all hospital beds freed up to deal with COVID-19 patients. In reality, about 1,200 beds of the local hospital had been duly freed up.

Both men were released after a few hours of detention and charges against them were dropped.

"virus sceptic" movement started to grow during the summer, mostly on Facebook and YouTube. The main figures behind this movement are well known. They even organized a "sceptic" conference and held a demonstration in Budapest. They deny the existence, or downplay the seriousness, of the novel coronavirus. The group also campaigns against the anti-pandemic measures, for example members encourage others not to wear masks. In September, Facebook deleted three of their groups, but they reorganized and started to grow again. While at the beginning of the pandemic the Hungarian police were quite active against those spreading fake news about the pandemic, the authorities took no action against the "virus sceptic" movement. One of the organizers of this movement is a public figure known as the leader of a so-called fake party. These parties are active only during the election period. They gather state funds for campaigns and possibly distort the results of the outcome of elections.

Kosovo

An interesting trend has been noticed in Kosovo during the pandemic, where online media were mapped as the biggest violators of citizens' digital rights.

On 11 March 2020, local Kosovo media Indeksonline reported that suspected COVID-19 samples from Kosovo have been sent to Tirana, Albania. However, Era Pireva, spokesperson of the Kosovo Institute of Public health (NIPH), told BIRN that Kosovo had not sent any suspected samples to Albania to be verified. Even though NIPH denied the news, the news portal didn't remove the report at the time.

Indeksonline also falsely reported that the driver of former European Integration Minister Blerim Reka had tested positive for COVID-19, before the test results of the day had been made public by the NIPH. Perparim Kryeziu, spokesperson of former Kosovo PM Albin Kurti, confirmed to BIRN that the news was fake. Prior to this fake news, Kurti and Reka, together with their respective cabinets, had self-isolated while awaiting the results of testing. It was suspected that the driver had been in contact with a coronavirus infected patient, and both Kurti and Reka had been in contact with the driver. The news was then cited by Info Kosova.

Moreover, local news portal Jeta Online reported that a scientific laboratory in the village of Komoran, in the municipality of Drenas/Glogovac, was working to find a vaccine against COVID-19.

Local media portals were not only publishing unverified and false information, but also violated citizens' personal data by publish-

ing their health information. Citizens' personal data rights were[+] also violated by state institutions and public figures.

Kosovo local media Rahoveci Online shared the personal information of citizens from Rahovec/Orahovac municipality who have been tested for COVID-19 on their Facebook page, where they mainly operate. The personal information was deleted by the outlet that published them. "It happened quite by mistake and we deleted that post within 2-3 minutes," the portal told BIRN.

Local Kosovo media Sinjali reported that Serbia has "quarantined North Mitrovica and Zvecan". According to the article, "around 200 citizens and 5 Kosovo municipalities" had been isolated as a result. The names of the alleged isolated citizens of the municipalities in the North of Kosovo were also published.

Kosovo public figures, mainly politicians, have also published personal data of citizens infected or tested for COVID-19. First, Lutfi Haziri, mayor of the municipality of Gjilan/Gnilanje, published personal information on a citizen who died of complications after being diagnosed with COVID-19. The NIPH denied the information and called on Haziri to delete his Facebook post, which he later did.

Time Kadriaj, MP from current governing coalition partner Alliance for the Future of Kosovo (AAK), shared personal information about activists from the former ruling party, Vetevendosje, claiming that they had been allowed to leave the state run quarantine against NIPH recommendations. Kadriaj made public the decision of the ministry of health, which identified the citizens in question and provided their diagnosis and recommendation of self-isolation.

State institutions were also mapped as violators of citizens per-[+]sonal data. On 15 April, the Kosovo municipalities of Prizren and Fushe Kosove/Kosovo Polje published the ethnic background of citizens who are from minority communities and have been infected with COVID-19. On 20 April, via a public letter, NGO Advancing Together condemned the municipalities' act by considering it as discrimination and a violation of law.

