

INTERNATIONAL ELECTION OBSERVATION

Republic of Belarus — Presidential Election, 19 December 2010

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

Minsk, 20 December 2010 – 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).

The assessment was made to determine whether the election complied with the OSCE commitments, as well as with legislation of the Republic of Belarus. This statement of preliminary findings and conclusions is delivered prior to the completion of the election process. The final assessment of the election will depend, in 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 and 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 Winter Meeting in Vienna on 24 - 25 February 2011.

PRELIMINARY CONCLUSIONS

The presidential election indicated that Belarus still has a considerable way to go in meeting its OSCE commitments, although some specific improvements were made. Election night was marred by detentions of most presidential candidates, and hundreds of activists, journalists and civil society representatives.

While the overall voting process was assessed as good, the process deteriorated significantly during the vote count undermining the steps taken to improve the election. Observers assessed the vote count as bad and very bad in almost half of all observed polling stations. The count was largely conducted in a non-transparent manner, generally in silence, which undermined its credibility. In many cases, observers were restricted and did not have a real opportunity to observe the counting. In some cases the figures recorded in the results of polling station protocols were different upon arrival at the Territorial Election Commissions (TEC).

A range of candidates contested the election. Free airtime was provided in an uncensored format, although it was limited in scope and time. For the first time, two live debates gave candidates the opportunity to address the electorate directly. However, the incumbent chose not to participate. Most candidates opposing the incumbent had no trust in the integrity of the election administration or the electoral process.

The broadcast news programmes monitored by OSCE/ODIHR EOM gave some 89 per cent of the political and election-related news to the incumbent; even recognizing the advantages of incumbency, this is high. The tone of President Lukashenko's coverage was exclusively positive or neutral, while the tone of coverage of the other candidates was mostly negative and in some cases neutral. The lack of diversity in the media sphere reduced the possibility for voters to make an informed choice during the election campaign. On election day, a number of major Internet websites were blocked, as were some social networking channels and opposition websites.

Despite some positive steps which amended the Electoral Code, the legal framework still does not adequately guarantee the conduct of elections in line with OSCE commitments. The legal

framework leaves important aspects of the election process not fully regulated. Particularly, necessary safeguards to ensure the integrity of early voting and the vote count are missing.

The Central Election Commission (CEC) administered the technical aspects of the electoral process well. Sessions were open and attended by observers and media. However, the CEC lacked impartiality. Eight candidates nominated representatives to the CEC, but they were not entitled to vote on decisions. The CEC issued resolutions in an attempt to specify existing legal provisions on observers' rights and early voting but failed to provide sufficient clarification.

The nomination of at least one third of TEC and Precinct Election Commission (PEC) members by political parties and public associations could have been a positive step. The absence, however, of formal criteria in selecting commission members and the lack of detailed procedures reduced the effectiveness of this provision. Nominees were rejected without proper explanation and justification. In practice, only 0.26 per cent of all PEC members and 0.70 per cent of TEC members were nominated by political parties considered in opposition.

All presidential candidates acknowledged that initiative group registration and signature collection took place under improved conditions. The CEC registered ten presidential candidates in an inclusive process.

Candidates were able to convey their messages to the electorate in an unhindered manner. A welcome development saw changes in the legal framework which meant that candidates no longer had to seek permission to hold meetings with voters. The campaign, however, was characterized by the lack of a level playing field. OSCE/ODIHR noted cases of misuse of administrative resources to promote the incumbent. Ultimately, the current president and a field of nine other contenders competed on unequal terms.

Despite the 2010 amendments, the existing legal framework does not provide for an effective complaints and appeals mechanism. It grants the CEC powers to consider electoral disputes in an inconsistent and non-transparent manner. Without clear regulations, PECs and TECs improvised procedures, implementing them in an incoherent manner. Moreover, the legal framework does not have provisions for challenging the election results.

