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# REPORT

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## The effect of Covid on EU democracies

*Sophia Russack (ed.)*

### Abstract

To better understand how the pandemic has so far affected Europe's democracies, the European Policy Institutes Network (EPIN) has analysed 19 succinct national perspectives. We asked our EPIN partners: *what are the effects of different crisis rules or procedures on the democratic character of national governance?*

This exercise has shown that while in some member states the democratic institutions and electoral processes have proved robust and flexible, outstanding democratic issues across all member states are: an overly powerful executive, limited checks on government, and the sidelining of parliaments. Trust, or the lack of it, in the respective political elites is a particularly divisive issue.



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## Introduction: Covid and democracy

by Sophia Russack

A functioning democracy comprises several crucial [elements](#), such as free and fair elections; an independent judiciary; representative institutions, an impartial administration; respect for fundamental rights and the rule of law; a well-functioning parliament with a strong opposition; free media; and the participatory engagement of citizens.

Before the pandemic, Europe was [rated](#) the second-most democratic region in the world by the International Institute for Democracy and Electoral Assistance (IDEA), as 93% of countries were classified as democracies. But the quality of Europe's democracy has been declining for the past ten years, mainly due to weaker checks on government, limited civic space, and the rise of populist and extremist parties.

This situation appears to have worsened since the pandemic. Measures taken by national governments to contain the virus curtailed citizens' fundamental democratic liberties as never before. The proportionality of undermining the freedoms of movement, assembly, and speech is a delicate one to achieve, and governments (may) have overstepped the constitutional limits of their powers.

At the same time, for their part parliaments have been curtailed in their legislative work and democratic oversight (especially opposition parties) by the necessary remote-working mode. What is more, lockdown measures have altered and effectively muzzled the free media in a number of countries.

**To better understand how the pandemic has affected Europe's democracy in the first year of the pandemic, the European Policy Institutes Network (EPIN) has analysed 19 succinct national perspectives.** The think tanks contributing to this study represent the diversity of views across the EU-27 and a range of population sizes and geography. We asked our EPIN partners: *what are the effects of different crisis rules or procedures on the democratic character of national governance?* This report compiles the findings from this exercise.

### Parliamentary workings

When assessing the workings and procedures of national parliaments, we see that digital committees, plenary meetings and remote voting pose a challenge to effectiveness. Not all parliaments managed to set up remote voting, and not all parliaments were (technically) equipped to deal with the states of emergency. Most, however, shifted to work online (i.e. committees and plenaries) and in some countries, video meetings are the new norm.

Working digitally certainly leaves less room for (informal) exchange and debate within the assemblies and, all agree, hinders the quality of democratic deliberation. In the Swedish Chamber, for example, there is broad consensus among the government and opposition parties concerning crisis management; the same goes for Finland. In Spain, however, the government had to ease the tough lockdown measures as political parties are heavily polarised and did not agree on them. In Poland, somewhat unsurprisingly, controversial changes to the electoral law

were secretly added to Covid-19 legislation. More unexpectedly, in France and Greece, controversial bills were passed (escaping public attention), which went well beyond crisis management – on bioethics (in France), for example.

Several member states held elections this past pandemic year. Some countries adapted to the pandemic by facilitating voting procedures imaginatively, such as by installing more polling stations (even drive-through), and extending voting periods (Lithuania). In Romania, such proposals failed, but civil society nevertheless mobilised (otherwise) reluctant voters to go to the ballot box. The Bulgarian electorate was courted with soft pandemic restrictions in the run-up to the elections; in Lithuania by (allegedly) postponing the tightening of restrictions. In Poland, President Duda capitalised on being the only candidate able to campaign during a state of emergency. Indeed, countries that were already quite advanced on the digital path (such as the forerunner, Estonia) faced less onerous technical issues than others. When (even pre-pandemic) 44% of Estonia's 2019 general election votes were cast online, smooth elections and a stable turnout could be facilitated.

Overall, the parliaments in the EU countries we observed managed to keep their internal procedures intact. Despite decreased parliamentary debate and a reduced oversight function, most of their legislative procedures did not descend into chaos. The real issue lies elsewhere: they were not consulted very much. The EU trend we observed is that national parliaments were mainly informed but not actively involved in crisis decision-making.

### **Shift of power to the executive**

In times of crisis, there is a general trend towards a loss of power by parliaments to the benefit of the executive, which employs, for example, decrees and statutory instruments to deal with the state of emergency. These decrees exclude any parliamentary approval and hand over all decision-making power to the executive (in Italy, 97% of the time, Parliament was not involved in executive decisions related to the containment of the pandemic, for example).

Decisions are primarily being made behind closed doors, with little opportunity for parliamentary scrutiny. Some national parliaments have a say in extending the state of emergency/alert, however, but hardly ever in the substance of crisis management. While it is understandable that a government would take the reins at a time of crisis, the breach of the principle of division of powers is also a threat to democracy.

A strong executive often comes at the expense of decentralised levels. In highly centralised France, measures were applied uniformly nationwide for a long time, with regional-level measures only being applied recently. In Spain, the autonomous areas oppose recentralising decision-making and accuse the national government of disregarding the country's heterogeneous regional health systems. In federal states, the situation tends to be more complicated. In Germany (although Chancellor Merkel recently pulled power back to the federal level), she and the prime ministers of the 16 states (a group of people that do not feature in the constitution) made all crucial decisions, not the Bundestag. This has raised concerns about the democratic quality of federalism. In Belgium, the pandemic laid bare the complex 'institutional lasagne' of the country. No fewer than ten ministers were in charge of health-related portfolios.

We observe very different performance records in dealing with the pandemic and varying qualities of official crisis communication. Interlinked with crisis management is the aspect of citizens' trust (and distrust) in their governments. We observe a significant difference between central, eastern and southern European countries, on the one hand, and northern member states, on the other.

### **Trust and distrust in the political elite**

In Central and Eastern Europe, people are increasingly mis- or even distrusting their (political) elites. While there are severe restrictions on fundamental rights, media and parliamentary activity, this is not the most troubling issue. It is the diminishing levels of trust in the political class.

In the Czech Republic, growing inequality facilitates radicalisation within the country. In Bulgaria, the politicisation of containment measures hinders their effective enforcement and harms credibility; in Romania, public discontent leads to protests against the social distancing measures. And in Slovakia, the freshly elected pro-democratic government underperformed badly due to chaotic communication and incoherent containment measures.

There are of course repercussions for such 'young' democracies. When democracy fails to deliver, people lose faith in it as a governance system – not just in the governing parties or the incumbent government. Botched national responses combined with drastic curtailments of civil liberties have weakened support for the existing political order in these countries.

But there is also discontent in countries with older democratic traditions. Somewhat unsurprisingly, Italians show a high level of distrust in politicians and parliamentarians in general (about 70%). Also in France, there is an anti-establishment discourse and the emergence of a kind of 'scientific populism'. In Greece, we see public discontent due to 'unequal citizenship'; certain citizens receive differential treatment and access to vaccines depending on their healthcare, and different rules apply, for religious worship, for example. Politicians have also managed to jump the queue.

As stated, populations in northern Europe appear to have a greater understanding of and support for their government's actions. In Denmark, there is a historic increase in public support for the government. Indeed, trust goes both ways: when citizens trust the political class to make the right decisions, the political class trusts citizens to act responsibly and respect the rules they set. This can also be seen in the astonishingly loose lockdown measures adopted by Sweden during the first wave of the pandemic. There is also less parliamentary pushback against government actions here, although more opposition party discontent is being voiced now in Denmark.

There is the question of trust in the political elite, but also in 'elites' in a wider sense, which includes the scientific community. One stand-out characteristic of this pandemic is the heavy reliance of politicians on (external/autonomous) experts, such as medical doctors, virologists, epidemiologists, and public health experts, etc. This collaboration necessarily limits exchange with the public and the scrutiny of parliaments. While it is necessary to gather expert opinion, it is dangerous from a democratic point of view to design political decision-making in too technocratic a fashion. Public trust is based on acceptance of the potential accuracy of science and the notion of a government being able to draw the right (political) conclusions from

scientific findings. That trust is higher in countries such as Finland, where people generally have great trust and confidence in science and research. However, across member states, more transparency in who advises politicians and how they are chosen seems to be an aspect for improvement.