In order to help citizens follow the confusing measures and movement restrictions imposed by the government, BIRN Kosovo, in collaboration with local software development company KUTIA, has launched a platform called "90 Minutëshi yt" ("Your 90 Minutes"), where people could check when they are allowed to go out.

Montenegro

Montenegro was one of the few countries in the world that was initially able to keep COVID-19 under control, but circumstances unfortunately changed for the worse in early autumn this year, coinciding with the reopening of borders for tourists in August.

The most worrying violations were those that concerned privacy and personal data protection of citizens infected with COVID-19 or subjected to mandatory self-isolation orders. For example, after Prime Minister of Montenegro Duško Marković announced that the country had its first two coronavirus cases, the patients' identities were published by social media users, including photos of one of the patients and her family. The patients were also targeted with hate speech comments.

In early April, a list of COVID-19 positive citizens circulated on social media and the Montenegrin government called for an investigation. Soon after, an employee at the Health Centre in the capital of Podgorica was arrested on suspicion of unauthorized use of personal data in relation to the list spread online. In a similar case, the Government of Montenegro published a list of citizens with quarantine orders, with the support of the national data protection authority, a highly intrusive move that was condemned by human rights organizations.

Arrests and questioning related to the publishing of pandemic-related information online also occurred in Montenegro. One such case was that of a Montenegrin man from the coastal city Budva, who was questioned by police over a Facebook post about the epidemiological situation. He called for protests on his Facebook account, demanding the resignation of members

of the National Coordination Body for Infectious Diseases.

Misinformation and manipulations also played a part during the pandemic in Montenegro. One of the cases involved a Russian citizen arrested for spreading panic about the COVID-19 situation in the country. The Police Directorate of Montenegro said that the suspect falsely posted on social media that around a thousand people were infected in Montenegro and that six people had died from complications caused by the virus.

Self isolation

BY TAMARA MILAŠ

The first few weeks of the pandemic were a rather rare period of almost consensual social and political efforts in Montenegro to respond to these new challenges. The National Coordination Body for Infectious Diseases, established by the Government, received the support of all actors. However, the situation changed when the Government grossly violated the right to privacy and the right to the protection of personal data of citizens with a positive opinion of the Council of the Agency for Personal Data Protection and Free Access to Information of Montenegro.

Namely, on 21 March, the authorities decided to publish the names of persons in self-isolation on the government's official website, with the message "Let everyone know which neighbours and fellow citizens they put in danger", which was a blow to the sense of solidarity and communion. This was undoubtedly a direct violation of the Constitution, laws and international standards in the field of human rights and democracy. More precisely, this measure violated constitutional provisions guaranteeing

human rights and freedoms that may be limited only to the extent allowed by the Constitution and to the extent necessary to meet the purpose for which the restriction is allowed in an open and free democratic society. Additionally, the Constitution was violated in terms of the protection of the right to privacy and personal data for which there was no basis for restriction, except under a state of emergency, which was not declared in Montenegro, although even then it would not be unlimited. Moreover, the provisions of the Law on Personal Data Protection and the Law on Healthcare were also violated. Article 8 of the European Convention on Human Rights (ECHR) was violated as well, because it guarantees the right to the protection of privacy and family life. This right may be limited in order to protect public health, but only to the extent necessary in a democratic society, and this was certainly not the case in Montenegro. The practice of the European Court of Human Rights in Strasbourg also contributes to this argument. This was done contrary to the official statement of the European Committee for Personal Data Protection of 19 March 2020, which referred to the processing of personal data in the context of the pandemic and stated that "data subjects should receive transparent information on processing activities, including the retention period of the collected data and the purpose of the processing".

It is important to emphasize that this was preceded by a cursory and contradictory opinion of the Council of the competent Agency for Personal Data Protection, which did not conduct a three-part test, as required by the ECHR standards and Montenegrin laws, and decided to violate both nonetheless.

On 22 March 2020, Prime Minister Marković reacted to the criticism and indirectly confirmed that the Government had violated legal regulations and that possible problems would be dis-

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cussed at a later date.

