



INTERNATIONAL LIMITED ELECTION OBSERVATION MISSION 2001 PRESIDENTIAL ELECTION IN THE REPUBLIC OF BELARUS

STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

Minsk, 10 September 2001 — The International Limited Election Observation Mission (ILEOM) for the 9 September 2001 presidential election in the Republic of Belarus is a joint effort of the Organization for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and the Parliamentary Troika composed of the OSCE Parliamentary Assembly (OSCE/PA), the Parliamentary Assembly of the Council of Europe, and the European Parliament.

Mr. Kimmo Kiljunen MP (Finland), Vice-president of the OSCE PA, was designated by the OSCE Chairperson-in-Office as Special Coordinator for the OSCE Limited Election Observation Mission to Belarus. Mr. Stef Goris MP (Belgium) leads the Parliamentary Assembly of the Council of Europe delegation. Mr. Jan Wiersma MP (Netherlands) leads the European Parliament delegation. Mr. Hrair Balian heads the OSCE/ODIHR Limited Election Observation Mission.

Regrettably, due to a delayed invitation by the authorities of Belarus, the OSCE/ODIHR had to limit its observation to the last three weeks of the electoral process only. The delay was in contravention of commitments as a participating State of the OSCE, formulated *inter alia* in the 1999 Istanbul Summit Declaration and the 1990 Copenhagen Document. In addition, the authorities arbitrarily denied visas to two key members of the long-term observation team.

PRELIMINARY CONCLUSIONS

The 2001 presidential election process in the Republic of Belarus represented an important opportunity to assess the development of democracy and civil society in the country. As such, this election will influence the future relations between Belarus and the international community, including the European institutions.

The ILEOM undertook its monitoring mission on the basis of international standards for conduct of democratic elections as formulated by the OSCE and the Council of Europe. The ILEOM confirmed the importance of the four criteria established in 2000 by the Parliamentary Troika as the benchmarks for democratic elections and the main conditions for the ongoing democratisation process in Belarus:

- Transparency of the election process,
- Access of opponents to the state-run mass media,
- Non-discrimination of political opponents, and
- Meaningful functions and powers for the parliamentary body.

There were fundamental flaws in the electoral process, some of which are specific to the political situation in Belarus, including:

- A political regime that is not accustomed to and does everything in its power to block the opposition;
- Executive structures with extensive powers, including rule by presidential decree, that are not balanced with commensurate legislative controls, and that allow the arbitrary changing of the electoral environment;
- A legislative framework that still fails to ensure the independence of election administration bodies, the integrity of the voting results tabulation process, free and fair campaign conditions, and imposes excessive restrictions for campaigning and observers;
- The legal provisions for early voting do not guarantee the proper control and counting of early votes;
- An election administration system that is overly dependent on the executive branch of government from the national to the local community levels, and is partial;
- A campaign environment seriously to the disadvantage of the opposition candidates;
- A campaign of intimidation directed against opposition activists, domestic observation organizations, opposition and independent media, and a smear campaign against international observers; and
- Highly biased State-controlled media and censorship against the independent print media.

During the last year and on the occasion of the 2001 presidential election, some positive features were noted in Belarus, in particular as regards the democratic awareness of the people. These changes may constitute hope for further improvement. These positive elements are the following:

- An emerging civil society mobilized and deployed many thousands of domestic observers, including those favorable to the government; it was however profoundly regrettable that a few thousand of these observers had their accreditation revoked;
- The democratic forces of the opposition were able to overcome their differences and jointly contest the election, being an expression of greater and maturing political and democratic awareness;
- With three candidates competing in the presidential election, voters in Belarus were offered a genuine political choice, although the restrictive campaign regulations and practices made it extremely difficult for the voters to be fully informed about the alternatives;
- With the help of international experts, improvements have been made in some areas of the legislative framework for elections;
- The administrative preparations were conducted well from an organizational point of view; the legal terms for the formation of electoral commissions and the registration of candidates were respected within the existing legal framework; and
- Voting on 9 September was in accordance with the legal provisions and orderly.