### **Geographical comparison**

The question of whether and to what extent the pandemic has affected democracy at the national level has been answered rather differently across Europe. In Latvia, democratic issues are limited to a pandemic 'fatigue' in the population and the subsequent disobeying of rules; in Lithuania, the sidelining of Parliament has been criticised; and in Estonia the decisive role that (unaccountable) experts play has been questioned. Overall, however, the democratic institutions in the Baltic states are holding up well; there is no major or visible lack of public trust.

The EU's democratic *enfants terribles*, Hungary and Poland, were already a source of concern before the pandemic, but the crisis has accentuated the authoritarian tendencies and the deterioration of the division of powers in these countries. Live issues include the undermining of the electoral and legislative processes; control of the media; extreme police brutality in the enforcement of lockdown measures (Poland); an overly strong executive (i.e. the Fidesz party); the misuse of corona funds, undermining the opposition, and limiting the freedom of media (Hungary).

Particularly worrisome here is the small victory both countries scored against the EU during the MFF negotiations, as the rule of law conditionality mechanism only applies if rule of law breaches affect the funds. In the rest of Central and Eastern Europe, the erosion of public trust and the rise of public discontent seems to be a critical democratic issue provoked by this pandemic. There is now also a politicisation of lockdown measures. Southern Europe is facing similar issues to the East in terms of public trust, as well the same issues witnessed all over the EU.

While people's faith in the political and scientific elites is a common feature of Nordic EU states, they differ regarding the government's level of trust within the political elite itself. Interestingly, although public support in Denmark is at record high levels, the government is facing increasing criticism from the opposition (and the media). In Sweden, on the other hand, the agreement of all parties needs to be (and effectively is) forged, as the (minority) government lacks any emergency powers and thus relies on Parliament and regular law-making for its crisis management.

The Western (federally constituted) states are mainly stumbling over their own constitutional and political constraints, as numerous political players on several levels share responsibility (and the risks). The lack of a strict top-down ruling sometimes makes crisis management slow and opaque.

By way of conclusion, this comparative exercise has shown that while in some member states the democratic institutions and electoral processes have proved robust and flexible, outstanding democratic issues across all member states are: an overly powerful executive, limited checks on government, and the sidelining of parliaments.

## Belgium: a pandemic between two political crises

*by Benjamin Bodson*

If dealing with a pandemic poses challenges for democracy, this is even more true for a country in the midst of one of its worst political crises. In March 2020, ten months after the last federal elections, Belgian political parties were still struggling to form a new federal government. The country was led by the minority (38/150 MPs) and caretaker government of Prime Minister Sophie Wilmès.

The outbreak of the pandemic prompted some constitutional creativity, in the sense that certain opposition parties agreed to support the – henceforth fully fledged – government and grant it so-called special powers to tackle the pandemic. While Belgian constitutional law does not include any ‘state of emergency’ provision as such, the ‘special powers’ mechanism allows Parliament to mandate the government to bypass the legislative process and adopt acts of legislative value without parliamentary oversight. Given that this mechanism constitutes a blatant exception to the principle of separation of powers, it requires a well-determined scope, a limitation in time and strict interpretation.

This pressing creative move – not exempt from criticism regarding, *inter alia*, representativeness and accountability – is in stark contrast to the poor engagement in finding a legally sound and solid framework capable of replacing this emergency mechanism and giving back a central role to Parliament. In fact, although the special powers were granted until 30 June only, the government carried on adopting measures of a similar kind, based on inadequate and extensively interpreted legal bases (such as the 2007 Civilian Security Act or the 1992 Police Act), and often poorly drafted from a legalistic point of view. [Comparatively positive assessments](#) of Belgium’s handling of the health crisis therefore hide the fact that it pays no heed to the many threats to the fundamentals of democracy – including fundamental rights – caused by the excessive use of ministerial decrees.

The assumption of power by the majority government of Prime Minister Alexander De Croo on 1 October 2020 did not buck this trend. As a result, more than a year after the start of the pandemic, Belgium – unlike most EU countries – is still lacking an adequate legal framework to ensure the constitutionality and the legality of its Covid-19-related measures, despite significant [concerns being expressed for months by legal scholars and lawyers](#).

Nevertheless, and better late than never, the government has recently tabled [draft ‘pandemic legislation’](#). [Some of its provisions are questionable](#), however, for instance with regards to fundamental rights – such as data protection – and the fact that it enables the minister of home affairs to take measures on his own. The task of the legislator is difficult because it must strike a delicate balance between allowing the swift adoption of measures to protect public health, and protecting the rule of law. It should be borne in mind that the aim of this legislation should be to reinforce the rule of law, not to weaken it.

Moreover, Belgium is about to embark on an important democratic exercise. The government announced the imminent launch of a [“large democratic debate involving citizens, civil society and academia” on how to “modernise, make more efficient and deepen the democratic principles of the state’s structures”](#).

The health crisis has shone a light on Belgium’s exceptionally complex ‘institutional lasagne’, the shortcomings of which include no fewer than ten ministers in charge of health-related portfolios, for instance.

Opening this Pandora’s box will likely lead to a new political crisis. In addition, this participatory exercise might come at the wrong moment as the risks are high that the debate, although crucial for the future of Belgium, will be stolen by questions surrounding the government’s management of the pandemic.

To conclude, if addressing the direct consequences of the pandemic has temporarily saved the government from dealing with deeper democratic and institutional questions, it has also created new ones. The months and years to come might prove crucial for Belgian democracy.

## **Bulgaria: containment measures with elections in the air**

*by Antoinette Primatarova*

Apart from being the year of Covid, 2020 was also a year of massive and prolonged protests in Bulgaria, triggered mainly by allegations of corruption, and President Radev's fierce political attacks on Prime Minister Borissov. In early 2020, Radev announced that he no longer trusted the government – blaming it for environmental crises and corruption. In July he joined the protesters.

The looming second pandemic wave caused the informal organisers of protests to halt them (they ran from 9 July to 1 November), without having achieved the main demands – namely the resignations of the prime minister and chief prosecutor. The protests were not about the Covid containment measures as such, but they did mean that the measures were disregarded. Infringements were however tolerated because the authorities were concerned about being accused of suppressing the democratic right to protest.

Even though the government generally (ab)used Parliament as a rubber-stamping machine, PM Borissov's main argument was the importance (in his words!) of Parliament during a pandemic. Given the composition of Parliament, his resignation would have meant early elections, the dissolution of Parliament for an uncertain period and a caretaker government that would be powerless to act.

Despite the climate of stark political confrontation, Parliament played an important role in the legal facilitation of economic and social measures to counterbalance the containment measures.

Whereas the state of emergency (13 March –13 May 2020) was a decision adopted by Parliament, the duration and extension of 'emergency epidemic circumstances' (continuously in force since 14 May 2020) became a prerogative of the Council of Ministers and a precondition for any containment measures introduced by order of the health minister. The legal provisions introducing these emergency epidemic circumstances were challenged by the president as a breach of the constitution, but the Constitutional Court did not accept his arguments.

Regardless of the legal provisions, the rather soft containment measures (no full lockdowns, no restrictions on leaving home, no curfews) were almost always announced as Borissov's personal decisions. Given that elections were in the air the whole time, this looked like a concession to the average voter. The politicisation of containment measures did, however, undermine their proper enforcement, effectiveness, and credibility.

Despite concerns, the pandemic did not negatively affect turnout for the 4 April 2021 general elections, and the legitimacy of the newly elected Parliament is not contested. However, the high political fragmentation (six political players, three of them new) is a harbinger of political instability and further challenges to Bulgaria's anti-pandemic policies.