A list of persons in self-isolation appeared in most media outlets in Montenegro, and is still available on the digital platforms of those media, even though the isolation measures expired for those persons a long time ago and even though the decision of the National Coordination Body for Infectious Diseases was overturned by the Constitutional Court. The list also included minors. There were no negative reactions to this issue coming from the Montenegrin institutions, both those dealing with human rights and those that monitor the work of the media.

On the night when the Government published the list of persons in self-isolation with their addresses, an additional list of persons in self-isolation also appeared on social media. This list turned out to be even more intrusive in terms of personal data (ID numbers, residential addresses, telephone numbers etc). Although the government quickly distanced itself from the list, it did not issue a request for its removal or take any action to determine how the list, which resembles a working document of certain institutions, became public.

After the personal data of Montenegrin citizens in self-isolation became public, a web application was created that violated a number of legal provisions and international standards. This application enabled everyone to monitor their distance from persons in self-isolation. Due to strong tensions and a lack of valid information, by using the app the citizens also gave their consent to activate their own geolocations, thus enabling others to track their movements as well. The Centre for Civic Education asked the competent authorities in Montenegro - the Police Directorate, the Supreme State Prosecutor's Office, the Protector of Human Rights and Freedoms and the Agency for Personal

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Data Protection - to act to remove this illegal application. Most[+] of them stated that they were not bodies competent to do this. Moreover, the Agency conducted an inspection for an unreasonably long time, culminating when the application no longer even existed.

In addition, on 3 April 2020, some parts of the population could see the data of infected patients in Podgorica. The Basic Court, at the proposal of the Basic State Prosecutor's Office, ordered the one-month detention of an employee of the Public Institution "Health Centre" Podgorica, on suspicion that he committed the crime of unauthorised collection and use of personal data. What emerged at this point was the issue of understanding of the law on personal data protection by the competent institutions that should ensure the relevant application of that law. The reason for this was that the suspect was not the head of personal data collection pursuant to the Law on Personal Data Protection, and was not even aware that it was protected data. It is also worrying that the Ombudsman had conflicting views during these different situations with lists, which in fact had the same effect and consequence. This shook the credibility of the Ombudsman, and did not contribute to positioning the institution as independent and consistent in defending human rights.

Ultimately, on 14 August, the Constitutional Court decided to repeal the decision of the National Coordination Body for Infectious Diseases to publish the names of persons in self-isolation, considering that it was not in accordance with the Constitution and the law. This was followed by the announcing of numerous lawsuits filed by citizens who were on those lists against the state of Montenegro for compensation, which could have far-reaching consequences for the budget of Montenegro. The decision of the Constitutional Court also exposed the lack of professional

capacities of the competent Agency for Personal Data Protec-[+]tion.

The publication of these lists shows that there is no clear aware-ness or knowledge about the importance of personal data pro-tection in Montenegro, and raises the question of how many cit-izens are under surveillance and who has personal data that can become a subject of serious abuse in the future.

North Macedonia

Similarly to other countries in the Western Balkans, North Macedonia also experienced a flood of unchecked information and claims shared online with regard to the pandemic. Some of the most concerning cases included impersonations and false claims about infected persons, causing a stir on social media.

The earliest of these pseudo-information efforts were registered in late February, when the coronavirus pandemic was still looming over North Macedonia and other Western Balkan countries, but without officially confirmed cases of infections. Health Minister Venko Filipče had to reassure the public that there were no cases in the country as yet and called for the responsible sharing of information. Soon after that, on 25 March, the first Macedonian case of infection with COVID-19 was officially confirmed. This was only the shape of things to come in terms of challenges and online infodemic, which hit North Macedonia during this public health crisis.

One of the first cases of manipulation concerning COVID-19 involved Ljupčo Nikolovski, a senior official of SDSM, North Macedonia's ruling party, whose wedding was allegedly attended by an infected person. Nikolovski then denied the claims that the infected person was at his wedding. By mid-March it was already clear that there would be a very difficult period when it comes to providing truthful, accurate and timely information about the spread of COVID-19. At the time, North Macedonia President Stevo Pendarovski stated that the authorities prevented several organized attempts to spread false news about the coronavirus situation aimed at inciting panic.

