



INTERNATIONAL ELECTION OBSERVATION

Republic of Belarus – Parliamentary Elections, 23 September 2012

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

Minsk, 24 September 2012 – This Statement of Preliminary Findings and Conclusions is the result of a common endeavour involving the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and the OSCE Parliamentary Assembly (OSCE PA).

Matteo Mecacci (Italy), Head of the OSCE PA Delegation, was appointed by the OSCE Chairperson-in-Office as Special Co-ordinator to lead the short-term observer mission. Antonio Milošoski (the former Yugoslav Republic of Macedonia) is the Head of the OSCE/ODIHR Election Observation Mission (EOM), deployed from 22 August 2012.

The assessment was made to determine whether the elections complied with OSCE commitments, as well as with national legislation. This statement of preliminary findings and conclusions is delivered prior to the completion of the election process. The final assessment of the elections will depend, on part, on the conduct of the remaining stages of the election process, including the tabulation and announcement of results, and the handling of possible post-election day complaints or appeals. The OSCE/ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the election process. The OSCE PA will present its report at its Standing Committee meeting in Tirana on 6 October.

PRELIMINARY CONCLUSIONS

In the 23 September parliamentary elections, many OSCE commitments including citizens' rights to associate, to stand as candidates, and to express themselves freely were not respected, despite some improvements to the electoral law. While there was an increase in the number of candidates put forward by parties, prominent political figures who might have played a role in this contest remained imprisoned or were not eligible to register due to their criminal record. The field of contestants was also constricted by arbitrary administrative actions, leading to a limitation of choice for voters. The elections were not administered in an impartial manner and the complaints and appeals process did not guarantee effective remedy.

While international observers assessed early voting and election day voting procedures positively, the process deteriorated considerably during the count. Observers were not given a meaningful opportunity to observe the count and evaluated the process negatively in a significant number of polling stations observed. The continued lack of properly delineated counting procedures meant that an honest count, as required by paragraph 7.4 of the 1990 OSCE Copenhagen Document, could not be guaranteed.

These parliamentary elections were held under an Electoral Code that was amended in 2010 and 2011. Despite the amendments, the legal framework does not adequately guarantee the conduct of elections in line with OSCE commitments and international standards. Several important aspects of the electoral process lacked clarity allowing for an arbitrary and inconsistent application of the law, including the criteria for signature verification for candidate registration. This underscores the need for continued electoral reform.

Election commissions at all levels fulfilled their administrative obligations according to the

deadlines set in the election calendar. Central Election Commission (CEC) sessions were open and attended by observers. However, a number of statements made by the CEC brought into question the impartiality of its work. Overall, contrary to international standards, the CEC did not administer the electoral process in a neutral manner. Positive amendments to increase the representativeness of lower-level election commissions were largely ineffectual due to the lack of detailed selection criteria. International observers noted the continued influence of local authorities on the operations of lower-level commissions.

Undue restrictions on voter and candidate rights exist in the law. Citizens in pre-trial detention or serving a prison sentence, irrespective of the gravity of the crime, are denied voting and candidacy rights. Denial of rights for those in pre-trial detention is contrary to the principle of the presumption of innocence, while the blanket denial of voting rights of those serving prison sentences lacks proportionality. These restrictions are contrary to paragraphs 7.3 and 24 of the 1990 OSCE Copenhagen Document.

On a positive note, for the first time, political parties could nominate candidates in all constituencies regardless of whether they maintain a regional office in a given district. This resulted in an increase in political party nominations. Nonetheless, the process of candidate registration was marred by an overly technical application of the law that resulted in the exclusion of one in four nominees, challenging paragraphs 7.5 and 24 of the 1990 OSCE Copenhagen Document. Following the late withdrawal of 81 candidates, 293 candidates contested these elections.

The election campaign was barely visible in most parts of the country throughout the four-week campaign period. Regulations placed limits on the holding of campaign rallies, printing and distribution of campaign material, and access to the media. Although generally calm, the campaign was marred by several reports of intimidation of opposition candidates and activists. Two political parties boycotted the elections and two additional parties withdrew their candidates, citing the continued imprisonment of individuals on political grounds, the limited role of parliament, and a low level of confidence in the electoral process.