## Disastrous pandemic management puts the Czech Republic at a critical democratic juncture

*by Jan Kovář and Christian Kvorning Lassen*

Since the outbreak of the pandemic last year when restrictive measures were adopted and states of emergency declared to contain it, legitimate fears surfaced about the impact of various pandemic-related measures on democracy, the rule of law, fundamental freedoms, and parliamentary and media scrutiny.

Almost a year on, the *worst* fears about the institutional implications of pandemic governance for democracy in Czechia seem, fortunately, to have been largely unwarranted. This is not to say that there are no adverse repercussions. People's fundamental rights and freedoms are still restricted; media scrutiny is complicated by the inability of some journalists to be physically present 'on the ground'; routine legislative parliamentary activity seems to have slackened; the judiciary had to adapt to digital proceedings and acts at a slower pace than normal. During the state of emergency, the various measures to address the pandemic are in the hands of the government, with Parliament in a weak position to scrutinise, much less to influence them.

But the real and perhaps most lasting negative impact on democracy is to be found elsewhere. After a year of Covid-19, the majority of which the Czech Republic has been under lockdown with no discernible epidemiological improvement. Trust in public institutions and political elites has therefore reached an all-time low.

Czech cases of infection continue their meteoric rise. The government has squandered its prolonged emergency powers spectacularly, failing in every aspect of its test- and vaccination strategy, or lack thereof. During February and the beginning of March, a quarter of a million vaccines gathered dust due to the government's lack of a distribution plan. Experts have been routinely denigrated and political communication around pandemic management measures has been muddled. Czech society is falling apart at the seams. In the vacuum left by the leadership – at a time when it is needed most, socio-cultural divisions have widened hugely as society is torn between those who abide by the epidemiological measures and those who flaunt their disregard for them.

At the same time, growing inequality is creating fertile ground for further radicalisation within the country. The lack of government measures and efficient redistributive policies to cushion citizens from the worst economic consequences of the pandemic and prolonged lockdown have contributed massively to the existing societal and political polarisation. Beyond the immediate pandemic-induced fragmentation, this polarisation may have fundamental negative consequences for democracy as a legitimate type of governance. Extreme polarisation undermines the sense of common identity and attachment to one another. The feeling of common belonging is, however, a necessary condition for the long-term legitimacy and functioning of democratic majoritarian systems. Omnipresent polarisation thus shatters the norms of trust, loyalty, tolerance and moderation that keep political competition within bounds and facilitate the conceding of electoral defeat.

The upcoming Czech elections in October will provide telling insights into the health of Czech democracy, and whether an inexorable backsliding has manifested itself as a result of egregious failures of governance. Judging by initial [polls](#), it looks like populist radical right-wing parties, with their dubious attitudes to democracy, stand to benefit.

## Denmark: weakening control with a strong executive

*by Marlene Wind and Xenia Due*

As we mark the first anniversary of the pandemic, we reflect on how it has changed the way we do politics. In Denmark, the past year with Covid-19 has first and foremost been characterised by an historic increase in public support for the government. But, with time, also by increasing criticism from opposition and the media.

While at the beginning of the pandemic in March 2020 Danes were presented with a rare political consensus among parties in Parliament and beyond, this has not lasted. Party leaders quickly wearied of their role as diminished ‘backup dancers’ at the PM’s parade of press briefings and the theatrical shows of self-sufficiency. Aside from their substantial points of criticism, many grew especially tired of the lack of information and of being properly informed – on anything from background data on which to base decisions to expert opinion. Often, party leaders were briefed about new initiatives and restrictions just hours before a dramatic live press conference, leaving them with little room to influence or make suggestions for amendments. But with the government still riding high in soaring opinion polls and with Covid dwarfing every other story on the front pages, party leaders have had little choice but to stay in line.

Criticism of the government’s self-sufficiency quickly spread beyond Parliament, as most of the classical media outlets saw the worst relationship between the press and government ever experienced. The government communicated primarily through tightly orchestrated press briefings and their own social media platforms, with few or no questions from the wider media.

Obtaining an interview or even a comment from a minister, let alone the PM, was close to impossible, except in the softest of media formats where critical questions were off the table. In these ‘sofa formats’ the PM and other ministers would willingly express their personal feelings and frustrations with the lockdown, while getting visibly offended if an interviewer dared to ask a substantively critical question. Interestingly, when this happened social media would erupt in outrage – not against the PM but against the journalist who dared to question the government’s handling of the Covid situation.

Civil servants have played a peculiar role in this process. On the surface, the head of the Danish Health Authority stood shoulder to shoulder with the PM at press briefings and provided the necessary ethical rationale or legitimacy for the extensive restrictions implemented. But, as time passed, cracks in this seemingly harmonious cooperation came to light, revealing that health authorities did not support certain restrictions such as closing schools, borders and culling the entire mink-fur industry. While decision-making power lies with elected officials in Denmark, there were no legal consequences to this; these revelations nevertheless significantly undercut the legitimacy of these restrictions that were not supported by health authorities.

Paradoxically, it is not the historically extensive limitations on our fundamental democratic liberties that stands out as the core democratic challenge in a year with Covid. Rather, the state

of emergency has revealed the limitations to the checks on the executive. In particular, the diminished role of both Parliament and press, and the use of the civil service as legitimation – even when they disagree – represents a weakening of democratic checks and balances in Denmark.

It will be interesting to follow the upcoming re-opening of society. There is still huge support for the government's policies and its handling of the Covid situation among the electorate, who seem much more preoccupied by public health than by liberal values. However, as the restrictions seem more and more illogical and infection and hospitalisation rates go down, it has become harder for the government to keep arguing for continued lockdown.

## How do Estonians hold democratic power? An acute question after the pandemic

by Piret Kuusik

The response to the Covid-19 pandemic has revealed the exceptional scope of executive power in managing an unexpected crisis, and prompted questions about the quality of Estonian democracy under abnormal circumstances. The special emergency situation, applied in Estonia between 12 March and 17 May, allowed the government to take and apply decisions quickly without the scrutiny of Parliament. Although the pandemic is still rampant, the government has not established a state of emergency since.

It is the right of government to establish a state of emergency without consulting the parliament. Ministers were also brought in on the basis of their expertise and did not join the government after being elected to Parliament. Consequently, the democratic character of the process of applying the state of emergency was poor. Furthermore, parliamentary oversight and regular co-decision making were lacking. This is one of the legal lessons learned from the Covid-19 crisis; it remains to be seen whether the [call](#) for reform will be taken up in the future.

The government limited the constitutional rights of people: the right to meet and to move freely, the right to education and the right to privacy. However, no serious legal opposition was put to the ombudsman. The limitations met the standards set out in the framework of the state of emergency – restrictions had deadlines for expiry and were by and large justifiable.

The most relevant question to emerge from the democratic governance perspective is that of who is providing advice to the government, and how. The increased role of governmental institutions such as the Scientific Council and Health Board has led to the [diffusion of responsibility between politically elected leaders](#), officials and advisors, at a time when Parliament was either pushed aside or included at a low level only, via procedures such as hearings and question time. Virologists and doctors have become the spokespersons and makers of public policy, alongside the prime minister and the rest of the cabinet.

The high digitalisation of the Estonian state has also allowed state functions to continue smoothly. Courts and legal services, social services, and healthcare, etc, are available and accessible. In the last parliamentary elections, in 2019, [43.8%](#) of all voters voted online, which means that the stress about how to safely organise the local elections in October 2021 is less than in other countries. Since the pandemic, video meetings with follow-up and legally binding decisions, both in the government and Parliament, have become the new norm.

According to various studies, Estonians are known to feel that their voices do not count, neither in their own country nor in the EU. According to the [Parlemeter 2020](#), only 36% say they feel that their voice counts in Estonia, which is the fourth-lowest rating in Europe. The question “how do citizens of Estonia hold democratic power?” has become even more acute since the Covid-19 pandemic, because in a crisis the government’s power expands, alongside that of unelected officials and advisors, while the role of parliamentarians decreases.

## Finland's response to the crisis: trust in democratic institutions and science

*by Johanna Ketola*

Finland has remained steadily at the top of democratisation indexes in recent decades and has performed well in international comparative studies regarding respect for the rule of law and media freedom. Finland is a country with deep-rooted democratic traditions; it is therefore unlikely that electoral democracy will lose its appeal in the foreseeable future.

