

EPDE Dossier – July 2020

Impact of COVID-19 on Election Processes in the Eastern Partnership Countries and the Russian Federation



This dossier was prepared by EPDE to inform relevant stakeholders and decision makers in the European Union, the Eastern Partnership, and globally in the field of electoral legislation and administration. Please feel free to forward and share our analysis.

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Image description: June 7 2020 Minsk, Belarus. A man in gloves fills out a form to vote for an opposition candidate for President

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Compiled by Harout Manougian

INTRODUCTION

COVID-19 spread rapidly across the world in early 2020, with most governments instituting far-reaching pandemic mitigation measures, including nationwide lockdowns. In the Eastern Partnership countries (Armenia, Azerbaijan, Belarus, Georgia, Moldova, Ukraine) and Russia, the main focus area of this report, the first domestic confirmed cases of COVID-19 were typically registered in late February or early March.

The public health response by the governments of

these countries varied from minimalist in Belarus to maximalist in Georgia. Across the entire spectrum, the pandemic has led to implications for local civil society organizations, especially those in the sphere of domestic election observation.

Some election events have been cancelled and others are scheduled for later in 2020. The COVID-19 situation presents new challenges to groups focused on protecting civil liberties and monitoring election processes.

COVID-19 INFECTION SEVERITY

Most of the countries in question registered their first domestic confirmed case in late February or early March 2020. A general overview of the extent of infection is provided in the table below. Note that these official government

figures, at least for some of the countries, are viewed with skepticism by civil society organizations, who suspect real numbers are being under-reported in order to stave off criticism of the government's handling of the crisis.

Country	Total Confirmed Cases	Total Deaths	Deaths Per Million Pop.	Total Tests Performed
Armenia	22 488	397	134	102 736
Azerbaijan	14 852	180	18	449 235
Belarus	60 382	367	39	919 139
Georgia	917	14	4	95 219
Moldova	15 453	502	124	63 328
Russia	613 994	8 605	59	18 115 830
Ukraine	40 008	1 067	24	606 766

Source: <https://www.worldometers.info/coronavirus/#countries>, June 25, 2020.

LOCKDOWN REGIMES AND EXTRAORDINARY LEGAL MEASURES

The initial hotspots for COVID-19 infection included China, Iran, and Italy, but traveler mobility helped it spread quickly throughout the world. The first cases in Georgia, Armenia, Azerbaijan, and Belarus were travelers from Iran. The first cases in Ukraine and Moldova were travelers from Italy.

Governments in Georgia, Ukraine, Moldova, and Armenia instituted a state of emergency, which included restrictions on freedom of movement, especially border crossings, forcing many businesses and schools to close temporarily.

Although Azerbaijan did not declare a state of emergency, it did temporarily close its border with Iran and impose domestic restrictions in what can be described as a “de facto state of emergency”. This lack of official declaration, however, cast into doubt the legitimacy of the impositions on civil liberties.

Russia also did not invoke its constitutional provision for an official state of emergency with regard to the coronavirus threat. However, it did pass new laws and decrees restricting large gatherings (especially in Moscow), declaring non-working weeks, and criminalizing the spread of false information regarding the pandemic.

Belarus was the major outlier in its refusal to declare a state of emergency or even to suspend flights. It did eventually impose a 14-day quarantine on those coming into the country but mass gatherings and public celebrations continued unabated. Some citizens decided not

to send their children to school or to work remotely on a voluntary basis.

State of emergency regimes allow the government temporarily to suspend some civil liberties, most notably the freedom of movement. They tended to be declared for 30 days at a time, and renewed by Parliament before their expiration.

Triggering these constitutional provisions allowed other constitutional protections temporarily to be suspended. Notably, the right to peaceful assembly and protest was restricted to maximum group sizes between 5 and 20. Even where there was no official state of emergency declared, however, health risks hampered large groups from demonstrating.

In all seven countries, parliaments continued to meet in person to pass new legislation, both relating to and unrelated to the coronavirus situation at hand.

The state of emergency was lifted in Georgia on May 23, 2020. However, a new law requires the wearing of facemasks while indoors.

Moldova had declared a 60-day state of emergency from March 16 to May 15. It was replaced by a Public Health Emergency on May 16, with most of the same restrictions remaining in place until June 30.

Although Ukraine and Armenia continue to operate under a state of emergency, major quarantine restrictions were lifted in May.

STATE SURVEILLANCE AND CENSORSHIP

Both Armenia and Russia passed measures to punish with prison sentences those found guilty of causing panic by spreading misinformation. Armenia repealed the provision from its state of emergency legislation soon after encountering criticism from civil society groups for curtailing freedom of expression. Azerbaijan also cracked down on social media users as part of a wider targeting of opposition figures.