Although the Constitution guarantees freedom of expression and prohibits censorship, and while a high number of media outlets exist, coverage of the campaign did not provide a wide range of views. Candidates who called for an election boycott had their free airtime and/or print space denied or censored. Media coverage focussed on the President and government activities, with minimal attention given to candidates. This is at odds with paragraph 7.8 of the 1990 OSCE Copenhagen Document and, together with the restrictive campaign environment, limited the possibility of voters to make an informed choice before casting their vote.

Mechanisms to review complaints and appeals fail to provide stakeholders with an effective remedy, challenging paragraph 5.10 of the OSCE 1990 Copenhagen Document and Article 8 of the Universal Declaration of Human Rights. While CEC and Supreme Court hearings took place in open sessions, in many cases the review of complaints was marked by an inconsistent and formalistic application of law, often at the expense of the right to a fair hearing and the principle of proportionality.

PRELIMINARY FINDINGS

Background

The 23 September 2012 House of Representatives elections were called by the President of Belarus on 18 June. The last parliamentary elections, held in September 2008, resulted in only seven

deputies being elected as representatives of political parties. All 110 outgoing members are, however, considered to be government supporters.

The political system is characterized by a weak party system. Despite several applications, no new political parties have been registered by the Ministry of Justice since 2000,¹ challenging paragraph 7.6 of the 1990 OSCE Copenhagen Document and “the right of individuals and groups to establish, in full freedom, their own political parties.” This void has been largely filled by public associations, which organized the nomination and support of several candidates in these elections. For instance, the *Belaya Rus* public association, headed by the First Deputy Head of the Presidential Administration, supported 68 candidates.²

During the 2010 presidential election, several presidential candidates, journalists, and civil society representatives were arrested. One of the former presidential candidates and a chairperson of a human rights organization that observed the election are still in prison.

Parties that have been active in elections include the Communist Party of Belarus (KPB), Belarusian Agrarian Party (BAP), Liberal Democratic Party (LDP), Republican Party of Labour and Justice (RPLJ), Belarusian Socialist-Sporting Party (BSSP) and the opposition United Left Party – “Just World” (Just World), Belarusian Social-Democratic Party *Hramada* (BSDP-H), United Civic Party (UCP), and the Belarusian Popular Front (Party BPF). The public association for Freedom Movement, the non-registered Tell the Truth campaign, and several other organizations have also been active in their support for individual candidates.

Election System and Legal Framework

The House of Representatives is elected for a four-year term on the basis of a two-round, majoritarian system in 110 single mandate constituencies. If no candidate receives more than 50 per cent of all votes cast in the first round, a second round is held within two weeks between the two candidates with the most votes. The law establishes a 50 per cent turnout requirement for the first round to be valid, and a 25 per cent turnout is required for the second round.

Parliamentary elections are primarily regulated by the Constitution, the Electoral Code, and CEC regulations. The legal framework also includes the Law on Mass Media and the Criminal and Civil Procedure Codes. Libel, insult, and actions “discrediting” Belarus, as well as the activities of non-registered associations, continue to be criminalized.

The Electoral Code was amended in 2010 and 2011, addressing some recommendations made previously by OSCE/ODIHR. Most notably, amendments allow for greater opportunity for candidate nomination by political parties, streamline the procedures for staging campaign events, establish a quota for the inclusion of political party members in election commissions, strengthen early voting regulations, provide for certain actions of election commissions to be appealed to the courts, and grant candidates the opportunity to engage in TV debates.

While these reforms were acknowledged by the OSCE/ODIHR and the European Commission for Democracy through Law (Venice Commission) as improvements, it was emphasized that the changes are “unlikely to resolve the underlying concern that the legislative framework for elections

¹ At least four entities applied for registration as political parties in the last ten years. Multiple attempts to register were made by: the Belarusian Christian Democracy; the Freedom and Progress Party; and the Belarusian Communist Party of Workers. One registration attempt was made by the Belarusian Party of Labour (after its liquidation by the Supreme Court on 2 August 2004).

