

Briefing Note

SOLIDAR FOUNDATION THE LOCKDOWN IS NO EXCUSE TO BYPASS DEMOCRACY

Introduction

The Coronavirus outbreak is, as we hear constantly, an unprecedented situation in so many ways. Unprecedented implications for entire communities, calling for unprecedented action, leadership and solidarity.

The people across Europe, across the world, resort to their national and regional leaders to hear their announcements and find hope for a future in which we will have overcome the outbreak. Whatever it takes: wearing masks and gloves, embracing social distancing, giving up our privacy to track the virus, adopting emergency measures with no parliamentary backup. Now it does not matter that the outbreak would have been way less painful if we would have invested more and better in social policies, from the healthcare to the education system, universal access to welfare fit for the 21st century. Or in a vibrant civil society: imagine if the scientific community would have learned about the pandemic effects of Covid-19 earlier on, instead of when China had already lost control of it, silencing people and thus letting the virus proliferate.

Now we only care about eradicating Covid-19. And it is fair. Because we feel deprived of hugging our families, seeing our home towns, spending time with friends and in our communities. Because we never missed each other this much. Because it scares us to death to not know when this will end. And we want it to end as soon as possible.

So that we run the risk to not see another unprecedented test brought about by the outbreak: the one to the democratic foundations of our systems. In order to get past the crisis, rights need to be prioritised: the right to health, the right to privacy (South Korea and Czechia), the right to assembly (everywhere), the right to a decent living (in any affected economy), the right to vote (France). The checks and balances behind our institutions are heavily tested while directly or indirectly deciding at fast speed what rights have the priority.

Biopolitics and “states of alarm/danger” vis à vis national Constitutions are posing a challenge to the social contract. Our democracies are proving their maturity, political parties their democratic foundations, our societies their cohesion. And we find out once again that in Europe these traits are not homogeneous and we must stay alert for emergency measures to remain so. The symmetric effect of coronavirus on European economies can have an asymmetric impact on European democracies. We must stay vigilant.



Watch out the exit strategies: three cases

Citizens are asked across Europe to take every possible prevention measures, they are asked to stay apart, they are [heavily fined for breaking the lockdown](#), people who have been tested positive are invited [to share their data from mobile phones and payment cards](#) to find all the potential people that could be infected as a result.

And it is all necessary, because extraordinary and urgent measures are needed to overcome the crisis. Hence the test to social cohesion: tons of people have been accusing each other for going out or not going out in all EU countries. But overall, the majority is showing respect and a rooted sense of collective responsibility by staying at home in order to protect others as much as themselves, for instance.

Governments enjoy higher approval rates, as always when a population seeks security. Some heads of State seem to look for electoral gains by using this leverage, [like Macron](#), who compared the outbreak to a war situation six times during his 20-minutes address to the nation.

It is in order to monitor this kind of aggressive rhetoric in times when solidarity rather than divisive messages should underpin any policies that SOLIDAR Foundation has decided to release this briefing note. Hate speech and aggressive rhetoric underpin the policies that have shrunk the civic space in the EU over the past decade. The

extraordinary measures and instruments to pass them can set dangerous precedents for European democracies. While we fully support the efforts that must be made by all to overcome the spreading, it is also our duty to be watch dogs for our democracies to remain open and allow organised civil society and social movements to thrive.

Citizens must comply to the exceptional rules but governments too must respect their constitutional duties, and the consequential institutional checks and balances.

Czech Republic



The Czech Republic has adopted quite swiftly very strict prevention measures against the outbreak of Covid-19. On the 15th of March the government has declared a 30-day long “state of emergency” and since the 18th of March Czechs are only able to be in public areas wearing face masks or covers. Czech citizens who wanted protection were forced to sew masks by themselves because there are no masks available in pharmacies. So many masks had to be sewn that the trade Minister has decided to leave haberdashery shops open despite the lockdown.