Some of the digital rights violations recorded in North Macedonia[+] also concerned the spreading of rumours about the social crisis caused by the pandemic. One news portal published false information about apparent food shortages. The portal claimed that the country was facing a wheat shortage and that large amounts of wheat were being exported to Kosovo, which authorities later denied. There were also several incidents on social media regarding rumours about people infected with COVID-19 working in some of Skopje's biggest supermarkets. Health authorities have not confirmed such cases in their daily press conferences about coronavirus-related developments.

Another striking case concerned false news showing an image of coffins of alleged COVID-19 victims that had been exhumed and found empty, which has been shared on various social media channels in North Macedonia. As the image was later fact-checked, it turned out to come from Latin America and had nothing to do with coronavirus victims. One of the latest cases of manipulation concerned a list of allegedly COVID-19 infected volleyball players, which circulated on social media. The list contained the names of alleged infected underage female players. A volleyball club representative said that only two players had tested positive for the disease, while the list that was circulating featured more names. Criminal charges against the perpetrators were also announced by the volleyball club, as some of the players were vilified in the public because of the published list.

While the infodemic was in full swing in North Macedonia, cases of online fraud also appeared. Given the low level of digital literacy among the population in the region, the crisis and the easy spread of manipulated content, citizens are more likely to fall victim to phishing emails and similar social engineering tactics. Such was the case of a false email with the subject "Action

Needed: One of Your Contacts is COVID-19 Positive", claiming[+] to come from the Health Ministry and urging citizens to open the attached file, which contained malware. A similar email, this time allegedly sent by the North Macedonian Interior Ministry, asked citizens to come to police stations regarding an investigation.

Contact tracing

As the health authorities announced they were looking to use "all tools and possibilities" to combat the disease that had already claimed 44 lives by mid-April, North Macedonia was the first among the Western Balkan countries to implement a contact tracing app.

Developed and donated to the Macedonian authorities by Skopje-based software company Nextsense, the "StopKorona!" app went live on 13 April 2020, with more than 5,000 downloads on the first day.

The application is based on bluetooth distance measuring technology and stores data locally on users' devices, while exchanging encrypted, anonymised data relevant to the infection spread for a limited period of 14 days. According to data privacy experts, the decentralised design guarantees that data would be stored only on devices that run it, unless they voluntarily submit said data to the health authorities.

In the case that an app user tests positive for COVID-19, the Ministry of Health would request the user to disclose data from the app, whereby authorities would then extract phone numbers and inform owners that they have been in contact with a person who is COVID-19 positive, while protecting their privacy. All data

is recorded on a secure server of the Ministry of Health and no[+] other user has access to mobile numbers, nor is there any data stored about the owner of the number.

Romania

In Romania, a government shutdown of websites was one of the main means to fight COVID-19 disinformation.

In March, when the pandemic started to spread, the Romanian Interior Ministry ordered the closure of the website breaking-news.xyz and the "removal at source" of an online news article published by the website bpnews.ro. In April, Romanian authorities continued these practices, blocking the websites romania-veche.ro, genocid.ro, r.news-romania24.xyz and news-romania24.xyz. Romanian authorities also blocked access to the news website justitiarul.ro for the second time, in response to its publisher reposting some of the fake news for which it was blocked days before.

By using its state of emergency powers, the government claimed it was blocking the website to stop the spread of fake news.

News website romania-veche.ro was blocked for publishing fake news claiming that COVID-19 does not exist and that the pandemic is an invention promoted by a global conspiracy. The story was shared more than 170,000 times on Facebook. The source of the fake story was a post published on Facebook by an account operating with a fake identity. The website genocid.ro has been blocked for publishing false news reports, such as one claiming that the government was using lethal disinfectants in public spaces. News website bpnews.ro was blocked following accusations that it "persisted in putting forward conspiracy theories whose nature instigated citizens to not respect" government provisions on social distancing.