² Alexandr Radkov, the Chairman of *Belaya Rus*, indicated to the OSCE/ODIHR EOM that the association will endeavour to transform into a political party at its November 2012 congress.

in Belarus continues to fall short of providing a basis for genuinely democratic elections.”³ In particular, a number of improvements could be made to key provisions concerning voter and candidate registration, election commission composition, election observation, election day procedures, and the complaints and appeals process.

Election Administration

The elections were administered by a three-tiered election administration, consisting of the CEC, 110 District Election Commissions (DECs), and 6,344 Precinct Election Commissions (PECs), including 43 PECs at diplomatic missions abroad for out-of-country voting. The OSCE/ODIHR EOM met regularly with the CEC and enjoyed good co-operation. Election commissions at all levels fulfilled their administrative obligations according to the deadlines set in the election calendar.

The CEC is a permanent body with a five-year mandate, appointed on 21 December 2011. Of its 12 members, 6 are appointed by the President and 6 are elected by the indirectly elected Council of the Republic (upper chamber of parliament). As noted in the 2010 OSCE/ODIHR and Venice Commission Joint Opinion, the role of the President in appointing senior election officials challenges the autonomy of the election administration.⁴ CEC sessions were open and attended by accredited observers. All CEC decisions were taken unanimously. In line with the law, seven political parties appointed advisory members. While the OSCE/ODIHR EOM observed that advisory members took an active part in debates, their opinions were not taken into account when decisions were taken.⁵ The CEC Chairperson appeared regularly on television and presented her political views about the electoral process and its contestants, which brought into question the impartiality of the commission’s work.⁶ Overall, contrary to international standards, the CEC did not impartially administer the electoral process.

The DECs and PECs were appointed by joint decisions of local legislative and executive bodies in each administrative unit. Recent amendments to the Electoral Code introduced a requirement that at least one third of DEC and PEC members be nominees of political parties and other public associations, and that no more than one third can be state employees. However, as there are no criteria governing how DEC and PEC members should be appointed, the effectiveness of this provision in promoting inclusivity was limited. Only 3.5 per cent of DEC members and 0.1 per cent of all PEC members were nominated by political parties considered to be in opposition.⁷ While the

³ See European Commission for Democracy through Law (Venice Commission) and the OSCE/ODIHR Joint Opinion on the Amendments to the Electoral Code of the Republic of Belarus, CDL-AD(2010)012, June 4, 2010: [http://www.venice.coe.int/docs/2010/CDL-AD\(2010\)012-e.asp](http://www.venice.coe.int/docs/2010/CDL-AD(2010)012-e.asp).

⁴ See, paragraph 20 of General Comment No. 25 (1996) to Article 25 of the International Covenant on Civil and Political Rights by the UN Human Rights Committee.

⁵ The two advisory members from UCP and BPF were suspended by the CEC after the parties withdrew their candidates.

⁶ For example, on 29 August, in relation to a candidate nomination, the CEC Chairperson stated: “We should make a legally correct decision, but on the other hand we are a political body and can make a political decision.” (<http://belapan.com/archive/2012/08/29/570849/>). On 12 September, the CEC Chairperson stated: “I can name one candidate that I would vote for and whom I like a lot, but I must say that he is not nominated in my election district. I am not going to call names. You will guess who he is. He is a well-known sportsman.” (http://www.belta.by/ru/conference/i_275.html).

⁷ For example, at the DEC level, five parties considered to be in opposition nominated 198 candidates, but only 50 were appointed (25 per cent). In contrast, out of the 110 nominated candidates by public association *Belaya Rus*, which is supportive of the government, 106 were appointed (96 per cent). At the PEC level, of 664 nominated by opposition parties, only 61 were appointed (11 per cent), while of the 4,799 nominated by *Belaya Rus*, 4,189 were appointed (87 per cent). The CEC justified this small number by stating that the opposition nominated candidates who were not of ‘good character’ and supplied the OSCE/ODIHR EOM with documents listing the criminal convictions of some of the nominees.

limitation on state employees is positive in principle, the OSCE/ODIHR EOM observed multiple instances where the operation of PECs and DECAs appeared to be influenced by local administration.