However, it is not only the DIY approach to raise eyebrows, but rather the [“smart quarantine system”](#) that is being introduced to track movements of infected citizens. The system uses data from mobile phones and payment cards of people who have been tested positive to find all the potential people that could be infected as a result. A measure

that can be reasonable in times of an out-of-control spreading, also because the data sharing happens upon consent of the user. However, it happens along [the statement of the chief of Central Crisis Staff and deputy Health Minister Roman Prymula](#) saying that border restrictions could last for one or even two years depending on how well (or badly) other countries manage the outbreak.

The Czech PM, Andrej Babiš has also blamed the EU for insufficient coordination on the outbreak, when in fact he is among the EU leaders calling for the Union to not interfere with governments' decisions.

In times when mutual aid should be the guiding principle, the political stands that the Czech government is taking seem to rely on citizens' shock and awe instead of solidarity. Investing in the public healthcare infrastructures instead of liberalising the economy, investing in welfare measures for precarious workers left with no safety net instead of liberalising the labour market, support to civil society organisations that do most of the work to activate the citizens' participation to democracy that is behind any social cohesion. These policies should be part of the 'whatever it takes' mantra.

Hungary



The Hungarian government hardly fails to find new grounds for threatening the rule of law. The Covid-19 outbreak was the basis for the Hungarian government to table a bill on Monday, 23 March, which yesterday, 30 March, authorised the executive to rule by

decree if adopted. Although the Hungarian legislature did not approve the proposal, the governing Fidesz-KDNP pushed the bill through Parliament, leveraging its two-thirds majority.

In other words, the attempt is to expand the executive authority of the government in order to rule by decree while the country remains in a "state of danger". [The LIBE Committee in the EP has already released a statement](#) expressing the concerns stemming from the fact that the measures that are currently undertaken by governments "should always ensure that fundamental rights, rule of law and democratic principles are protected". And calling "on the Commission to assess if the proposed bill complies with the values enshrined in Article 2 of the Treaty on European Union and to remind member states of their responsibility to respect and protect these common values".

While the EP is already following closely how the emergency measures unfold in Hungary, the Commission should step up its efforts in this sense. The Blueprint for strengthening the Rule of Law is there to support action by the Commission and **the upcoming review of the Rule of Law mechanism should be seized by Commissioner Reynders as an opportunity to show to Europeans that the EU's mission is also to protect them against authoritarian attitudes.**

Italy

Covid-19 has brought the wealthiest Italian regions to their knees. The virus has endangered the South too, that has no adequate healthcare infrastructures to cope with any outbreak close to the one affecting the North. The government has adopted incremental measures to prevent a further spread, in a desperate attempt to alleviate the burden putting under pressure the hospitals' capacity, undermined by years of cuts in public spending, due to neoliberal

policies as much as to the consequences of the fiscal compact. Citizens have been accepting the measures, alleviating the mental pressure of a life locked down by singing together at their balconies. The social cohesion that seemed lost until a few weeks back looks now restored vis à vis the need to protect public health.

Yet something has not been discussed thoroughly enough. The government and the regions have decided to impose the necessary restrictions to individual and collective freedoms by using regulatory instruments completely controlled by the executive powers: the Decree of the President of the Council of Ministers, Ministerial decrees and Governors' decrees to swiftly adopt the anti-Covid measures. No checks by the respective Assemblies, nor by the Presidency of the Republic, as it would be the case for any legislative instrument.

There is no time for it, is the mantra. Yet we must query: what kind of a precedent does this practice set? These instruments were never meant to restrict citizens' rights, but to clarify or introduce regulatory aspects of the law.

These practices carry a potential risk for Constitutional democracy, that of future ruling coalitions to rely on these precedents for purposes that differ from protecting public health. For Constitutional limits to power to be respected, democratic parties and Civil Society Organisations have to question the practice. The outbreak has spread in times of questionable democratic foundations for the most popular parties in Italy. The shock that all the social and civic actors in society are coping with must not refrain from calling for democratic scrutiny over the instruments that are used to protect public health.



SOLIDAR and SOLIDAR Foundation will keep monitoring the situation and assisting our members to protect the civic space.