Finland is also country with high levels of political trust. The management of the pandemic has enjoyed strong public approval and the country is regarded as one of Europe's success stories in dealing with the pandemic, measured by the very low Covid-19 prevalence and mortality levels.

Much international attention has focused on the young female Prime Minister, Sanna Marin, in particular her personal leadership skills. Finns also place their firm trust and confidence in science and research, which has contributed to this good performance and strong public support for vaccinations.

Since the beginning of the health crisis, the political opposition, the media and citizens have exercised vigilance and actively called for more transparency and clarity in the political decision-making surrounding the pandemic – features that are symptomatic of a healthy democracy.

The crisis has however brought at least three challenges to the functioning of democracy.

First, Parliament has been flooded with legal amendments since the government considered that the legislative framework was not optimal for dealing with the crisis. Heightened public attention to legal drafting has made it visible that the process suffers from general problems of quality that are not only related to overcoming the acute crisis.

Second is the need to strengthen the government's crisis management communication from a one-way issuing of instructions and advice type top down to a model that allows a two-way interaction with the people. This is important for a sense of inclusion and participation, to ensure that no one is left behind and that the electorate continues to vote.

Third, the postponement of municipal elections from April to June 2021, due to the pandemic, is seen as a governmental failure to prepare for this scenario. The difficulty of organising elections in exceptional times has also reminded the population of the absence of e-voting systems.

In sum, Finnish society has proved to be very resilient in the face of the current pandemic, and the successful national response has the potential to further strengthen support for the existing political order. The pandemic has also helped to identify challenges to building better crisis preparedness and management systems in the future.

## France facing the Covid-19 pandemic: increased political mistrust

*by Thierry Chopin and Louna Gauvin*

According to *The Economist's* 2021 democracy report, France would be considered a 'flawed' democracy. Even if this ranking is dubious and somewhat Francophobic, the direct and indirect consequences of the Covid-19 pandemic on the state of democracy in France can already be examined.

Concerning measures and decision-making processes, the health crisis has led to a strengthening of executive power at the expense of decentralised levels of government, and revealed an imbalance in constitutional powers due to the timidity of political and legal checks and balances. The pandemic has brought about an ad hoc state of health emergency which allows the government to rule by decree without seeking the consent of Parliament. It can take health decisions based on recommendations of the Covid-19 scientific advisory board (which is composed of 17 doctors and experts, mainly specialists in infectious diseases, virology and epidemiology and chaired by the infectious diseases specialist, Professor Jean-François Delfraissy). Nevertheless, the extension of the state of emergency is dependent on a parliamentary vote. During the first and second waves of the health crisis, the measures were applied uniformly nationwide, but the government has recently introduced measures that only apply at regional level.

An indirect consequence of the pandemic is the adoption of a few controversial laws, among which are the security bill, the bill against separatism, the bioethics law and the multiannual research programming law, all passed during limited gatherings in Parliament since the beginning of the crisis. Moreover, an accelerated legislative procedure was used for two of those four bills (the security bill first came under examination on October 20<sup>th</sup> and the vote took place on December 24<sup>th</sup>).

Concerning communication and management, during the first wave of the pandemic French public communication was characterised by great solemnity, even by martial [undertones](#). In the eyes of the public, the government's crisis strategy has lacked coherence both over time and between members of the government. This may have increased mistrust in institutional and political communication.

Even though opposition parties have so far not called for massive protests or made counterproposals for how to manage Covid-19, the crisis has fostered the emergence of anti-establishment discourse through channels both old (demonstrations and collective mobilisation – even if limited - and on social media) and new. Prof. Didier Raoult, for example, is the figurehead of a new '[scientific populism](#)' that bypasses and challenges the debate among scientific experts as one framed by state institutions.

Public opinion has rallied massively around the measures, but this support is unlikely to pass the test of time: according to data provided by [Eurobarometer](#), the percentage of respondents that favour restrictive measures in the context of the fight against Covid-19 fell from 73.9% in April to 56.3% in October.

At the start of 2021, public debate took place in a climate of mistrust (or even distrust) that seems to have been strengthened by the crisis, after a brief improvement regarding trust in the government in spring 2020 – a widespread [phenomenon](#) in Europe and across the world.

## Germany's hour of the executive – policymaking during the Covid-19 crisis

by Minna Ålander, Anna-Lena Kirch and Dominik Rehbaum

Finding a swift institutional response to the Covid-19 pandemic has been a particularly challenging exercise for Germany. Due to the Nazi regime's notorious misuse of emergency decrees under Article 48 of the Weimar Constitution,<sup>1</sup> the founders of the German Republic initially refrained from establishing an explicit emergency constitution. Although internal and external emergency articles were added to the German Basic Law during the Cold War in 1968, an internal emergency does not fall within the legal provisions to shift power to the executive branch or interfere with fundamental rights. Instead, it enables the federal and *Länder* authorities to render legal and administrative assistance to one another.<sup>2</sup>

In March 2020, Germany reacted to the extraordinary circumstances of the pandemic by establishing an exceptional mode of governance. All political parties except the left-wing Die Linke and the far-right AfD, which both abstained, backed legislation amending the Infection Protection Act to grant the executive far-reaching powers once the Bundestag declared a state of epidemic emergency. These powers include the suspension of fundamental rights such as freedom of movement or assembly through statutory instruments, granted without the need for prior parliamentary debate and assent. Concrete measures on that basis have covered the closure of schools, restaurants, bars and cafes, non-essential retail, and extensive restrictions on contact.

Furthermore, the legislation strengthened the advisory capacities of the Robert Koch Institute, the leading German public health institute for disease prevention and control. It was granted special data-monitoring rights to develop recommendations for concrete measures to contain the spread of Covid-19. Consequently, German decision-making has been strongly guided by scientific advice. Public health measures and subsequent lockdown extensions were coordinated between the 'Corona cabinet' under Angela Merkel's leadership and federal state governments. While the federal government can issue recommendations, German federalism grants the prime ministers of the federal states a final say on most measures.<sup>3</sup> Some federal states decided to involve their regional parliaments to legitimise Covid-19 crisis management.

In line with the logic of a state of epidemic emergency, the Bundestag adopted changes to its rules of procedure to safeguard the Parliament's functioning at all times. For instance, the voting quorum was reduced from more than half of MPs to more than a quarter. Moreover, digital tools were introduced to render decision-making in committees more flexible. These emergency stipulations contributed to the Bundestag's resilience during the pandemic. At the same time, the overall digital work mode significantly limited the room for informal exchange.

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<sup>1</sup> Article 48 authorised the president of the Weimar Republic, provided that the public security and order were under threat, to suspend partially or completely the fundamental rights defined in Art. 114, 115, 117, 118, 123, 124 and 153. The Nazis used the Reichstag Fire Decree to suspend essential basic rights and civil liberties in 1933.

<sup>2</sup> See Article 35 and 91 of the German Basic Law [https://www.gesetze-im-internet.de/englisch\\_gg/englisch\\_gg.html#p0423](https://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html#p0423)

<sup>3</sup> In the German federal system, education policy is a *Länder* competence.

Especially on security-related and other confidential dossiers, virtual briefings by the federal government were reduced to the smallest possible group, including only members of parliament with formal roles, like committee chairmen. Accordingly, the leeway of 'regular' MPs to control government activities was heavily curtailed.

Parliamentary pushback on the empowerment of the executive was initially limited. Although critical voices have increased over time among the Liberals, the Left, parts of the Social Democrats and the Green party, the need for emergency governance and lockdown measures is still supported by a parliamentary majority, acknowledging the extraordinary character of the pandemic. The issue of aligning public health protection, economic stabilisation and personal freedom with transparent policy advice has sparked the strongest controversy among political groups. In acknowledgement of parliamentary criticism of 'behind-closed-door'-decisions, the latest extension of the state of epidemic emergency introduced the requirement for the Bundestag to revise its assessment on these extensions every three months, thereby increasing parliamentary scrutiny.