PRELIMINARY FINDINGS

Background

The 19 December 2010 election, called by the House of Representatives on 14 September, was the fourth presidential election since the dissolution of the Soviet Union in 1991. A new constitution, adopted in 1994, has been amended twice by referendum: first in 1996, increasing the power of the presidency and establishing a bicameral parliamentary system and again, in 2004, abolishing the two-term presidential limit. This has allowed the incumbent, President Lukashenko, to continue to stand for office.¹ In the two previous elections observed, the presidential election 2006 and the

¹ The Council of Europe's European Commission for Democracy through Law (Venice Commission) stated at the time that "the question concerning the possibility for Mr. Lukashenko to again be candidate in the forthcoming election is in direct and clear contravention of this law (the constitution). It can therefore not be decided by referendum." See Venice Commission 'Opinion on the Referendum of 17 October 2004 in Belarus', adopted by the Venice Commission at its 60th Plenary session, Sec. 7, [http://www.venice.coe.int/docs/2004/CDL-AD\(2004\)029-e.asp](http://www.venice.coe.int/docs/2004/CDL-AD(2004)029-e.asp). OSCE/ODIHR observed the 2004 parliamentary elections that were held concurrently with the referendum, but did not observe the referendum.

parliamentary election 2008, international observers concluded that OSCE commitments for democratic elections were not met.²

The presidency enjoys extensive powers, with the executive exercising significant authority over other State branches. According to the Constitution of the Republic of Belarus the president has the right to appoint six judges, including the chief justice, and to dismiss all judges of the Constitutional Court, as well as to appoint and dismiss all judges, including the chief justices of the Supreme Court and all other courts of Belarus. The extensive powers of the president are inconsistent with the principle of separation of powers enshrined in article 6 of the Constitution as they put in question the independence and the impartiality of judges and the public judicial service, challenging paragraph 5.12 of the Copenhagen Document.

The political system is characterized by weak political party structures that have eroded over the course of the past decade. There are no deputies from the opposition in the current parliament and 103 of 110 mandates in 2008 were won by independent candidates. The presidential election, thus, took place in a political environment marked by a lack of political pluralism and open debate in the public sphere.

Election System and Legal Framework

The president is elected for a five-year term in a two-round majoritarian contest in a single nationwide constituency. Over 50 per cent of all registered voters must take part in the election for it to be valid. If a single candidate does not succeed in obtaining more than 50 per cent of all votes cast in the first round, a second round is to be held within two weeks between the two candidates with the most votes.

The presidential election is regulated primarily by the Constitution of the Republic of Belarus and the Electoral Code (last amended in 2010). The legal framework also includes the Law on Mass Media, the Law on Mass Events, relevant provisions of the Criminal Code, the Code of Administrative Offences, the Civil Procedure Code, as well as resolutions of the CEC.

Although recent amendments in January 2010 to the Electoral Code addressed some longstanding OSCE/ODIHR recommendations, the legislative framework continues not to guarantee the conduct of elections in line with OSCE commitments.³ Positive change included the replacement of a permission-based system, to stage a public assembly with a two-day notification procedure for candidates and proxies, as well as a provision allowing broadcast debates between candidates in the State media. The amendments also contained some regulation of early voting procedures including the introduction of a requirement to complete a protocol at the end of each day during the five-day early voting period.⁴

² Previous OSCE/ODIHR election observation mission reports for Belarus are available at: <http://www.osce.org/odihr-elections/14353.html>.

³ Especially paragraphs 5.1; 5.4; 5.10; 6; 7.4; 7.7; 7.8 of the Copenhagen Document and paragraph 26 of the Istanbul OSCE Summit Declaration 1999. Belarus is further a signatory of the International Covenant on Civic and Political Rights since 1968 and ratified it in 1973. See also Joint Opinion on the Amendments to the Electoral Code of the Republic of Belarus of the OSCE/ODIHR and the Venice Commission of the Council of Europe, 4 June 2010: http://www.osce.org/documents/odihr/2010/06/44755_en.pdf.

⁴ Other positive changes included that political parties and public associations were given the right to nominate at least one third of the members of the TECs and PECs; the option to appeal decisions relating to the appointment of lower-level election commission members to a court at the corresponding level; the possibility to appeal certain CEC decisions to the Supreme Court; introduction of individual campaign funds.