In Armenia, under the framework of the state of emergency, Parliament permitted the bulk collection and tracking of mobile phone location and usage data as part of the government’s effort to conduct contact tracing to

discover new cases. The move was heavily criticized by opposition parliamentarians and civil society groups such as Human Rights Watch. The government committed to destroying the data after the state of emergency eventually expires.

Read more:

[Armenia seeks to stem coronavirus spread by tracking phones](#), March 31, 2020.

[Law Restricts Privacy Amid COVID-19 Fight](#), April 3, 2020.

RESISTANCE TO LOCKDOWN

A notable example of resistance to lockdown orders came in the standoff between the Georgian government and the Georgian Orthodox Church. While the government urged against mass gatherings at churches, services (including Easter mass) were not moved online and the

tradition of using a communal spoon for partaking in the Eucharist continued.

In Azerbaijan, strict weekend lockdowns on June 6-7 and 14-15 soured relations between citizens and police. In one incident in a Baku neighbourhood, apartment

residents threw their garbage onto police arresting a citizen for being outside in the courtyard. In response, police returned to the neighborhood to arrest 11 residents from

their homes, who they suspected of taking part in the incident. In response to public pressure, the government has announced that it is investigating the case.

ELECTION EVENTS, ALTERNATIVE VOTING METHODS/ACCOMMODATIONS

Armenia: Constitutional Referendum Canceled

A constitutional referendum was scheduled for April 5 but the declaration of a state of emergency automatically postponed it, as elections and referendums may not be held while any part of the country is under a state of emergency. The referendum would have decided whether 7 of the 9 constitutional court judges, appointed under terms spelled out prior to the 2015 Constitution, would remain in their seats.

Armenia's Electoral Code does not allow citizens to use any alternate voting methods, such as mail-in voting or early voting. Consequently, holding the referendum before the COVID-19 threat is fully addressed risks creating a super-spreading event like the one the February 2020 Iranian election is suspected to have caused. Coronavirus fears could also lead to reduced turnout, whereas the referendum has a minimum quorum requirement to be valid.

After consulting the Venice Commission, the National Assembly officially canceled the referendum and adopted a compromise amendment to the constitution with a two-thirds majority. Instead of dismissing 7 of the 9 judges, only 3 would be terminated as they had already served longer than the new 12-year limit imposed by the 2015 Constitution.

The move was condemned by the opposition Prosperous Armenia Party, led by Gagik Tsarukyan, who had his parliamentary immunity removed the week prior as part of an ongoing corruption investigation.

Read more:

[Armenia explores alternative to referendum on Constitutional Court](#), May 27, 2020.

[Armenia moves again to remove old judges](#), June 23, 2020.

Azerbaijan: Parliamentary By-Elections In Doubt

Azerbaijan was scheduled to hold its parliamentary election in November 2020 but held it almost a year earlier on February 9, 2020, instead. The official reason the previous parliament gave for requesting to be dissolved early was to help speed up reforms planned by President Ilham Aliyev. It turned out that the early election call helped the country avoid complications associated with coronavirus safety concerns as the election was completed before the first domestic case was reported.

However, four districts require by-elections to be held, which must be scheduled within six months (before August 2020). Currently, there has been no public discussion on scheduling the by-elections or instituting special health precautions for them to proceed without putting voters in danger.

Human Rights Watch criticized the Azerbaijani government for using coronavirus-related restrictions to detain members of the political opposition under the guise of lockdown violations. Deputy Prime Minister Ali Ahmadov likened an opposition leader to a "second virus" that the government intended to deal with harshly. Over 40 political activists and journalists have been arrested.

Read more:

[Politically motivated arrests and persecution during the lockdown regime](#), April 10, 2020.

[Abuse of COVID-19 response measures against political opponents](#), April 20, 2020.

[Administrative arrests and abuse against opposition activists continue amid COVID lockdown regime](#), May 25, 2020.

[Police use excessive force dispersing protests and government crackdown on independent voices continues](#), June 10, 2020.

Belarus: August 2020 Presidential Election Will Go Ahead

After some initial uncertainty, it was announced that the presidential election will go ahead as planned for August 9, 2020. If President Alexander Lukashenko wins, it would mark his sixth term as president; he is the only person to have held the office since it was created in 1994.

The deadline for potential presidential candidates to collect signatures in support of their nomination was June 19. Viktor Babaryka, a banker, was expected to overcome the 100,000 signature threshold to officially register and become a major challenger to Lukashenko. However, he was arrested and questioned for financial wrongdoing just prior to the deadline. The EU has criticized the arrest as politically motivated and called on Belarus to formally invite the OSCE to monitor the election; no invite has yet been sent and it appears only domestic observer groups will be on the ground on Election Day. Senior members of Babaryka's campaign and other opposition members have also been arrested, sparking protests in Minsk calling for their release.