The CEC issued guidelines for the work of DECAs and PECs, as well as an additional training manual for PECs. The CEC undertook limited voter education through TV spots and posters announcing the election date.

Voter Registration

While all citizens aged 18 years or older by election day are eligible to vote, extensive restrictions on voting rights exist in the law. Citizens deemed mentally incompetent by a court, as well as those in pre-trial detention or serving a prison sentence, irrespective of the gravity of the crime, are denied the right to vote. Denial of the right to vote to those in pre-trial detention is contrary to the principle of the presumption of innocence as enshrined in the 1990 OSCE Copenhagen Document, as well the Constitution.⁸ The blanket denial of voting rights of those serving prison sentences lacks proportionality and is also not in line with OSCE commitments and international standards.⁹

The CEC determined the total number of registered voters at some 7.1 million. Voter lists were compiled for each precinct by the relevant local administration and updated by PECs. Provisions for voter registration do not foresee consolidated or centralized voter lists at any level above the PEC, nor are there provisions for national crosschecking to safeguard against multiple voter registrations. The Electoral Code allows voters to check their own personal details in precinct voter list, but does not provide for voter lists to be displayed in public places. Voters had to visit their PEC offices in person to check their data. Voter lists remained open until the close of voting and citizens could register to vote, provided that they could prove their identity and residency in the constituency. Although inclusive, voter registration on election day is not in line with international good practices.¹⁰

Candidate Registration

Citizens who are 21 and reside permanently in Belarus are eligible to stand for the House of Representatives. However, the law prohibits citizens with any previous criminal conviction to stand as candidates. In denying a candidate's appeal from the CEC, the Supreme Court implied that this limitation extends to all candidates regardless of whether or not the conviction has been expunged. Such restrictions are contrary to paragraphs 7.5 and 24 of the 1990 OSCE Copenhagen Document, as well as national legislation.¹¹

Candidates could be nominated in three ways: by registered political parties, by labour collectives, and by initiative groups of citizens who collected at least 1,000 signatures. For the first time, political parties did not have to maintain a regional office in each constituency in which they wished

⁸ Paragraph 5.19 of the 1990 OSCE Copenhagen Document and Article 26 of the Constitution of Belarus.

⁹ Paragraph 7.3 of the 1990 OSCE Copenhagen Document states that the participating States will "guarantee universal and equal suffrage to adult citizens," while Paragraph 24 provides that restrictions on rights and freedoms must be "strictly proportionate to the aim of the law." General Comment No. 25 (1996) to Article 25 of the International Covenant on Civil and Political Rights by the UN Human Rights Committee states that grounds for the deprivation of voting rights should be "objective and reasonable" (point 14).

¹⁰ The 2002 Venice Commission Code of Good Practices in Electoral Matters, 1.2.iv, recommends that "In any event polling stations should not be permitted to register voters on election day itself."

¹¹ Article 99 of the Criminal Code states that convictions must not have any legal consequences after being expunged.

to nominate a candidate. Consequently, a higher number of candidates were nominated by political parties.¹²

The candidate registration process was, nonetheless, marred by an overly technical application of stringent legal provisions that resulted in the exclusion of one in four nominees, contrary to paragraphs 7.5 and 24 of the 1990 OSCE Copenhagen Document. Twenty-seven candidates that appealed to the CEC were denied registration because more than 15 per cent of the signatures checked for verification were deemed invalid, many on the grounds of minor technical inaccuracies.¹³ According to many interlocutors, the criteria, selection, and process of signature verification lacked transparency.¹⁴

Fifteen candidates that appealed to the CEC were denied registration on the basis of discrepancies found in their income and/or asset declarations. Although the law provides that registration can only be refused for substantial errors,¹⁵ the OSCE/ODIHR EOM observed several cases of denial of candidate registration on the grounds of minor inaccuracies.¹⁶ One candidate was denied registration by the CEC on the basis of his character.¹⁷ The law does not allow for the correction of mistakes which are inadvertent, minor, or technical in character.