Despite these improvements, however, the legal framework continues not to address important previous OSCE/ODIHR recommendations. Examples of these shortcomings include the excessive role of the president in appointing Central Election Commission (CEC) members, the lack of clear rules concerning the appointment of Territorial Election Commission (TEC) and Precinct Election Commission (PEC) members, the absence of a detailed procedure for ballot counting or a requirement to publish preliminary and final disaggregated vote results promptly.⁵ The legal framework also leaves many aspects of the election process inadequately regulated. This led to discrepancies in the interpretation and application of the law by TECs and PECs. In an attempt to clarify existing Electoral Code provisions on observers' rights and early voting, the CEC issued resolutions, but they failed to provide sufficient clarification.⁶

Election Administration

This election was administered by three levels of election commission: the CEC, 155 TECs and 6,390 PECs, including 44 PECs at diplomatic missions abroad for out of country voting.

The CEC is a permanent, 12-member body with a five-year mandate.⁷ Six CEC members, including the chairperson, are appointed by the president and six by the indirectly elected Council of the Republic (upper house). The CEC adopted all resolutions required by the Electoral Code within legal deadlines and administered the technical aspects of the electoral process well. The CEC and lower electoral commissions, however, lacked impartiality vis-à-vis the executive branch.⁸ Eight candidates nominated representatives to the CEC, but they were not entitled to vote on decisions. Thus, this attempt at increased transparency did not effectively broaden the involvement of political parties in the electoral process. With few exceptions, the 126 CEC resolutions on elections were approved unanimously and no dissenting opinions were recorded.

The nomination, for the first time, of at least one third of TEC and PEC members by political parties and public associations could have been a positive step. The absence, however, of formal criteria in selecting commission members and the lack of detailed procedures reduced the effectiveness of this provision. In practice, only 0.26 per cent of all PEC members and 0.70 per cent of TEC members were nominated by political parties considered in opposition.⁹

TECs organized training seminars on election day procedures for PEC chairpersons, deputies and secretaries. OSCE/ODIHR observers reported that training in vote counting procedures lacked uniformity. A CEC resolution instructed PEC chairpersons "to provide observers with a real possibility to observe the counting procedures". The new provision was not coherently

⁵ Also a clear description of observers' rights is missing.

⁶ CEC Resolutions no. 49 and no. 50 (15 September 2010), no. 95 (5 November 2010), no. 99 (5 November 2010) and no. 150 (30 November 2010). As an example, resolution no. 95 states that "observers shall be given a real opportunity to observe the vote count in polling stations". While trying to address a concrete shortcoming, this provision remained vague and requires further detail on the rights of observers during the vote count on election day.

⁷ The term of the current CEC expires in 2012.

⁸ In its 9 November 2010 session on complaints, the CEC showed outright support for the incumbent. The CEC Chairperson repeatedly publicly stated her admiration for President Lukashenko. European Radio for Belarus interview: <http://euroradio.by/ru/1098/reports/43037/?autofresh=1>.

⁹ Local authorities appointed 2,000 TEC and some 70,000 PEC members without formal criteria. Nearly all nominees from pro-presidential organizations were approved; of 781 at TEC level, 729 were appointed (93 per cent). In stark contrast, organizations considered to be in opposition nominated 72 people, but only 14 (20 per cent) were appointed, totalling 0.7 per cent of all TEC members. A similar pattern was observed in PECs. Of 25,492 nominees from pro-presidential organizations, 23,689 members were appointed (93 per cent). Of 1,073 nominations from organizations considered to be in opposition, 183 members were appointed (17 per cent), representing 0.26 per cent of all PEC members.

communicated since this new regulation was ignored in one out of four training sessions observed.¹⁰

Voter Registration

Citizens with permanent or temporary residence aged 18 or over on election day have the right to vote in the precinct they are registered. The Electoral Code establishes that those declared legally incapable by a court, those sentenced to prison and those in pre-trial detention are not eligible to vote. This is contrary to article 7.3 of the Copenhagen Document which guarantees universal and equal suffrage to adult citizens. According to a recent CEC regulation citizens convicted to prison for minor or administrative offences were entitled to vote by mobile box at the PEC responsible for that penal institution.