Read more:

[Recommendations to make 2020 Presidential election safer and fairer during pandemic](#), May 7, 2020.

[Weekly report: Human rights situation deteriorating ahead of election](#), May 18, 2020.

[CEC turns down opposition groups' applications and hinders opposition candidates from running for the Presidency](#), May 20, 2020.

[Persistence of discriminatory approaches in the formation of territorial election commissions](#), May 23, 2020.

[Weekly report: crackdowns against nomination groups and activists](#), June 2, 2020.

[MEPs 'deeply worried' by nationwide crackdown and discriminatory election processes ahead of Presidential election](#), June 2, 2020.

[Weekly report: mass arrests and detentions of opposition activists](#), June 9, 2020.

[Belarus: Statement by the Spokesperson on recent developments](#), June 19, 2020.

[Weekly report: end of signature collection phase accompanied by further arrests](#), June 22, 2020.

Georgia: October 2020 Parliamentary Election

Georgia's much-anticipated October 2020 parliamentary election has been the topic of intense political debate, as the government and opposition argued back and forth on whether it will be held using an entirely proportional electoral system.

On March 8, a milestone agreement had been reached, where 120 of the 150 seats in parliament would be allocated proportionally by party and the remaining 30 seats would be single-member geographic districts. However, the constitutional amendments required to implement the terms of the agreement could not be completed while the country was under a state of emergency. A delay that prevents the shift away from single-member geographic districts, which currently account for 73 of the 150 seats, until after the October election could be seen to be in the interest of the governing Georgian Dream party.

On May 23, the state of emergency was allowed to expire. Moving quickly to enact the March 8 agreement will be critical to give a chance to the Central Electoral Commission to implement the changes.

Read more:

[Electoral system agreement should be implemented without further delay](#), May 27, 2020.

Moldova: November 2020 Presidential Election

Moldova held a by-election on March 15, 2020, two days before a state of emergency was declared, in the district of Hincesti. Turnout was low, at 23%, down from 42% in the district during the 2019 parliamentary election. A presidential election is currently scheduled for November

1, 2020. To date, there has been no attempt to postpone the election or announce mitigation measures.

Read more:

[By-elections Moldova - low turnout due to COVID-19 and authorities' unclear response](#), March 18, 2020.

[Final report on by-elections](#), April 8, 2020.

Russia: Constitutional Referendum Postponed

A constitutional referendum had been scheduled for April 22, 2020, the main feature of which would allow President Vladimir Putin to run for two additional six-year terms as president. Due to coronavirus fears, the referendum was postponed and eventually rescheduled for July 1, 2020. The vote is technically not being held under the constitutional provisions for an official referendum; instead, it is being called an "all-Russia vote". The parliament is capable of making the constitutional changes without a referendum but the demonstration of a mandate from the public is seen as a political necessity.

The strict restrictions in Moscow were lifted abruptly, while the numbers of new cases were still increasing. The May 9 Victory Parade was postponed to June 24, one week prior to the new referendum date.

Regional elections are held every September, posing a second election event during with the COVID-19 pandemic will be a significant factor. At the time of writing, Russia had the third-highest number of officially-confirmed COVID-19 cases in the world, after the United States and Brazil.

Read more:

[Constitutional amendments in Russia – risk of a legal chaos](#), February 13, 2020.

[How corona thwarts Putin's plan to change the constitution](#), April 8, 2020.

Ukraine: October 2020 Local Elections

Ukraine held a by-election for a district in Kharkiv on March 15, 2020, which had a low turnout of 27%. Some candidates had been asking for that by-election to be postponed.

The experience may prove valuable as the next country-wide local elections in Ukraine are scheduled for October 2020, though the constitution prohibits holding an election under a state of emergency. In planning for this event, a domestic debate has begun on what alternative voting methods can be relied on to facilitate voting under pandemic conditions. Alternative voting methods include early voting, mail-in voting, and Internet voting, among others.

While all three of these options add new risks to the voting process, Internet voting in particular is viewed with skepticism for its vulnerability not only to domestic malicious actors but also to hacking groups associated with foreign governments. (Groups based in Russia have [repeatedly compromised](#) critical systems in Ukraine,

including the power grid and the Central Electoral Commission's website.)

In preparation, a number of amendments to the Electoral Code, especially pertaining to local elections, have passed first reading in Parliament. The changes are mostly centered on candidate registration and Territorial Electoral Commission (TEC) composition, without offering

a comprehensive solution for mitigating risks during a pandemic.

Read more:

[Verkhovna Rada adopts changes to the Electoral Code](#), June 4, 2020.

[Recommendations on how to hold Local elections in Ukraine in a pandemic](#), June 18, 2020.

