

The Corona-Pandemic In Central And Eastern Europe – Between Concerted Executive Action And Creeping Authoritarianism

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The Corona-pandemic has executives around the world facing new and in fact unprecedented challenges. While international media attention on Europe has largely focussed on Western European nations– notably on the Italy, Spain, Germany and the UK – and their responses, the countries of Central and Eastern Europe (CEE) have likewise scrambled to quickly implement measures to contain the pandemic’s spread. The latter is of particularly urgency for many CEE nations as their public health care system are in many aspects still a far cry from the capacities of its Western neighbours. Although actions have been characterised by remarkable cooperation between and within executives and legislatures, the urgency and speed of the response has meant that countries dispensed with normal mechanisms of scrutiny and in some cases adopted policies and decisions that may have long-lasting effects on the structure of executive power.

The institutional context

In the parliamentary and semi-presidential systems of CEE, prime ministers and cabinets responsible to parliament are the key actors in battling the Corona-pandemic. Except for Romania, presidents’ prerogatives – even where they have otherwise been vested with considerable powers and/or a direct electoral mandate – do not generally extend to crisis management. Nevertheless, presidents nonetheless present an important check-and-balance on executive action that in times of crisis may even be more effective than large legislative bodies.

Almost all CEE executives – either by joint decision or on order of the minister of health – can declare national emergency situations (not to be confused with ‘states of emergency’ in times of war or attack) to tackle public health crises. These powers, generally regulated in ordinary legislation only, primarily give governments the unilateral authority to close schools, museums and other public institutions. Although these powers are limited for the duration of the emergency situation, its declaration and the adoption of subsequent measures notably take place without consultation with the legislature or other institutions.

Unilateral action, intra-executive coordination and emergency legislation

To date, the vast majority of emergency measures by CEE executives has been based on the authorization derived from general emergency laws or more specific provisions giving authority to individual cabinet portfolios. This means that the health ministries could for order quarantine measures and education ministries could close schools and universities and schools without having to be delegated

any further authority by legislatures. As all CEE countries are unitary states with at best devolved regional government structures, conflict with other levels of government was limited and central government edicts often merely confirmed what local authorities had previously already implemented on their own initiative. Nevertheless, some countries have taken more drastic measures as the situation developed and have either started to prepare or already passed further emergency legislation.

In Romania, the government had already closed schools and restricted transport links in early March, but remained sceptical of any drastic measures, such as the declaration of a national emergency as suggested by the national ombudsman. Nevertheless, when president Klaus Ioannis declared a 30-day state of emergency on 14 March, it was unanimously supported by the government and approved by the legislature in an extraordinary online session without significant debate (although the opposition criticised these measures were too little to late). The state of emergency now allows the government to introduce stricter measures for public safety, including a nationwide curfew and outlawing public gatherings of more than three people, without the immediate need for any emergency legislation. Similarly, Slovakia declared a state of emergency only for hospitals to allow for unilateral executive execution – notably, in all in the wake of swearing in a new government and parliament following elections in February 2020.

In other CEE nations, emergency legislation was mostly passed to ease the economic impact of any quarantine and isolation regulations and only if government decrees not already for allowed for similar measures. For instance, the 'Law on Managing, Mitigation and Response to National Threats of the Covid-19 Outbreak' passed by the Latvian parliament through a fast-track procedures in just one day, includes amendments to the Commercial Law as well as to Laws on Disability, Health Insurance and Social Services. However, it does not vest the government with any further authority in restricting public life or civil liberties.

Questionable measures and long-term effects

The situation looks different in the European Union's 'problem child'-countries Hungary and Poland. Having already implemented far-reaching restrictions on public life and measures to ease the economic impact of the crisis by executive decree early on (albeit in coordination with various interest groups), the Hungarian government is now mulling to introduce legislation that would allow prime minister Viktor Orbán to rule by decree for an indefinite period of time. In particular, it includes blanket provisions for prison sentences of up to five years for anyone spreading information that the government deems 'false' or ostensibly endangers its efforts to combat the crisis. This not only exceeds even the most extreme measures by other countries, but may also provide a further step in consolidating a semi-authoritarian form of government in Hungary. In the light of Orbán's track-record in undermining the rule of law as well as freedom of expression and other civic liberties, it may present a dangerous precedent.

The situation in Poland may not be equally as worrisome, yet with presidential elections upcoming in May, any decisions taken by government and parliament at this point could have far-reaching consequences nonetheless. As Poland did not have specific legislation to authorize government actions in the wake of health crises, a new law was passed under expedited procedure in the beginning of

March. Nevertheless, the law was immediately experts not only because of its rushed passage, but also because it allows for a state of emergency lasting 180 days – twice the length foreseen by the constitution – and does not sufficiently specify conditions that must be met for declaring it. Furthermore, the government – or, more accurately, the leader of the Law and Justice Party Jaroslaw Kaczynski who directs it from behind the scenes – has been defiant about postponing the presidential elections scheduled for 8 May 2020. Although local authorities have warned that they will have problems finding enough volunteers and adequate facilities and the almost inevitable effects on voter turnout, holding elections as scheduled will likely benefit the government candidate and incumbent president Andrzej Duda. Similar to Hungary, Poland's government quickly purged state TV and radio stations from critical voices, so that it can now continue to promote Duda above other candidates while public campaigning is officially suspended. As Duda has already shown himself to be a willing accomplice in the government's assault on the judiciary that triggered several EU sanctions, his election would allow the government to continue 'as usual'.

To end on a more positive note, however, one of the longer lasting effects of the Corona-pandemic on politics in Central and Eastern Europe (and perhaps elsewhere) is the establishment of more constructive means of collaboration between institutions and political parties. Faced with the challenges of the pandemic, political actors have largely been able to put partisan conflicts aside and work together. Furthermore, given that the parameters of the crisis are still relatively specific, it is unlikely that the current practice of unilateral executive action will lead to a 'presidentialization' of governance in CEE.



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