There is no centralized voter register and voter lists are compiled by local administrations at precinct level. OSCE/ODIHR observers confirmed that voters were able to check their entries at the PECs. Few appeared to do so as the Electoral Code allows voters to be added to the voter lists as late as the end of polling. Though inclusive, such an arrangement is not in line with international good practice standards.¹¹ No national cross checks or other safeguards exist against the multiple registration of voters.

Nomination and Registration of Candidates

The registration of candidates took place in an inclusive manner. A candidate could be nominated by an initiative group of no less than 100 voters, and 100,000 valid voter signatures had to be submitted to support the nomination. Signature collection started on 30 September and ended on 29 October. Of the 17 initiative groups initially registered, 11 submitted signatures to the CEC. Amendments to the Electoral Code provided more opportunities to collect signatures.¹² All presidential candidates acknowledged that initiative group registration and signature collection took place under improved conditions.

TECs scrutinized support signatures for authenticity within ten days after their submission, in accordance with procedures set out in the Electoral Code and CEC guidelines. Some candidates stated that the process of signature verification was not transparent. Observers were not permitted to monitor all stages of the verification process.

On 18 November, the CEC registered ten candidates: Ryhor Kastusiou, Alexander Lukashenko, Alexei Mikhailevich, Vladimir Nekliaev, Yaroslav Romanchuk, Vital Rymasheuski, Andrei Sannikov, Nikolai Statkevich, Viktor Tereshchenko, and Dmitri Uss. The CEC did not register Vladimir Provalski because of the quantity of invalid signatures.

¹⁰ Resolution 95 amended resolution 45 which outlines PEC guidelines. The OSCE/ODIHR observed 40 training sessions.

¹¹ The code of good practices in electoral matters of the Venice Commission, 2002 recommends that “In any event polling stations should not be permitted to register voters on election day itself”, p.1.2. iv. [http://www.venice.coe.int/docs/2002/CDL-AD\(2002\)023rev-e.asp?PrintVersion=True](http://www.venice.coe.int/docs/2002/CDL-AD(2002)023rev-e.asp?PrintVersion=True)

¹² Picketing for signature collection occurred in many of those locations that have previously been prohibited by local executives and administrative bodies. See Electoral Code article 45.

The Campaign Environment

The campaign period started on 18 November and was generally barely visible. It was characterized by the lack of a level-playing field and an unequal contest between the current president and a field of nine contenders.

Small-to-medium sized rallies and meetings took place, together with door-to-door canvassing and, to a limited extent, use of printed campaign material. Candidates were restricted by meager campaign funds¹³ and also faced other problems. Five candidates, for instance, reported difficulties with printing election-related materials, stating that some printing houses refused to accept print orders, due to pressure from the State security services. Other printing houses reportedly processed orders in an unduly slow manner. Observers noted cases of opposition campaign event announcements and posters being removed, defaced or plastered over.

All candidates toured the country and were able to convey their messages to the electorate in an unhindered manner. A few incidents, however, marred the campaign environment. For instance, on 24 November, an opposition activist was beaten in Minsk while posting Mr. Sannikov's leaflets. The leader of the unregistered civil society organization *Young Front* was detained twice and campaign material for Mr. Statkevich was seized by police.

Some candidates complained about the unsuitability of certain campaign venues allocated by local authorities. In the majority of cases, they successfully challenged the decision. OSCE/ODIHR EOM observed that in rural areas, local authorities applied a more restrictive approach than in the regional centres and in Minsk.

OSCE/ODIHR EOM noted cases of misuse of administrative resources to promote the incumbent. President Lukashenko's campaign, carried out to a large extent through the Fourth All-Belarusian People's Assembly,¹⁴ was the most visible of the ten candidates. In all regions, President Lukashenko's campaign used the offices of *Belaya Rus*, which were generally located in public administrative buildings as his campaign offices.¹⁵ Members of government administration often served on the president's local campaign teams. This practice challenges paragraph 5.4 of the 1990 OSCE Copenhagen Document.¹⁶ Opposition candidates, to the contrary, lacked established structures in the regions and used private facilities for campaign offices.