POLAND AND HUNGARY AS EASTERN EUROPEAN COMPARATORS

As Eastern European comparator countries, the experiences of Poland and Hungary, both members of the EU, are also presented.

Poland: Presidential Election Postponed at 11th Hour

Poland did not invoke a constitutional state of emergency, relying instead on legislation specifically tailored for epidemics, which allows for similar restrictions on the freedom of movement. The Polish presidential election was scheduled to take place on May 10, 2020. In preparation, parliament first expanded mail-in voting as an option available to those under quarantine or over the age of 60. It was previously only available to persons with disabilities. It was later decided that the vote would be held entirely through mail-in voting. Only 3 days before the vote, new election legislation was passed which made it impossible to conduct the election according to the initial schedule. On 12 May, another draft act was introduced to the Polish parliament, following the controversial agreement reached between factions of the ruling coalition, which provided both in-person voting and mail-in voting. The election has been scheduled for June 28. Mail-in voting is expected to be used by voters abroad on a large scale, which is a serious challenge to

election commissions installed at diplomatic missions whose number has been seriously reduced.

To facilitate its work, the Polish parliament also allowed MPs to participate in sessions and vote remotely, so as not to violate physical distancing guidelines.

Read more:

[Timeline of the election chaos](#), May 14, 2020.

[Situation around Presidential election unconstitutional?](#), May 28, 2020.

[ODIHR releases further opinion document on new Draft Act on conduct of Presidential election](#), June 3, 2020.

Hungary: Ruling by Decree

Hungary stands out for the wide-reaching powers the Parliament handed to the executive branch on March 30 to handle the coronavirus crisis. For an indeterminate period of time, the government was permitted to rule by decree, allowing it to disregard existing laws. The move was criticized by other EU states. Another law rescinding the emergency powers was passed on June 17.

Read more:

[An early balance of emergency measures](#), April 23, 2020.

CONCLUSIONS AND RECOMMENDATIONS

The coronavirus pandemic has brought new challenges to the Eastern Partnership neighbourhood in the field of election administration and observation. Most countries will have an election event in the second half of the year, for which new precautions will have to be taken in order to allow citizens to participate without endangering their health. The following are some measures that domestic observer groups can keep in mind in their discussions with election authorities.

While alternative voting methods (early voting, mail-in voting, electronic voting) must be assessed as to their appropriateness as a pandemic accommodation measure, the risks they add to election integrity cannot be overlooked. The unsupervised nature of such processes inherently makes observation more difficult and

introducing them without adequate preparation can lead to implementation failures.

In-person voting should remain as an option in any election event but will require additional measures such as handing out personal protective equipment free-of-charge and special voting times for at-risk groups.

Legislation should be reviewed for the flexibility that it provides for postponing elections under pandemic situations, without the need to declare a constitutional state of emergency.

Parliaments should have the necessary technology and procedures for electronic participation and voting by members. Ensuring continuity of the legislature allows it to play a stronger oversight role.

The decision on whether to continue with observation missions for election events in 2020 will be based on several factors. Building on the experience gained during this period, it is recommended that specific criteria be catalogued to help guide organizations in their decisions of whether to go ahead or not with an election observation mission, to ensure that it can be accomplished safely and effectively. Though EPDE members have not come to a final agreement on the specifics of these criteria, it would include health and security considerations, technical considerations, and EMB transparency considerations, among others.

EPDE AND ITS MEMBERS

EPDE was set up in December 2012 in Warsaw by 13 independent European citizen election observation organizations. The aim of EPDE is to support citizen election observation and to contribute to democratic election processes, both in the EU and in EU-Eastern neighborhood countries.

EPDE member organizations have considerable experience in election observation and in helping their respective countries conduct genuinely democratic elections. Collectively, they observed over 80 electoral processes domestically and many contributed to election observation internationally. They deploy continuously growing numbers of observers, both long and short-term, and assess electoral processes comprehensively, providing independent evaluations of all the key processes and stages – from the pre-electoral campaign to post-election developments. Through their observation work, reports published, and recommendations offered, they strive to improve election legislation and practice, in line with international obligations and standards and national

laws. Beyond the observation work, EPDE member organizations carry out other activities throughout the electoral cycle, including voter information and education campaigns to promote political engagement, to encourage informed voting, and to increase voter participation.

Most of EPDE member organizations are signatories of the Declaration of Global Principles for Non-Partisan Election Observation and Monitoring by Citizen Organizations, which was launched in 2012 and now endorsed by more than 290 citizen observer groups in 93 countries and supported by 13 key intergovernmental and international non-governmental organizations. Many are also members of renowned election observation networks, such as the Global Network of Domestic Election Monitors and the European Network of Election Monitoring Organizations. All EPDE member organizations apply established and published methodologies, based on the principles of impartiality, independence, non-interference, and transparency.



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