Overall, of the 494 nominations reviewed by the DEC, 363 candidates were registered, 123 were rejected and 9 withdrew. Fifty-three rejected nominees appealed to the CEC, after which 11 more candidates were registered. Seventeen rejected nominees appealed to the Supreme Court, resulting in one more candidate being registered. However, after the withdrawal of 81 candidates, 293 contested these elections. In 16 of the 110 constituencies, a single candidate contested the election unopposed.

Campaign Finance

Funding for the conduct of the campaign is provided to candidates from the state budget. Candidates are allocated the equivalent of approximately EUR 460 to spend on printed campaign materials. These funds are managed by the election administration and candidates must submit invoices for their printed campaign materials to DEC. According to the 2010 amendments to the Electoral Code, candidates have the right to establish a campaign fund from personal funds and donations from individuals and legal entities.¹⁸ As of 21 September, 85 candidates had opened campaign accounts. Donations from foreign organizations and citizens, state and local authorities, charities, and anonymous donors are prohibited. The limit on campaign expenditure for each candidate is approximately EUR 9,140.

¹² In 2008, 8 of 15 registered political parties nominated 59 candidates. In 2012, 8 of 15 registered parties nominated 264 candidates.

¹³ For example, signatures were invalidated where the date on the signature form was filled in by a person other than the signatory even when the candidate submitted written affidavits by the voters that they personally signed the form; where the signatories wrote their names in an insufficiently legible way; or where in the address or the passport details of the voter minor mistakes took place.

¹⁴ Following the CEC instructions, for verification of the validity of “suspicious” signatures DEC members requested information from relevant state agencies and often personally visited and questioned voters.

¹⁵ Substantial errors are defined in CEC Regulation 35 as more than 20 per cent in the declaration of annual income, while any omission in declaring assets is considered substantial.

¹⁶ For example, Sergey Britikov was denied registration in Constituency 84 because he failed to declare ownership of shares in an enterprise worth less than the equivalent of EUR 2.

¹⁷ CEC Decision 89 (29 August 2012) concerning Aleksandr Solop.

¹⁸ Contribution limits are set at a maximum of the equivalent of EUR 180 from personal funds and EUR 90 from any single donor.

The Campaign Environment

The election campaign officially commenced after the registration of candidates on 23 August. Despite a small increase in activity during the last two weeks before election day, the campaign remained barely visible in most parts of the country. The campaign took place in a controlled environment. Regulations placed limits on campaigning, including holding meetings with voters, printing and distributing campaign materials, as well as accessing the media. Overall, the low-level of campaign activity, which correlated with general public disinterest in the electoral process, raised questions about voters' ability to make an informed choice on election day.

The OSCE/ODIHR EOM noted only a limited number of small to medium-sized rallies, with most candidates opting for door-to-door contact with voters and distribution of printed campaign material. Positive amendments to the Electoral Code replaced a permission-based procedure for holding campaign events with a two-day notification procedure. While campaign locations are to be provided free of charge by local authorities, some candidates expressed their dissatisfaction with the designated locations. Candidates may also rent premises for campaigning using their private campaign funds, although few used this opportunity.

Several candidates and political parties complained that candidates supporting the government enjoyed privileged access to meetings organised by labour collectives and large enterprises in their premises, which is contrary to Articles 73 and 74 of the Electoral Code. In addition, candidates nominated by labour collectives benefited from organizational support of employees of state-owned enterprises, including public institutions such as hospitals.¹⁹ Similarly, a number of campaign events were organized by local schools under the guise of parents' meetings, where parents received presentations by candidates.²⁰

Although the campaign was generally calm, several incidents marred the process, including reports of intimidation of opposition candidates and activists. In particular, activists of the Tell the Truth campaign and its youth group, *Zmena*, appear to have been subjected to a high number of arrests for minor administrative offenses. For example, on 5 September, Tell the Truth campaigner Yavor Vinyatski was arrested and sentenced to 10 days in jail for using obscene language in public. The following day, the organization's main office in Minsk was searched and campaign materials were seized, while on 7 September, police detained two *Zmena* activists, again on charges of using obscene language. On 18 September, four *Zmena* activists and seven journalists were detained after a group of policemen in civilian clothes violently ended a picket in Minsk. These and other incidents contributed to an atmosphere of intimidation and pressure on candidates and activists associated with the opposition.²¹

Two political parties boycotted the elections and did not nominate any candidates.²² Two additional parties, the UCP and the Party BPF, indicated at the beginning of the campaign that they would boycott the elections, but only after making active use of otherwise unavailable opportunities to

¹⁹ Many OSCE/ODIHR EOM observers reported difficulties obtaining information about campaign events organised by independent candidates, especially those held on the premises of state-owned enterprises.