¹³ Each candidate is allocated state funding of 2,300 "basic units", approximately 19,500 Euro, which is to be used for printed materials. Additionally candidates are entitled to open an individual campaign fund limited to 3,000 "basic units", approximately 25,300 Euro. With the exception of three candidates none received significant contributions.

¹⁴ On 13 October, President Lukashenko signed a decree to convene the Fourth All-Belarusian People's Assembly on 6 and 7 December. The Assembly is a general meeting of the Belarusian government with officials from every sector of the government and industry leaders. The Assembly was designed to provide the president with a forum to report on the achievements since 2006 through 2010, and develop plans for the next five years. Some 2,500 delegates attended the Assembly.

¹⁵ *Belaya Rus* is a Belarusian public association founded on 17 November 2007. Among other things, the program of *Belaya Rus* is designed to "provide consistent assistance to the leadership of the country in prevention, exposure and overcoming of shortcomings in the activities of the state-run authorities." The Minister of Education, currently on leave, is the campaign manager of the incumbent and chairperson of *Belaya Rus*.

¹⁶ Paragraph 5.4 of the Copenhagen Document stipulates a clear separation between State and political parties. On 29 November 2010 the meeting of the incumbent with his proxies held in a governmental building during working hours was broadcasted in the news on *ONT TV*. It was challenged to the CEC as the violation of the Article 73 of the Electoral Code providing for the equal rights of candidates for campaign. However, the CEC did not assess this activity as campaigning (Resolutions no. 158 and no.159, 9 December 2010).

OSCE/ODIHR EOM observed campaign events for the incumbent, which were attended by students, teachers and employees of large enterprises who were, reportedly, encouraged to participate.¹⁷ In several cases, attendees confirmed to OSCE/ODIHR EOM that they were encouraged by their university teachers, directors or heads of ideology departments of enterprises to attend campaign events by the incumbent in exchange for paid time-off. Some attendees also confirmed to have been pressured to cast their vote in favour of the incumbent and to participate in early voting. This practice runs contrary to paragraph 7.7 of the 1990 OSCE Copenhagen Document.¹⁸

As the campaign developed, some opposition candidates called on voters to gather on Oktyabrskaya Square in central Minsk on the evening of election day. On 9 December, the Prosecutor General's Office gave five opposition candidates (Messrs. Nekliaev, Sannikov, Romanchuk, Rymasheuski, and Statkevich) a warning.¹⁹ Two of these candidates were already warned once by the CEC.²⁰ A late statement from the presidential administration that associated opposition and civil society groups with instigating violence on election day was perceived as intimidation by opposition candidates. Before election day the president, the police and the KGB issued similar statements threatening possible protesters.²¹

The Media

The diversity of opinion expressed in the media is limited by state control over nationwide broadcast media and the print media distribution networks. Freedom of expression is guaranteed by the Constitution and a high number of media outlets exist. The expression of alternative views on political developments, however, is limited to a few remaining private newspapers and the Internet.²² The lack of diversity in the media sphere reduced the possibility for voters to make an informed choice during the election campaign. This challenges the provisions of paragraph 7.8 of the 1990 OSCE Copenhagen Document.²³

The Electoral Code guarantees free airtime to candidates on State TV and radio and free space in the state-funded print media. A CEC resolution on media coverage of the election granted one hour of free airtime and five typed pages (one A3 newspaper page) in four national and seven regional newspapers to each candidate.²⁴ One televised debate and one radio debate was aired live for the first time since 1994. The incumbent did not participate in the debates.²⁵

¹⁷ The majority of State employees are employed on one year contract basis.

¹⁸ Paragraph 7.7 stipulates that participating States permit campaigning to be conducted in a fair and free atmosphere and ensure voters cast their vote free of fear of retribution.

¹⁹ The Public Prosecutor based its warning on the fact that the venue has been prohibited for campaigning.

²⁰ On 30 November, the CEC issued a warning to Messrs. Rymasheuski and Statkevich "for violating the order of conducting mass events during election campaign." On 24 November, Messrs. Rymasheuski and Statkevich conducted an unsanctioned rally on the Oktyabrskaya square in Minsk.

²¹ Statement by the incumbent on 16 December 2010.