The notion of opaque decision-making, far-reaching restrictions of fundamental rights and the absence of a long-term strategy have caused public approval ratings of Germany's Covid-19 crisis management to fall gradually, which has played into the hands of anti-democratic movements and conspiracy theorists. While the majority of the German population still supports government measures such as lockdowns and expert-driven decision-making, public trust in politics risks eroding even further. Hence, both the federal and state levels must try harder to accommodate effective and quick crisis management with parliamentary involvement and accountability.

The experience of recent months has revealed that Germany was ill-equipped for internal emergencies when the pandemic hit the country. Germany not only lacked sufficiently detailed constitutional provisions – for instance, regarding the definition and operationalisation of what qualifies as an internal emergency – but interdisciplinary advisory fora and operational crisis management structures were largely absent. These deficiencies have had a negative impact on the effectiveness and legitimacy of Germany's crisis-management and will make it difficult to manage the transition from exceptional crisis back to normal policymaking. There is hence a need for better coordination structures, more inclusive advisory formats and clearer regulations in the Basic Law on how to deal with future emergencies comparable in scope to the Covid-19 pandemic.

In sum, while the crisis-management mode can be criticised for being too ad hoc and fragmented due to Germany's federalist structure, Germany's democracy has still proved to be resilient. Basic parliamentary functions have been sustained at all times and the Bundestag remains a strong actor in non-Covid-19 related policymaking.

## The pandemic in Greece: alibi for an emerging democradura

by *Filippa Chatzistavrou*

The Covid-19 pandemic has allowed the adoption of stringent policies that cover a wide range of public and private areas of social life in Greece. The public health crisis, declared in March 2020, required public authorities to establish a restrictive but mainly preventive state of emergency.

In terms of multilevel public health governance, it was expected that the constitutional and institutional arsenal would also be carefully mobilised to react immediately to unforeseen and immeasurable risks. Instead, in moving from a provisional state of emergency – which in principle is not constitutionally unconditional – to a state of (permanent) exception that defies the legal order, Greece has progressively developed an authoritarian apparatus of legal permissiveness that circumvents constitutional guarantees and tramples on the general key principle of proportionality.

The instrumental and opaque use of the steering committee, composed of public health experts, medical doctors and epidemiologists, legitimised the rise of repressive securitisation policies. Excessive blanket restrictions on the nature of freedom of movement, on the right of assembly and mass (protest) gatherings have been imposed. The Greek government's Covid-19 partnership with big-data firms allowed both the government, but especially these firms, to explore statistics on confirmed cases and raised privacy concerns about the risks of freely manipulating personal healthcare data. Access to public information and press freedom has been seriously restricted following the government's decision to financially support monopolistic media companies for Covid-19 vaccination campaigns.

The Greek Parliament changed its rules to allow for remote committee meetings, since only 20% of MPs are authorised to be physically present while the rest vote remotely during plenaries. These special circumstances have not reduced parliamentary workload; rather, important bills largely focusing on major policy areas beyond Corona issues *stricto sensu* are put forward within an under-functioning Parliament, which makes it difficult for opposition parties to consistently exercise scrutiny.

Pandemic laws – classified as secondary legislation, ministerial decisions and other statutory instruments far exceed the spectrum of the state's obligation to take care of public health. The arbitrary nature and the 'unequal citizenship' side effects of Covid-19 policies, namely excessive fines and unfair treatment for breaking lockdown; no provision for tackling worsening working conditions and health inequalities; vaccination rules that allow some (i.e. politicians) to jump the queue; differential treatment of religious worship services – all increase legal uncertainty and accelerate democratic backsliding.

The controversial law that facilitates a general ban on gatherings and to some extent replaces the judiciary by the police in making decisions is a growing threat to the rule of law. This creeping deterioration of democratic rule has fostered the violent radicalisation of state police

forces, which risks penetrating all other aspects of social organisation, from the recent legislative reform introducing police forces into public universities – and, overall, penalising protest and popular political participation.

In short, while Greece's failure to properly manage the pandemic has exacerbated social insecurity and economic precarity, it has served as an alibi for a regime of limited democracy, a *democradura* based on human intimidation and the politics of fear.

## Hungary: continuing illiberal trends during the pandemic

*by Zsófia Wolford*

Since the outbreak of the pandemic in early 2020, the Hungarian government has taken several measures to centralise its political and economic powers, resulting in the further deterioration of democracy in the country, even though much of the new legislation is unrelated to tackling the Covid-19 virus.

The Fidesz-controlled Parliament passed a state of emergency [law](#) without a sunset clause, allowing the government to rule by decree without parliamentary oversight for the duration of the so-called state of emergency. While Fidesz's control over legislation was de facto uncontested even before the pandemic, the government used this opportunity to spread the narrative that opposition politicians who flagged their concerns regarding the legislation's indefinite timeframe were endangering the health of Hungarians for political gain.

Many of the decrees were not used to tackle the pandemic; rather, they introduced free parking, established free economic zones, classified the details of the Budapest-Belgrade railway line construction, and changed theatres' supervisory committees. Notably, only a [quarter of funds](#) created for pandemic relief was used to manage the public health crisis, with billions of Hungarian forints being spent on [football stadiums](#), the renovation of sports facilities and the support of sports academies.

Regulations adopted in 2020 also reduced the funding of political parties in the Parliament by 50% and diverted significant amounts of revenue from local government to national budgets – a move most likely targeting opposition-led local governments that performed unexpectedly well during the 2019 municipal elections.

In November 2020, Fidesz changed the [electoral law](#) so that the opposition will have to run with one party list. While this legislation affected the opposition strategy only slightly, it signalled that Fidesz has both the ability and the intention to change legislation at short notice if deemed necessary ahead of the 2022 elections, further eroding democratic processes and the rule of law in the country.

Fidesz also strengthened their [control](#) over the information space: the possibility of a [prison sentence](#) of up to five years was introduced for spreading false information about the pandemic, encouraging journalists' conscious and unconscious self-censorship. Access to data of public interest was also made more difficult because independent journalists are basically deprived of any opportunity to ask questions during press briefings or access information. Almost the entire staff of Hungary's most-read independent media outlet, Index, [resigned](#) due to political pressure on their chief editor last summer.

In the international arena too, Hungary's shift away from democratic norms has continued. After Hungary and Poland initially blocked EU negotiations on the Recovery Plan because of the conditionality mechanism, it was adopted with very weak conditions. It will be [applied](#) only if rule of law concerns affect the financial management of the EU budget.

Fidesz also [left](#) the European People's Party in March 2021 after lengthy internal disputes stemming from Fidesz's democratic backsliding – a step that will likely galvanise Orbán's further shift to the fringes. At the same time, the Orbán government geared up the promotion of China's and Russia's vaccine diplomacy, praising them for being reliable allies in relation to the European Union, and strengthening Hungary's 'eastern opening' policy that seeks alternative partnerships with non-democratic regimes.

Despite the severe economic, social, and public health challenges posed by the pandemic, the dismantling of democratic institutions and processes has continued in Hungary, with several measures being taken to entrench the power of Orbán's coterie. Massive amounts of public funds have ended up in the hands of oligarchs close to Orbán, funds available for political parties and local governments have been cut, and media freedom and transparency have further deteriorated.

## Covid-19 and the erosion of politics in Italy

*by Eleonora Poli*

Italy was the first EU country to experience the Covid-19 pandemic. As the Italian constitution does not provide for transfers of power during a health crisis, former Prime Minister Giuseppe Conte himself declared a state of emergency on 31 January 2020, under [the 1992 law on civil protection](#). This was a precondition to allow the government to act beyond its usual mandate. Then, on 23 February, the government passed [a decree](#) granting it the authority to adopt any measure necessary to contain the virus. In March, Conte called for a national lockdown and since then the government, acting within the limits of the constitution, has frequently used presidential decrees to legislate.