²⁰ For example, as observed in DEC 1, 13, 54, 95, 100. However, DEC 67 and 76 informed LTOs that candidates were expressly prohibited from holding campaign events in schools.

²¹ Additional detentions or apparent intimidations included: one opposition candidate was detained twice by customs officers at the border (Alena Fomina representing the non-registered Belarusian Social Democratic Party *Narodnaya Hramada* (BSDP-NH) in Constituency 17, on 31 August and 13 September), one candidate was briefly detained while holding a campaign event (Leonid Padbyaretski supported by the Tell the Truth campaign in Constituency 84 on 4 September), one candidate's car was towed (Anatoly Lebedko, Chair of UCP, in Constituency 105 on 12 September), another candidate's car was searched and materials seized (Alexey Gavrutikov representing non-registered BSDP-NH in Constituency 18 on 30 August).

²² Conservative Christian Party BPF (CCP-BPF) and the Belarusian Social Democratic *Hramada* (BSDH).

reach out to the electorate. They confirmed their decisions to withdraw their candidates at their respective party congresses on 15 September. They cited the continued imprisonment of individuals on political grounds, the limited role of parliament, and a low-level of confidence in the electoral process, especially the lack of DEC and PEC representation, as reasons for their decision.

The Media

The Constitution guarantees freedom of expression and prohibits censorship, and a high number of media outlets exist. However, coverage of the campaign did not provide a wide range of views due to administrative obstacles. This is particularly the case with broadcast media, which is the main source of political information. This was at odds with paragraph 7.8 of the 1990 OSCE Copenhagen Document and limits the possibility for voters to make an informed choice.

In accordance with the Electoral Code, the CEC issued regulations that provided contestants with free airtime and print space in state media. Contestants were permitted to pre-record a statement of up to five minutes on state TV and radio, to participate in pre-recorded televised debates, and to publish their election programmes in one of the state-owned newspapers.

However, from 27 August, on the basis of a CEC decision, the majority of media outlets refused airtime to candidates who called for an election boycott, while newspapers censored and/or refused to publish their programmes. The OSCE/ODIHR EOM observed more than thirty instances where candidates free airtime and/or print space was either denied or censored.

Most candidates showed little interest in participating in televised debates, which were allowed under the Electoral Code for the first time in parliamentary elections. A number of candidates stated that they did not participate in debates because of low participation among rival candidates, especially those who support the government. According to the CEC, 31 debates were recorded and broadcast on TV, while 7 recorded debates were not broadcast because the candidates advocated for boycott of the election.

Aside from free airtime, the findings of the OSCE/ODIHR EOM media monitoring showed a very limited coverage of the campaign within news programmes.²³ Broadcast coverage of campaign activity was virtually absent, while candidates were mentioned only as a group with no reference to individual names. State-owned media only focused on procedural aspects of the electoral process as described by the CEC and provided extensive reporting on the President and government activities.

Monitored state TV channels dedicated 60 per cent of their prime-time news coverage to the President, 24 per cent to government officials, 13 per cent to the CEC, and less than 1 per cent to political parties and independent candidates combined. *Radio Stolitsa* dedicated 62 per cent of its news coverage government officials, 30 per cent to the President, 7 per cent to the CEC, but candidates did not receive any coverage.

Similar coverage was monitored in all four state-owned print media, with 52 per cent dedicated to the President, 40 per cent to government officials, 5 per cent to the CEC, and only 3 per cent to candidates. Private print media, *Narodnaya Volya* and *Nasha Niva*, provided voters with wider coverage of all candidate campaigns, including analytical and critical articles. Private print media, however, is constrained by limited circulation and is not available to most voters.