²² For internet usage in Belarus, identification is required. The recently passed presidential decree no. 60 regulating Internet had, so far, limited impact on the media environment. The estimated number of frequent Internet users varies according to source between 10 and 40 per cent of the population. Some official sources consider the access to internet as high as four million.

²³ Paragraph 7.8 of the Copenhagen Document ensures unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process.

²⁴ CEC Resolution no. 82 of 14 October 2010.

²⁵ Contrary to the provisions of the Electoral Code, however, the two debates were not aired during primetime scheduling. The Electoral Code requires free time and debates to broadcast in the period when TV and radio programmes have the greatest audience. The one hour debate on State TV on 4 December and the one hour debate on State radio on 5 December took place between 17:00 and 18:00. A Novak survey on diary basis of

Some candidates used their limited allocation of free airtime to present their platforms and most criticized the president. Three requests for additional airtime by opposition candidates were denied by the CEC. On 6 and 7 December, the broadcast media aired President Lukashenko's live addresses at the Fourth All-Belarus People's Assembly. *ONT*, *First Channel* and *STV* aired the three-hour speech, with only minor edits, during the evening primetime news.

All candidates, including the incumbent, used their freely allocated space in the print media, but while the incumbent's presentation appeared on the front page of most widely read newspapers, the opposition candidates' platforms were published on inside pages. This practice is in violation of the equal treatment provision stipulated in the Electoral Code.

The results of OSCE/ODIHR EOM media monitoring show that all major TV stations with nationwide coverage demonstrated a clear bias in favour of the incumbent, devoting some 89 per cent of primetime news coverage to his campaign activities and official duties; even recognizing the advantages of incumbency a high figure. Other candidates tended to be mentioned as a group, their names mentioned infrequently, and generally portrayed negatively.

State-owned TV *ONT* devoted some 8 hours and 17 minutes (94 per cent) of news coverage to the president's official activities; all other candidates, together, received a total of 32 minutes. The tone of the incumbent's coverage did not contain any negative reference, while the tone of coverage for other candidates was mostly negative and in some cases neutral. On an irregular basis, *ONT* newscasts featured a five-minute editorial, *Kak Est* (How it is), that discredited opposition candidates. The coverage of the campaign on state-controlled *First Channel*, *Stolichnoe TV (STV)* and *State Radio 1* yielded similar results, with some 89 to 98 per cent for the incumbent in news coverage.

All four state-funded newspapers monitored by OSCE/ODIHR EOM demonstrated clear bias in the president's favour. Notably, *Sovietskaya Belorussia*, the newspaper with the highest daily circulation in the country, devoted 91 per cent of its political and election-related coverage to the incumbent. Private print media coverage varied; *Komsomolskaya Pravda v Belorussii* provided more diverse coverage, *Narodnaya Volia* and *Nasha Niva* gave greater coverage to opposition candidates and sharply criticized the president.²⁶

Participation of Women

The Constitution and the Electoral Code provide for equal gender participation in electoral processes.²⁷ Gender issues did not feature in any of the candidates' manifestos and were not raised during the course of the campaign. No women stood as candidates in this election. Women are, however, well-represented in the electoral administration; the CEC chairperson, 25.8 per cent of TEC chairpersons and 54.6 per cent of PECs chairpersons are women.

April 2009 indicates the greatest audience between 19:00 and 21:00 on weekends. All the free airtime presentations on TV took place between 19:00 and 20:00.

²⁶ While *Sovietskaya Belorussia* has an official daily circulation of 400,000 copies, *Narodnaya Volia* is published twice a week with 23,000 copies and the weekly *Nasha Niva* has a circulation of 6,500 copies.

²⁷ In 2004, the Committee on the Elimination of Discrimination against Women (CEDAW) expressed a concern that the Constitution did not contain a prohibition of discrimination on the basis of sex or an explicit provision on gender equality and that Belarus had not yet adopted a law on gender equality. See: Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1; Working Group on the Universal Periodic Review, Eight Session, Geneva, 3 – 14 May 2010.