Presidential decrees erode democracy in the long run, as they often have an administrative nature and do not require any parliamentary approval to be effective. Thus, while the prime minister has been acquiring unprecedented power, the work of Parliament has frequently been limited to urgent, non-deferrable bills. From March to December 2020, there were [430](#) legislative acts addressing the Covid-19 crisis, but only 11 involved the Parliament's active participation. This means that Parliament did not participate in 97% of the decisions related to the containment of the health crisis. The Parliament can, however, push the cabinet to account for its actions and provide information about specific initiatives. From March to December 2020, the ministers and the prime minister made [42](#) interventions in Parliament, reporting on several issues. This is a substantial number if compared to the 13 given in 2019, but it is also low if one considers the limited role played by Parliament. At the same time, to contain the spread of the virus during the first national lockdown, only 350 out of 630 members of the Chamber of Deputies and 161 out of 315 senators could attend the voting sessions, without the option to participate in the ratification process remotely.

Those choices were justified by the need to act quickly to counter the spread of the virus. With the resumption of work after the first national lockdown, Parliament was involved by the government when decrees needed to be converted into law. Even in this case, however, the frequent use of voting based on trust by the government harnessed the parliamentary powers of intervention (as Parliament does not vote on the content of a specific law, rather the majority passes it based on trust). In a nutshell, the pandemic has certainly contributed to the erosion of the Parliament's role.

Although this is an extraordinary situation, the state of emergency is still active in Italy. In the meantime, Conte lost his political majority, leading the president of the Republic to ask Mario Draghi to form a new government after having received the support of the majority of MPs. Only [23%](#) of Italians, compared to 68%, consider elections to be a preferable option. The unanimous support for Draghi – who is more of a technocrat than a politician – corroborates the view (already held by more than [70%](#) of Italians) that politicians and parliamentarians are not to be trusted. This was also somehow confirmed by the constitutional referendum held in September 2020, where the majority of voters chose to reduce the number of parliamentarians.

To conclude, while the Covid-19 legislative procedure and the use of presidential decrees are not a breach of democracy, the general lack of trust in political parties and policymakers, including in the Parliament, risks undermining Italian democracy.

## Latvia's democracy is passing the stress test, so far

*by Karlis Bukovskis and Aleksandra Palkova*

Without doubt, the pandemic has stress-tested the healthcare system, the economy, and the democracy of Latvia. The balance between pandemic restrictions and infringements on human rights has been at the core of the debate about proportionality during two states of emergency imposed by the Latvian government and legitimised by Parliament.

Before spring 2020, a state of emergency could only be extended once in Latvia; Parliament voted unanimously to allow multiple extensions thereafter. Latvia was among the first countries to impose an emergency situation, from March 13 until June 9. The state of emergency was re-imposed on November 9 and ended on April 6, while keeping the existing restrictions on social, business, work, in-person sales activities, and 'non-essential' travel into Latvia.

The most extreme government imposition on human rights was the curfew during holidays and weekend evenings, lasting for several weeks, administered by the state police and assisted by land guard and national armed forces. This was the first curfew imposed in sovereign Latvia since the 1934 coup d'état. Even police representatives admitted that it was relatively ineffective and costly, however. The restrictions and the curfew halved the number of new cases, but overall new infections remain very high. The population keeps disobeying the restrictions due to pandemic-fatigue and confusing decision-making.

Besides the restrictions on freedom of movement and assembly, and both direct and indirect limitations on the right to work, the democratic institutions and political processes have not been discontinued. Parliament continues legislation and scrutiny over government and its decisions on new restrictions. Videoconferencing was legalised for parliamentary sessions, the state president, the government, the courts, and state institutions. Videoconferencing and the pandemic itself influence the political agenda. As soon as restrictions are eased, non-pandemic issues return and public debates become more outspoken.

Opposition has often been supportive of the government's decisions related to pandemic, although individual MPs have challenged the restrictions, including in a public demonstration in December 2020. No specific constraints were imposed on journalists, although their access to interviewees was hampered by physical distancing requirements. Infringement of the freedom of speech, for example criminalising 'anti-maskers' or those who insult police officers, is being publicly debated. If adopted, this or other disproportionate restrictions would alter the supportive position of three-quarters of the Latvian population and will have lasting effects on democracy in Latvia.

## More action than discussion in Lithuania's response to the pandemic

*by Ramūnas Vilpišauskas*

In Lithuania, the response to Covid-19 coincided with the run-up to parliamentary elections scheduled for October 2020. A state of emergency was declared in late February and by mid-March quarantine measures were introduced. Lithuania was one of the first EU member states to introduce such measures, which, according to [Oxford University data](#), were among the most stringent in the Union. These measures were adopted after consultation with medical experts but with little wider discussion with the business community, for example, on the effects of curtailing economic activities. Mass gatherings and domestic and international travel were restricted for three months. Most restrictions were then lifted, and Lithuania's crisis management regime became one of the most relaxed in the EU.

The 'Baltic bubble' of free travel between Lithuania, Latvia and Estonia was established during the summer. There was a visible increase in voluntary and NGO activity to assist the state institutions in managing the healthcare crisis.

Parliament continued its work throughout the first wave of pandemic, albeit with only one live plenary meeting a week during the spring quarantine; parliamentary committees and working groups shifted their work online. After the start of the second wave in autumn, the debate about moving plenary meetings online (in addition to committee meetings) gathered pace, and at the end of the autumn session, the newly elected Parliament did this for the first time. Although marked by technical problems and criticism from the opposition, it was expected that this practice of online plenary meetings would continue into spring 2021.

The national quarantine was reintroduced again in early November, when localised quarantines in a number of the most affected municipalities failed to contain the spread of virus. The newly formed government adopted even more stringent quarantine restrictions during the second wave of the pandemic.

The most controversial issue was the decision of the government in March 2020 to increase the borrowing limit and adopt an economic stimulus package, without formally asking Parliament to approve the change to the country's budget law. The ruling coalition explained the move by the need to act fast and maintain flexibility. However, it was heavily criticised by the opposition and other institutions as violating the law, limiting parliamentary scrutiny and restricting the rights of citizens to know how much money was being borrowed and how it was used. There was criticism of the ruling coalition, which was suspected of deliberately postponing the tightening of restrictions in the run-up to parliamentary elections.

The elections took place as planned. A longer period of early voting was allowed, with more polling stations established, and drive-through voting for those in self-isolation. Social distancing measures were employed during voting on election day. As [observed by the ODIHR](#), voters were afforded ample opportunities to cast their ballots. Although the management of the pandemic provided more visibility for the ruling coalition members, led by the Lithuanian

Farmers and Greens Union, especially the prime minister and minister of health, their party came second in terms of parliamentary seats. The opposition Conservative party emerged as a clear winner and formed a new ruling coalition with two liberal parties. The former ruling coalition also failed to capitalise on its relatively successful management of the first wave of the pandemic and the lowest economic decline among the EU-27.

To conclude, except for the decision not to submit the revision of the budget to parliamentary scrutiny, democratic institutions and the electoral process performed relatively well. This is evidenced by the most recent [assessment of Lithuania as a consolidated democracy by Freedom House](#).

## The pandemic as catalyst for populist authoritarianism in Poland

by Jacek Kucharczyk

Covid-19 has intensified the authoritarianism inherent in the policies of the ruling Law and Justice party (PiS) since 2015. At the same time, the health crisis has become a direct challenge to the key tenets of the PiS government, including its democratic legitimacy, effective governance and social solidarity. The ruling party has been plunged into its deepest political crisis since 2015. Yet the opposition has failed to use this opportunity to reverse the process of democratic backsliding.

*Undermining the democratic electoral process:* Poland's presidential elections were scheduled for 10 May 2020; the beginning of the election campaign therefore coincided with the lockdown. This left the incumbent President Duda in the privileged position of being the only candidate who could travel freely and hold election meetings, while the opposition candidates had to restrict their campaigns. The opposition called for the introduction of a *state of natural disaster* that would postpone the elections and provide constitutional foundations for the Covid-related restrictions, but PiS insisted that elections be held as scheduled, fearing that Duda would lose his advantage as the socio-economic crisis deepened. The presidential elections eventually took place in June-July, with a narrow win for PiS. This handed them three more years to further consolidate their hold on public institutions, the media and civil society.