²³

The OSCE/ODIHR EOM monitored the prime time (18:00-24:00) political coverage of five TV channels: *Belarus-1*, *Belarus-2*, *Obschenatsionalnoe TV*, *Stolichnoe TV*, and *RTR-Belarus*; one radio station: *Stolitsa*; and six state and private newspapers: *Sovetskaya Belorussia*, *Zvyazda*, *Respublika*, *Narodnaya Gazeta*, *Narodnaya Volya*, and *Nasha Niva*.

Complaints and Appeals

Despite recent changes to the Electoral Code, mechanisms to review complaints and appeals fail to provide an effective remedy, challenging paragraph 5.10 of the OSCE 1990 Copenhagen Document and Article 8 of the Universal Declaration of Human Rights.²⁴ While CEC and Supreme Court hearings took place in open sessions and with formal observance of due process, in many cases the review of complaints was marked by an inconsistent and formalistic application of law, often at the expense of the right to a fair hearing and the principle of proportionality.

Complaints against decisions of election commissions can be lodged with higher commissions. Depending on the nature of the violation, the court should adjudicate within three to five days. A very limited category of decisions can be appealed to the courts. These include decisions on the appointment of PEC and DEC members, omissions in the voter lists, as well as CEC decisions denying candidate registration and invalidating the elections.²⁵ In the majority of cases no relief is available to stakeholders if their rights are infringed during the electoral process.

According to the CEC, 938 complaints and inquiries have been filed with election commissions and local executive bodies as of 22 September. Of these, 477 have been filed with the CEC, 210 with the DEC, and 58 with the local executives. Of the 477 applications received by the CEC, 76 concerned the composition and activities of the DEC and PEC, 56 concerned candidate registration, and 66 concerned the content of campaigning. The majority of complaints were not considered by the CEC collegially, but were considered by individual commissioners or CEC staff and formally responded to in writing by the CEC. The Supreme Court heard 17 appeals on the decisions of the CEC, all concerning denial of candidate registration.

By 21 September, 79 complaints have been filed with Prosecutors. Of these, 28 were filed with the office of the Prosecutor General. While in most of the cases, the Prosecutors implemented oversight of the electoral process in reaction to specific complaints, in some instances it acted at its own initiative. In one such case, a warning was issued on 10 September to Sergei Kalyakin, Chairperson of Just World, for statements of “tendentious character” intended at “discrediting of state authority, disorganization of the electoral process and destabilization of the civil society.”

Domestic and International Observers

The law provides for observation of the election process by a wide range of stakeholders, including candidate proxies, public associations, political parties, citizens’ groups, labour unions, media, as well as international observers. In total, election commissions accredited some 30,300 domestic observers, including the Human Rights Defenders for Free Elections, which deployed some 400 observers, and For Fair Elections, which deployed some 1,400 observers. The vast majority of observers were nominated by public associations which support the government.²⁶

²⁴ Paragraph 5.10 of the 1990 OSCE Copenhagen Document establishes the right of everyone to “effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity.” Article 8 of the Universal Declaration of Human Rights states that “everybody has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.”

²⁵ The CEC decision that announces the final results can not be appealed to the courts.

²⁶ Of the some 30,300 accredited domestic observers, 22,125 were nominated by public associations supporting the government. This included 5,107 observers from *Belaya Rus*, 4,575 from the Belarusian Republican Youth Movement, and 3,408 from the Belarusian Public Association of Veterans.

In addition, 762 international observers were accredited. Four short-term observers from OSCE participating States, including two parliamentarians, were declared unwelcome by the Ministry of Foreign Affairs. The observers conveyed their strong disapproval of such treatment to the authorities.

Observers may be present at election commission sessions, early voting, and election day. However, the Electoral Code does not stipulate that observers must be given direct and effective access to key aspects of the candidate registration process and voting and counting procedures.²⁷ Although the CEC publicly announced that observers would be granted full access to the election process, international observers reported that in many instances observers were not given a meaningful opportunity to observe candidate registration, the process of early voting, and election day procedures.

While observers are permitted to familiarize themselves with polling station results protocols, the law does not stipulate that observers are entitled to receive certified copies of the protocols. Certified protocols allow observers to verify the accuracy of reported results.