Complaints and Appeals

No legal provisions exist for regulating complaints and appeals in a comprehensive manner. Any complainant²⁸ can file complaints with any or all of the following institutions: the election administration, the prosecutor's office, and executive committees. Although timely delivered, complaints were generally not satisfied.²⁹ Altogether, the mechanism for reviewing complaints and appeals fails to ensure proper legal redress, challenging paragraph 5.10 of the Copenhagen Document which was further elaborated in paragraphs 18.2-18.4 of the Moscow Document 1991.³⁰

Before election day, the CEC received 421, the TECs 152 and the PECs 95 complaints, appeals, proposals or requests for clarification. The wording of the Electoral Code allows the CEC to consider electoral disputes in an inconsistent and non-transparent manner. The prosecutor's offices throughout the country received 120 election-related complaints and requests for clarification. In some instances, the prosecutor's offices gave explanation of the electoral legislation or referred complainants to other institutions. In no instance was the complaint satisfied.

The Electoral Code envisages collegiality as a basic principle in reviewing complaints and appeals. The code allows only the CEC chairperson to consider electoral complaints individually but also TEC and PEC chairpersons followed this practice. Few instances were observed by OSCE/ODIHR EOM in which decisions were taken in open plenary sessions, either at the level of the CEC or with lower-level election commissions. Until election day, the CEC only reviewed six cases collegially, while in PECs and TECs, there was variable application of this principle of collegiality.

The Electoral Code unduly restricts the types of decisions that can be appealed to court. CEC decisions can be appealed to the Supreme Court as the court of first instance in only four cases.³¹ The Supreme Court received and reviewed one such appeal on the denial of registration of a candidate, which was dismissed by the court. The legal framework does not have provisions for challenging the election results.

Domestic and International Observers

The Electoral Code provides for domestic and international observation. Representatives of public associations, political parties, citizens' groups, labour collectives, and media outlets have the right to accredit observers, to attend commission sessions and to observe election day proceedings. A CEC decision eased the accreditation of domestic observers to be present at PECs without prior notice.

As of 16 December a total of 27,000 domestic observers registered with CEC, TECs and PECs. The most widely-known domestic election observer organization, *Human Rights Defenders for Free Elections*, deployed a total of 680 observers. Most observers were nominated by non-governmental

²⁸ The Electoral Code recognizes the right of voters, observers, public associations, political parties, as well as candidates, their proxies, and hopefuls to file complaints and appeals to election commissions.

²⁹ All complaints regarding nominations to TECs and PECs were dismissed while few requests regarding campaign venues were granted.

³⁰ Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, 10 September - 4 October 1991. Article 5.10 of the Copenhagen Document establishes that everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity.

³¹ Denial of registration of a candidate; denial of registration of an initiative group; recognition of the withdrawal by a candidate for the position of the President without valid causes; and recognition of the election as invalid.

organizations supporting the incumbent.³² The CEC accredited a total of 1,032 international observers including those from the OSCE/ODIHR, the OSCE PA, the CIS and the CIS PA.

Early Voting

The Electoral Code foresees a five day Early Voting period. Recent amendments to the Electoral Code introduced a requirement to complete and display a voting protocol at the end of each day of Early Voting at the polling station (PS). In addition to the overnight sealing of ballot boxes, the CEC decided that ballot boxes should be sealed during the two hour break between the two daily voting sessions. However, a proposal to allow observers to remain at polling stations over night with the designated police guards was rejected by the CEC.

Prior to the Early Voting period, OSCE/ODIHR EOM observers reported cases of senior officials urging their subordinates, in many cases students, to vote early in exchange for time off.³³

The CEC reported that a total of 23.1 per cent of the estimated number of voters cast their vote during the Early Voting. The OSCE/ODIHR EOM observed the last three days of this process in a systematic manner throughout the country. In total, 2,235 report forms were recorded. In general, the early voting was conducted in an orderly manner with at least two PEC members present (minimum required by law). Largely, PEC members co-operated with OSCE/ODIHR observers. However, in 9.7 per cent of observed polling stations, observers were restricted in monitoring the procedures. In 6.8 per cent of observed polling stations, unauthorized persons were present and in some cases, interfered in the work of PECs.