*Legislative process:* at the same time, PiS officials used the emergency situation, including online voting in parliament, to introduce controversial changes to electoral law, which were clandestinely added to the anti-pandemic legislation. Frequent malfunctions in the online voting apparatus and hurried late-night voting sessions brought deliberate chaos into the legislative process, leaving no room for proper parliamentary oversight or discussion.

*Media capture:* the government's efforts to control the pandemic were amplified and glorified by government-controlled public radio and television as well as state-subsidised government media. This unequal media environment was crucial to the narrow victory of President Duda over the oppositional candidate Rafał Trzaskowski in the presidential elections. According to the election observation mission of the [OSCE](#), failure by the public broadcaster to ensure balanced and impartial coverage and cases of misuse of state resources undermined the [electoral] process. Government propaganda aimed to deepen political polarisation by painting President Duda as the defender of traditional Polish and Catholic values, and Mr Trzaskowski as a representative of LGBT groups and foreign (i.e. German and Jewish) interests.

*Curtailed civic rights and police brutality:* legislation during the pandemic has allowed the government to restrict social and political protest. This has included brutal police interventions against people protesting against insufficient government assistance for their businesses. On a larger scale, excessive police force was used to suppress massive protests against further restrictions of women's reproductive rights, which erupted after the ruling of the PiS-controlled Constitutional Tribunal. The mass arrests and prosecutions of peaceful demonstrators was

justified by reference to anti-Covid restrictions, which most independent lawyers considered to be unconstitutional.

*Undermining independent judiciary and rule of law:* the PiS government continued its assault on the independent judiciary by repressing judges and consolidating control over the Supreme Court, in breach of European Union Court of Justice rulings. In December 2020, Poland threatened to veto the new EU budget, including the Reconstruction Fund, in protest at the adoption of the rule of law mechanism. Poland (and Hungary) only supported the legislation after the Council adopted the additional declaration that the mechanism could only be used if the rule of law breach directly affected the distribution of the EU funds. This was interpreted as a 'hall pass' for the PiS 'judiciary reforms' even though Justice Minister Ziobro, the key architect of the reform, continued to criticise the EU's legislation as a threat to Polish sovereignty.

In sum, the Covid pandemic has only aggravated the challenges to Poland's democracy, allowing the populist PiS-led government to further undermine institutional checks and balances and curtail civil liberties.

## Romania's democracy exposed by the pandemic

*by Bogdan Mureşan and Eliza Vaş*

Against a background of political polarisation, and in an electoral year, the Covid-19 outbreak managed to produce a rare sight in Romania. The president declared a state of emergency on 16 March 2020, with the unanimous support of Parliament. The following month, this extraordinary measure was renewed for another 30 days, but this time with clear conditions imposed by the main opposition party: more transparency in the government's decisions and spending during the state of emergency, and concrete measures to mitigate the socioeconomic effects of the crisis.

From the beginning of the outbreak, individual citizens and groups were sceptical, even dismissive, of the existence and gravity of the virus, leading to organised protests.

One controversial decision made during the state of emergency was in relation to media freedom. In April 2020, a couple of news websites were investigated by Romanian authorities (which had no previous experience of handling such investigations) for spreading fake news. Some news websites had their activities suspended for a short period. This decision was contested by the Romanian Ombudsman's Office because the state of emergency decree had no clear mandate to curtail freedom of expression.

In terms of public access to information, an issue arose with regard to the Covid-19 related data made available by the government. During the state of emergency, access to public information has been restricted, leading to extensive criticism from Romanian journalists and international organisations (namely the OSCE). Lack of transparency in collecting and reporting health and budget data (including for vaccinations) was corroborated by problematic aspects regarding the formula used to calculate the incidence of Covid-19. The formula was cited to impose local quarantines and substantiate public health measures. Such issues are continuously brought to the public's attention by civil society organisations and academia, together with calls to modernise the health system and prevent tragic accidents and loss of human life.

In May 2020, the state of emergency was replaced by a 'state of alert' (ongoing in April 2021), renewed each month by the National Committee for Emergency Situations and approved by the prime minister. During the state of alert, no fundamental rights and freedoms can be limited, unless by organic laws.

In September 2020, Romania held local elections (initially scheduled for spring) and in December 2020 voters were called to choose their representatives for Parliament. Given people's reluctance to take part in elections during the health crisis (one poll showed half of Romanians thought the elections should be postponed until the pandemic was over), sections of civil society mobilised to promote voter turnout. Calls were also made by various NGOs to extend the duration of the vote (to two days instead of one) and to implement postal voting at national level. While these calls were not answered, a couple of updates were made to the electoral laws. One of these cut by half the number of supporting signatures for the registration

of electoral candidates, the other introduced the possibility to collect supporting signatures electronically.

The pandemic has thrown up some sensitive issues for Romania's democracy, but opinions are divided about how different government decisions may have compromised it. While parliamentary control over executive action has not been hampered, the situation is still causing public discontent and political friction between the government and the parliamentary opposition.

## Slovakia: distrust, disillusionment and the fragility of democracy

by Dominika Hajdu

In the first half of 2020, Slovakia handled the pandemic very [well](#). The situation worsened dramatically in autumn and winter, however, because the government was not able to implement effective measures or deliver mechanisms to track the virus. In February 2021, Slovakia [entered](#) the ranks of countries with the highest Covid-19 deaths per capita.

Slovaks have been living under a state of emergency since 1 October 2020, which gives the state the ability to limit basic rights and freedoms within the “necessary scope and necessary time”. Originally, the maximum period allowed was 90 days, but in December, Parliament passed an amendment enabling a renewable prolongation of 40 days.

The past six months have been marked by constantly changing lockdown measures targeting people’s freedoms, coupled with chaotic and incoherent communications (also raised by the Slovak [President](#), Zuzana Čaputová). The crisis has culminated in a change of health minister and a restructuring of the whole government.

The beginning of the Covid-19 crisis in Slovakia was also compounded by a change of government after parliamentary elections in February 2020. It marked the end of a long rule by the SMER-SD party, whose government was marred by [corruption](#), nepotism and a malfunctional judiciary. GLOBSEC [polls](#) from March 2020 showed high dissatisfaction and disillusionment with the governing system. For a better financial situation or security, 66% of Slovaks were willing to trade some of their own rights and freedoms – the most in the region. The change of government was thus welcomed with great hopes, as the newly elected prime minister’s priority was the fight against corruption and elitism, and empowering ‘ordinary citizens’ (the name of his party being Ordinary People and Independent Personalities).

But the mishandling of the crisis has changed the climate of hope back to one of frustration. With basic freedoms limited for more than half a year, inconsistent rules and communications, citizens feel far from empowered. They demonstrated this by lowering their levels of trust in the government, [from 44% in May 2020 to 27% in February 2021](#). Also, in GLOBSEC’s latest polling, 59% of Slovaks agreed that the measures taken during the pandemic could have a long-term negative impact on their rights and freedoms.

The disappointment with the new pro-democratic government could be dangerous for democracy in Slovakia in the coming years. The assumption that in any crisis the government can limit citizens’ freedoms for an arbitrary period of time, with no clear communication, could be a demotivating factor for democratic participation. Frustration with the performance of pro-democratic leaders can also spur people on to look for non-democratic alternatives.

## Spain's pandemic democracy: more polarised but still resilient

by Ignacio Molina and Héctor Sánchez Margalef

Spain was among the countries to be hardest hit by the first wave of the pandemic, with at least two million cases and more than 50,000 deaths in 2020 alone, not to mention a 10.8% reduction in its GDP.

The mortality rates changed after the second and third waves, when cases in several countries in Latin America and Eastern Europe, but also the UK and the USA, soared above those numbers. Within the EU, Spain's excess death rate is in the upper mid-zone in April 2021. The curtailment of freedoms and civil rights to deal with the crisis followed a similar two-phase pattern: the comparatively strict nationwide lockdown imposed in the first half of 2020 was subsequently and gradually lifted, even though social distancing, the use of masks and limited freedom of movement were enforced throughout.