Romanian authorities used their extraordinary powers granted[+]
under the state of emergency to block an attempt by the pub-
lishers of news site ortodoxinfo.ro to relaunch online using a dif-
ferent URL.The authorities said this site planned to keep spread-
ing similar items of disinformation to those that motivated the
closure of the original site. The news site was initially shut down
for publishing claims that the government planned to send pen-
sioners to concentration camps and exterminate them in the
context of the COVID-19 pandemic.

Rumours and discretion-ary censorship

BY MARCEL GASCON

On 16 March 2020, Romania entered the so-called state of emer-
gency, which was declared by the president and gave the gov-
ernment extraordinary powers to act more efficiently against the
COVID-19 pandemic. The executive used this legal frame - first
instituted for a month, then subsequently extended for another
30 days - to declare a full lockdown and simplify due process to
acquire medical equipment and material.

Furthermore, Romania's government declared another priority:
the limiting of fake news seen as undermining trust in author-
ities and encouraging irresponsible behaviour among citizens.
In order to achieve this, the state of emergency law provided
authorities with the exceptional authority to shut down websites
that spread lies related to the pandemic.

The procedure to use it was as follows. The Group for Strategic
Communication, GCS, established at the Ministry of the Interi-

or to centralise and disperse information about the health cri-[+] sis, identified content considered to be fake news endangering public health efforts. They subsequently ordered the National Authority for the Administration and Regulation of Communications, ANCOM, to temporarily block the websites publishing that content.

During the 60 days that Romania was under a formal state of emergency, BIRN and Share Foundations's regional monitoring documented several cases in which this legal provision was used to cancel news and opinion websites. In practically all of these instances, the GCS argued that the targeted contents caused panic and social alarm and were a form of sabotage against the government's drive to save lives by limiting contagion.

On 20 March, the authorities blocked access to website stirid-emoment.ro. Among other false information, this news site had written that the Romanian "Government secretly prepares a mega-operation to repatriate Romanians from several countries". Five days later, ANCOM shut down bpnews.ro, another news website, which had claimed that Polidin, a Romanian-invented drug, "kills coronavirus".

On 15 April, ANCOM pulled websites r.news-romania24.xyz and news-romania24.xyz off the internet after these two apparently-related news platforms published information claiming that the Russian army will help Romania fight the pandemic and, in a separate piece, that Italy, Germany and France had decided to close their borders for a period of two years.

On 19 April, genocid.ro had its turn, being shut down after it published a news story claiming that authorities were disinfecting the streets of Romanian towns with chemical products "which could instantaneously kill or cause deadly diseases".

Another website, romania-veche.ro, was shut down on 24 April[+] over a story in which it was claimed that COVID-19 does not exist and that the pandemic is an invention spread by a global conspiracy that would result in the introduction, through mass vaccination programmes, of microchips to human bodies. The news linked the conspiracy to the implementation of 5G technology. More than 170,000 accounts shared a link to the story on Facebook, which was posted by an account operating under a false identity. News site justitiarul.ro suffered an identical fate as romania-veche.ro on the very same day, in this case over the publication of claims that the pandemic was invented to impose universal vaccination.

Twenty four hours later, the GCS and ANCOM blocked access to ortodoxinfo.ro, after this platform that specialises in religious information warned about the existence of a government plan to send pensioners to concentration camps and exterminate them under the pretext of COVID-19. Unlike most of its competitors, ortodoxinfo.ro resisted the block by appearing under a different URL. Authorities, however, were not deceived and also shut down the alternative site.

Also in April, as a form of protest against the policy of blocking fake news spreaders at the full discretion of a cluster self-appointed as the guardian of information correctness amid the crisis, opposition MP Liviu Plesoianu called on the authorities to block access to the country's presidency website. Plesoianu argued that Romanian President Iohannis had spread fake news in a speech given on 11 March in which he stated that "even older people who have other health problems generally have an acceptable outcome" after contracting COVID-19. The speech warned against viewing COVID-19 as a "killer virus". Plesoianu's demand was not met by ANCOM.