Early Voting

Early voting was held from 18 to 22 September throughout the country. As outlined in the Electoral Code, a voter does not have to provide a reason to vote early. According to the CEC, 25.9 per cent of voters took part in early voting. International observers filed 830 forms during the early voting. In general, early voting was conducted in an orderly manner. Domestic observers were present in only 32 per cent of PECs observed, the majority from public associations. In 97 per cent of PECs, observers were not obstructed in their view of the voting.

The overall assessment of the early voting process was good or very good in 95 per cent of observations. However, international observers reported that procedures were not followed in 10 per cent of observations. This included key components, such as the completion of the daily protocols (8 per cent), the public posting of the protocols (7 per cent), and ensuring the ballots boxes were properly sealed and secured at the end of voting (7 per cent). The secrecy of the vote was not protected in 6 per cent of cases and the transparency of the process was assessed negatively in 9 per cent of observations.

Election Day

The CEC announced a preliminary voter turnout of 74.2 per cent at just after midnight, which was disputed by some domestic observer organizations. Observers evaluated the opening of polling stations as good or very good in 95 per cent of observations. Polling stations opened on time without major procedural shortcomings. The overall assessment of the voting process was good or very good in 95 per cent of observations. While the greater part of procedures was followed, some irregularities were observed. This included group voting (9 per cent), seemingly identical signatures on the voter lists (6 per cent), the ballot box for early voting not being placed in clear view of PEC members and observers (13 per cent), and ballot boxes not being properly sealed (5 per cent). Observers were restricted in their observation of voting procedures in 11 per cent of observations.

The process, however, deteriorated considerably during the count, and was evaluated by observers as bad or very bad in 37 per cent of cases, which is substantial. Serious procedural errors or

²⁷ While the Electoral Code does not expressly deny this right to observers, the CEC confirmed in writing to the OSCE/ODIHR EOM that observers are not entitled to observe the signature verification process. Observers are prohibited from being present next to ballot issuing desk.

omissions were observed in 21 per cent of polling stations observed. These included not determining the number of voters who received ballots (23 per cent), not announcing the results by candidate (28 per cent), not checking the results against the control equations (20 per cent), and not signing and displaying the protocols (11 per cent). Observers noted that the count was often conducted in silence and that they were not given a meaningful opportunity to observe the count in 37 per cent of polling stations. The lack of properly delineated counting procedures meant that an honest count, as required by paragraph 7.4 of the 1990 OSCE Copenhagen Document, could not be guaranteed.

The tabulation process at the DEC's was evaluated as bad or very bad in 12 out of 81 DEC's observed. Observers noted that they were restricted in their observations in 17 per cent of cases. The tabulation of the results was not considered as well organized in 7 per cent of observations and protocols were not entered into a summarized table in 8 per cent of cases observed. In seven DEC's, observers were informed that the final tabulation would not take place until Monday morning and no DEC protocol was produced. Nevertheless, at 00:30, the CEC announced preliminary results for all constituencies.

Domestic observers were present at the opening in 74 per cent of polling stations observed, during the voting process in 85 per cent of polling stations, and during the counting process in 97 per cent of polling stations. Women represented 54 per cent of PEC Chairpersons and some 70 per cent of PEC members in the polling stations observed.

*The English version of this report is the only official document.
Unofficial translations are available in Belarusian and Russian.*

MISSION INFORMATION & ACKNOWLEDGEMENTS

Minsk, 24 September 2012 – The OSCE/ODIHR EOM opened in Minsk on 22 August. It includes 11 experts in the capital, and 36 long-term observers deployed throughout Belarus.

On election day, 330 short-term observers were deployed, including a 71-member delegation from the OSCE PA. In total, there were observers from 37 OSCE participating States. Voting was observed in 1,173 polling stations. Counting was observed in 125 polling stations across all constituencies. The tabulation process was observed in 86 DEC's.

The observers wish to thank the authorities of the Republic of Belarus for the invitation to observe the elections, the Central Election Commission for its co-operation and for providing accreditation documents, and the Ministry of Foreign Affairs and other authorities for their assistance and co-operation. The observers also wish to express their appreciation to other international institutions for their co-operation and support.

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