OSCE/ODIHR observers reported that PEC members did not have a clear understanding of how to fill out the early voting protocols. Some inserted cumulative figures of votes cast, while others inserted the figures by each day. Almost all OSCE/ODIHR observers noted the poor quality of ballot boxes, which varied in format. The bad quality of seals and the lack of special security features on ballot papers were reported. In some cases, ballot boxes were not properly sealed or the seal was not intact.

Election Day

Polling stations opened on time without major procedural shortcomings. While the voting process was assessed as good to very good in 94.2 per cent of observed PSs, observers evaluated the transparency of the process as average to very bad in 11.2 per cent. International observers were restricted in their observations in 9.3 per cent of observed PSs. In some cases, PEC members were not fully co-operative.

Things changed during the vote count, with observers assessing the overall conduct of counting as bad to very bad in 46 per cent of observed PSs. The count was largely conducted in a non transparent manner, generally in silence, which undermined its credibility. Observers did not have a real opportunity to observe the counting in 32 per cent of the observed PSs and they were restricted in 66 per cent of PSs. In some cases, unauthorised persons directed the count and official results

³² Of the 39,096 domestic observers accredited until 19 December a total of 20,715 were nominated by non-governmental organizations supporting the incumbent (Federation of Trade Unions of Belarus, Belarusian National Youth Union, Belaya Rus, Belarusian Public Association of Veterans, Belarusian Union of Women).

³³ OSCE/ODIHR observers reported cases when the heads of ideological departments of relevant institutions urged employees and students to vote during Early Voting period and to vote in favour of the incumbent. For instance, in Mogilev region, Slutsk, Rechitsa and Minsk.

protocols were pre-signed by PEC members. Observers noted indications of ballot stuffing in 14 cases. The observed procedures did not ensure a transparent and accountable vote count and were not in line with paragraph 7.4 of the OSCE Copenhagen document.

The tabulation of results at TECs was well organized, but some observers were restricted in their observation and did not have a clear view of the process. In some cases, observers reported that the figures recorded in the results protocol at the PEC were different upon arrival at the TEC.

During the course of election day and night, OSCE/ODIHR EOM received credible reports on an increasing number of detentions and arrests throughout the country. Some 400 people, were detained on different charges across the country, among them candidates, activists, journalists and civil society representatives. Some presidential candidates were beaten up and the whereabouts of some are unknown. The events following election called into question the government's adherence to the fundamental principle of freedom of assembly which constitutes an integral international election standard as stipulated in paragraph 9.2 of the OSCE 1990 Copenhagen Document.³⁴ A number of prominent international websites including *Gmail*, *Hotmail*, etc. as well as several Belarusian websites including *charter 97.org*, *euroradio.by*, *gazetaby.com*, *zapraudu.info* were not accessible in Belarus during election day.

***The English version is the only official document.
However, this statement is also available in Russian and Belarusian.***

MISSION INFORMATION & ACKNOWLEDGEMENTS

The OSCE/ODIHR Election Observation Mission opened in Minsk on 15 November with 14 experts in the capital and 40 long-term observers deployed throughout Belarus. On election day, 452 observers were deployed, including a 63 member delegation from the OSCE PA. In total, there were observers from 44 OSCE participating States. The process of early voting, which commences five days prior to election day, was observed in 860 polling stations. On election day, voting was observed in over 960 polling stations out of a total of 6,390. Counting was observed in 162 polling stations, while the tabulation process was observed in all 155 TECs.

Mr. Tony Lloyd (United Kingdom), Head of the OSCE PA Delegation, appointed by the OSCE Chairman-in-Office as Special Co-ordinator, led the short-term observer mission. Ambassador Geert-Hinrich Ahrens (Germany) is the Head of the OSCE/ODIHR Election Observation Mission.

The observers wish to thank the Minister of Foreign Affairs of the Republic of Belarus for the timely invitation to observe the election, the Central Election Commission for its co-operation and for providing accreditation documents, and other State and local authorities for their assistance during the course of the observation. The observers also wish to express their appreciation to the OSCE Office in Minsk and to embassies and international organizations accredited in Belarus for their co-operation and support.

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³⁴ CEC stated that as of 20:00 the Law on Mass Events rather than the Electoral Code applied and that prior permission for such meetings was necessary.