This lawmaker of Romania's Social Democratic Party, PSD, was[+] not the only critical voice. During the state of emergency, several NGOs and civil rights watchdogs spoke out against what they saw as an arbitrary action that endangered freedom of information. They considered the shutting down and blocking of websites publishing what the authorities deemed fake news as a strong precedent that could lead to new limitations of what the media publishes. Moreover, experts contacted by BIRN doubted the efficiency of an approach that provides illegitimate sources of news with reasons for victimisation and is ultimately futile given the vastness of the internet.

The Organization for Security and Co-operation in Europe, OSCE, also raised concerns about the "removal of reports and entire websites, without providing appeal or redress mechanisms" in Romania.

While the malicious and false nature of all the information censored seems evident to us, we at BIRN take seriously the concerns expressed by these groups. Thus, we have listed both state institutions and online media publishing such fake stories as attackers in these cases that have a common affected party: the citizens.

To conclude, it is important to mention that the blocking of all the sites targeted by the authorities was lifted when the state of emergency ended on 16 May. While most of the sites no longer function, at least under their original URLs, others have resumed their activities and continue to promote narratives deemed as threatening by the government.

ROMANIA

Serbia

Citizens in Serbia faced a variety of digital rights issues and violations, ranging from breaches in personal data and privacy rights, to pressure exerted in response to the publishing of information online. In the early days of the pandemic, in mid-March, President of Serbia Aleksandar Vučić stated that "Italian phone numbers" are being tracked in order to monitor Serbian citizens living abroad for possible breaches of mandatory self-isolation measures upon their return to the country.

However, the most compelling case was the security breach of Information System COVID-19 (IS COVID-19), the country's central database for storing information regarding the spread of the disease. Login credentials for IS COVID-19 were publicly available on the website of a health institution for eight days. Another case concerned the publishing of personal data of a person infected with coronavirus - their initials, age, occupation, workplace and street where they reside - on the official website of the town of Šid, as well as the town's official social media channels.

The public was surprised and shocked by the arrest of Ana Lalić, a journalist of news portal Nova.rs, who was arrested on charges of causing unrest and panic after she reported on the poor working conditions at one hospital in Vojvodina, Serbia's northern province. Lalić was quickly released from custody and charges against her were later dropped, but this case showed that firm control over information about the pandemic was also one of the main interests of the government. In a similar case, a man was held in custody for 50 days, had his electronic devices confiscated and was placed under house arrest until proceedings against him are concluded, according to media reports. He was accused

of spreading panic on Twitter by publishing claims about short-[+]ages of equipment, personnel and space in one hospital.

Internet fraud in the form of phishing was also recorded in Serbia - one such incident concerned a fraudulent email allegedly from the Institute of Public Health of Serbia "Dr Milan Jovanović Batut", one of the key institutions engaged in the battle against the pandemic.

Password pandemic

BY BOJAN PERKOV

One of Serbia's first technical responses to the pandemic was to establish the Information System COVID-19 (IS COVID-19). In order to establish this system, the Government of Serbia issued a decree in late March. IS COVID-19 is a centralised software program used for processing and storing data on all persons tested for coronavirus, including those tested negative, possible contacts, house quarantined and hospitalised patients, as well as people that have died. The system was also used as the main source of information for decision makers.

Most people aren't usually so interested in how these systems work, nor how data is stored or who guarantees its safety. However, on 17 April 2020, while searching for information about the new legal framework for personal data processing in response to the pandemic, SHARE Foundation researchers found login credentials (username and password) for IS COVID-19 that were made publicly available on the website of a health institution. The page with the credentials was publicly available for eight days, enough to be indexed by Google and searchable online. As a

first response to this discovery, SHARE Foundation notified rele-⁺vant state authorities without any attempt to access IS COVID-19 using these credentials. With this discovery, it was clear that the most sensitive data of our citizens had been compromised, and that the integrity of the system of crucial significance to the fight against the pandemic could not be guaranteed.