On 14 March 2020 the left-wing coalition cabinet approved a first *estado de alarma*, which included a lockdown and other extraordinary measures. Although approved by the Congress of Deputies up to six times, the management of the pandemic worsened an already confrontational political landscape. Heavy politicisation proved to be a significant obstacle to cross-party cooperation. In fact, because of the problems encountered in trying to achieve a majority in Parliament after June, the government gave up trying to extend the strictest restrictions during the summer. Nevertheless, a second state of alarm was negotiated and approved for six months, from 9 November 2020 to 9 May 2021. The opposition parties fiercely criticised the fact that Parliament was thus reduced to holding the prime minister to account only once every two months.

Public support for the measures taken to combat the pandemic were very high, with up to 97.3% considering the strict lockdown adopted in spring 2020 as 'necessary' or 'very necessary', while 69% approved the government's de-escalation plan. But the inability to build consensus on both the measures and their implementation eroded public confidence and, subsequently, the willingness to comply. Territorial and ideological issues played a role in the political dissent. A very small group of libertarian protesters accused the government of taking advantage of the pandemic to restrict liberties, with the far-right VOX (whose support is estimated at around 15%) attempting to capitalise on the discontent. However, surveys at the beginning of 2021 showed that around 60% of the Spanish public believed that stricter measures were necessary to contain the virus.

The state of alarm also sparked discontent in autonomous regions not governed by the Socialist party (in particular, Catalonia, the Basque Country and Madrid), which blamed the national government for disregarding the heterogeneous regional health systems and for apparently recentralising decision-making. In any case, the step-by-step plan for entering a 'new normality' in late June was agreed at various levels of government, thus improving centre-periphery cooperation.

The Spanish courts have effectively controlled whether the government and the regions were acting in conformity with the law, reviewing actions taken and norms adopted by the executive during the crisis. This judicial review helped the public exercise their (albeit limited) rights, such as the right to assembly and to stay out at night. It also fostered cooperation between different territorial levels since, according to the High Regional Courts, only the central government could give legal cover to the regions if they needed to impose curfews.

The Spanish government has been criticised for not acting with full transparency during the crisis. For instance, mortality statistics sometimes seemed opaque and the government refused to disclose the identities of the experts and officials advising it in the various task forces set up for the purpose. There were also occasional attempts to exert influence on media coverage (in theory, to avoid disinformation), although independence was largely respected.

Perhaps the most serious breaches of individual rights are connected to heavy-handed police action when enforcing restrictions. Rights and liberties were not always fully respected given the extraordinary circumstances but they were, nevertheless, institutionally protected. To sum up, the pandemic has further polarised Spain's politics and shown problems of state capacity but, all in all, Spain's democracy has proved resilient throughout the crisis.

## Sweden: bound by law and guided by recommendations

*by Jakob Lewander and Anna Wetter-Ryde*

Sweden has remained faithful to its constitutional limits during the pandemic. Since there is no possibility for the government to declare a state of emergency other than during a situation of war, the government is relying on ordinary legislative procedures, including the use of delegated powers. Day-to-day parliamentary work has however been subject to physical restraints. During debates, only participating ministers and MPs are allowed in the chamber; committee meetings are electronic; and only 55 MPs take part in voting in the chamber.

*Procedure in the Chamber:* Parliament enacts laws by simple majority, and the Swedish minority government – consisting of Social Democrats and Greens – has managed to gain parliamentary support from the opposition for the most urgent legal revisions. While some delegated powers were already in place (including the authorisation to restrict public gatherings to 500 people), others were not. For example, the government could not close high schools without appealing to Parliament to adopt a temporary act. Furthermore, Swedish parliamentarism is characterised by strong ex ante legal review, with the Council of Legislation (CoL) as a central actor assessing the legal validity of legislation. This was reflected in the CoL's objection to the government's two proposals for temporary pandemic bills, when it requested that the delegated executive powers be made subject to parliamentary confirmation.

*Government and opposition:* the absence of government emergency powers, along with the absence of a solid parliamentary majority configuration, has in some sense forced both the government and opposition to reach agreement. In essence, the scope of political conflict between Parliament and government has evolved around the timing of the measures issued along with the economic support programmes. At the moment, consensus remains solid among political parties on the Swedish model of relying on strong and autonomous expert agencies. However, contrary to the government's intentions to leave issues of accountability until after the pandemic, the opposition has requested the appointment of an extra-parliamentary *Corona Commission of Inquiry*.

*Media freedom:* on the basis of patient secrecy and national security, several media outlets were denied access to public records on the supply of personal protective equipment (PPE), and the spread of infection in elderly care facilities and preschools. As a result, a national organisation of publicists called on the government to task the Corona Commission with also examining the handling of the Principle of Public Access, stemming from Sweden's fundamental laws, but it did not do so as this was not part of the Commission's tasks.

*State of play of the constitution:* the debate on whether the government needs more powers during civil crises has resurfaced at times of political stalemate. Some even raise the possibility of the government acting without a clear legal mandate, referring instead to the right of constitutional emergency. The question remains, however, of how this debate chimes with the first constitutional paragraph stating that "all public power is exercised under the laws".

## Contributors

**Ålander, Minna**, Research Assistant, EU/Europe Research Division, Stiftung Wissenschaft und Politik (SWP)

**Bodson, Benjamin**, Associate Fellow, Egmont – Royal Institute for International Relations

**Bukovskis, Karlis**, Deputy Director, Latvian Institute of International Affairs (LIIA)

**Chatzistavrou, Filippa**, Research Fellow, Hellenic Foundation for European and Foreign Policy (ELIAMEP) and Assistant Professor, National and Kapodistrian University of Athens

**Chopin, Thierry**, Special advisor, Jacques Delors Institute

**Due, Xenia**, Research Assistant, Centre for European Politics, Department of Political Science, University of Copenhagen

**Gauvin, Louna**, Research Assistant, Institut Jacques Delors

**Hajdu, Dominika**, Research Fellow and Programme Manager, Democracy & Resilience Programme, GLOBSEC

**Ketola, Johanna**, Research Fellow, Finnish Institute of International Affairs (FIIA)

**Kirch, Anna-Lena**, Research Fellow, German Council on Foreign Relations

**Kovář, Jan**, Senior Researcher, Institute for International Relations Prague (IIR)

**Kucharczyk, Jacek**, President of Executive Board, Institute of Public Affairs (IPA)

**Kuusik, Piret**, Research Fellow, Estonian Foreign Policy Institute/ ICDS, Tallinn, Estonia

**Kvorning Lassen, Christian**, Deputy Director, EUROPEUM Institute for European Policy

**Lewander, Jakob**, Researcher, Swedish Institute for European Policy Studies (SIEPS)

**Molina, Ignacio**, Senior Analyst, Elcano Royal Institute

**Mureșan, Bogdan**, Expert, European Institute of Romania

**Palkova, Aleksandra**, Junior Researcher, Latvian Institute of International Affairs (LIIA)

**Poli, Eleonora**, Senior Research Fellow, Istituto Affari Internazionali (IAI)

**Primatarova, Antoinette**, Programme Director, Centre for Liberal Strategies (CLS)

**Ramūnas Vilpišauskas**, Jean Monnet Chair professor, Institute of International Relations and Political Science, Vilnius University

**Rehbaum, Dominik**, Student Assistant, Stiftung Wissenschaft und Politik (SWP)

**Russack, Sophia**, Researcher, Institutions Unit, CEPS

**Sánchez Margalef, Héctor**, Researcher, Barcelona Centre for International Affairs (CIDOB)

**Vas, Eliza**, Expert, European Institute of Romania

**Wetter-Ryde, Anna**, Senior Researcher in Law and Deputy Director, Swedish Institute for European Policy Studies (SIEPS)

**Wind, Marlene**, Professor, Centre for European Politics, Department of Political Science, University of Copenhagen

**Wolford, Zsófia**, Analyst, Political Capital