The response from the relevant state authorities was efficient. Less than an hour after the report, initial steps had been taken in response to the incident and it was clear that login credentials were no longer publicly available on the website in question.

Following this incident, the Commissioner for Information of Public Importance and Personal Data Protection initiated a compliance oversight procedure. As a result of this oversight, the Commissioner issued a warning to the Institute of Public Health of Serbia "Dr Milan Jovanović Batut", which is the main data controller of IS COVID-19. There were several flaws in the management of IS COVID-19 that violated provisions of the Law on Personal Data Protection, such as the absence of contracts with data processors, primarily the National Health Insurance Fund (RFZO), which is in charge of providing technical support to users, the lack of appropriate system protection measures and the fact that no data protection impact assessment was performed, which in this case - according to the Law on Personal Data Protection - was mandatory before the system was made operational.

During the oversight carried out by the Commissioner, the Institute of Public Health of Serbia - Batut implemented some of the obligations, at least formally, such as the contract with the RFZO and an impact assessment. However, it can be concluded by reviewing this assessment that its content is still controversial, as it does not satisfy all the conditions required by the Law on Per-

sonal Data Protection, primarily due to its superficial and scant[+] descriptions of all relevant circumstances that accompany such a complex system processing the most sensitive data of the entire population.

With the case in question, it is clear that the practice of Serbian authorities, which are obliged to respect their obligations in the field of personal data protection and information security, is still subject to systemic vulnerabilities. The banality of this incident and everything that preceded it only indicate that even the minimal standards of protection were neglected in setting up IS COVID-19. These standards are clearly regulated by the Law on Personal Data Protection, as well as the Law on Information Security, both of which adhere to EU standards in this area. So, it is clear that this incident did not occur due to unclear or outdated regulations, rather due to major omissions by state officials and institutions in their attempts to apply these laws.

However, the fact that several state bodies reacted promptly and effectively, within less than an hour of receiving a report from the SHARE Foundation about this incident, is an example of good cooperation that helped prevent harmful consequences.

Recommendations +

- **Urgent alignment of national personal data protection laws** with the EU General Data Protection Regulation (GDPR) and Council of Europe Convention 108+ in countries that have not yet done so (such as Bosnia and Herzegovina, Montenegro, North Macedonia, Kosovo);

- **Improvement of information security standards** and their practical application, **together with regular supervision** by the competent state bodies;

- **States should refrain from using high monetary fines, detentions and arrests** as forms of intimidation against citizens, and especially journalists who are reporting on the governments' response to the pandemic;

- Measures such as **state of emergency or martial law**, which largely affect human rights, **should only be introduced in the most critical times and for a predetermined and limited period;**

- **Technological solutions and innovations** must be applied in accordance with the **legal framework on personal data protection and information security**. The procurement of intrusive technologies cannot be justified through efficiency and can only be based on whether their social use is **legal, necessary and proportionate**;

- **Surveillance of citizens' communications and movements must not be carried out on a massive scale** and in discretional extra-judicial processes;

- **Education of state administration personnel** on personal data[+] protection and information security;

- **Detection and efficient legal prosecution of suspects** for threats and pressure against journalists and civic activists in the digital environment;

- It is essential that the competent authorities provide **clear, truthful, complete and timely information on key issues of public interest, in particular about the pandemic**, and cooperate openly with journalists who report on these issues;

- More active work on **improving media and information literacy**, as well as the digital security of the population, especially children and youth, through **formal and non-formal education and informational campaigns**.

In the future, especially in the context of heightened social tensions in the region, the technology that public and private actors have at their disposal should not be seen as the solution to complex issues themselves, be that protection of health or upholding public order and safety. Rather, the use of technology should be focused on the benefit of citizens and respect for their rights and freedoms. It is important to note that, when intrusive technologies and regulations are put in place, it is very hard to take a step back, particularly in societies with weak democratic institutions. Under such circumstances, the measures we applied in one crisis for the protection of public health may one day be repurposed and used against other "social plagues", which may ultimately lead to reduced human rights standards in practice.