The international community is especially concerned about explicit threats made recently by highest government representatives against the opposition and independent media and activists. Developments in this area will remain under special international scrutiny.

On the basis of these observations and without taking into account the outcome of the election, the ILEOM concludes:

- 1. The 2001 presidential election process failed to meet the OSCE commitments for democratic elections formulated in the 1990 Copenhagen Document and the Council of Europe standards.**
- 2. The ILEOM welcomes and acknowledges the emergence of a pluralist civil society, being the foundation for the development of democratic political structures, representing all segments of the population.**
- 3. The isolation of the country is not in the best interest of the Belarus people and is not conducive to strengthening democratic development.**

The ILEOM emphasized the great contribution to the process of democratic awareness made by the OSCE Advisory and Monitoring Group and its Head of Mission. This work should continue as such.

Taking into account that the development of civil society and its political structures based on grass-root democracy represents the basis of a strategy for bringing Belarus up to European democratic standards – having its origin within Belarus society itself, the ILEOM considers that:

- The credit for those developments could not go to the current presidential leadership but to the Belarus civil society and democratic structures;
- The Belarus authorities should to overcome the deficiencies of the electoral process and fulfil the obligations to implement the OSCE commitments and Council of Europe standards since these deficiencies put doubt on the democratic character of the election outcome;
- The strengthening of the democratization process must continue with a view to reintegrating Belarus and its people in the European system of standards and values.

Furthermore, the ILEOM regrets that the policy of the Belarus authorities as regards basic democratic structures and respect for fundamental human rights and values has greatly contributed to the current degree of isolation of the country and its people. The international community at its highest political level should reassess its policy towards this country bearing in mind both the existing democratic deficit as well as the positive trends indicating a more pluralistic political environment in Belarus. The democratic deficit should not result in the isolation of the people of Belarus, but rather in a renewed effort to help its democratic development.

This process of reassessment must be carried out in order to define strategies for the development of a fully functioning civil society and democratic political structures in Belarus. The institutions represented in the ILEOM are prepared to continue to give further assistance to the promotion of a constructive dialogue across the political spectrum of the civil society, and between the authorities and the international community with a view to facilitate the process of democratic transition and integration in European structures.

PRELIMINARY FINDINGS

Background

Presidential and parliamentary elections were held in the Republic of Belarus in 1994 and 1995 respectively under a new Constitution adopted in 1994 providing for parliamentary democracy and political pluralism. After President Lukashenko's election in 1994, the powers of the parliament (Supreme Soviet) declined in tandem with a steady strengthening of executive powers, and a practice of governing by presidential decree. Following a referendum in 1996, the President's powers were further broadened and his term of office extended until 2001.

The 1994 Constitution was amended as proposed in the referendum despite a Constitutional Court ruling that the referendum was not binding. The Supreme Soviet was transformed into a bicameral parliament, consisting of a House of Representatives made up of 110 deputies and a Council of Republic consisting of 69 members. The members of the House of Representatives were chosen from among the 199 members of the Supreme Soviet of the 13th Convocation. Some of the Members of Parliament (MP) refused to join the new parliament and continue to consider the 13th Supreme Soviet as the only legitimate parliament.

In 1997, the Council of Europe suspended the Republic's guest status in the organization. The OSCE Parliamentary Assembly continued to recognize the MPs from the 13th Supreme Soviet as the legitimate representatives of the country's parliament.

The October 2000 elections to the 110-seat House of Representatives were the first parliamentary elections in Belarus since the disputed referendum of 1996 and the subsequent constitutional controversy. They followed a year of intense domestic and international activity that sought to create the conditions for democratic elections.

In August 2000, the OSCE/ODIHR, the OSCE Parliamentary Assembly, the OSCE Advisory and Monitoring Group (AMG), the Council of Europe, the European Parliament, and the Inter-Parliamentary Assembly of the Commonwealth of Independent States met in Vienna to review the conditions for democratic elections in Belarus. They concluded that the Belarus authorities had not made enough progress to justify the presence of a full election observation mission. However, the conference concluded the improvements and changes that had been made in the legal framework of the elections justified the deployment of an OSCE/ODIHR Technical Assessment Mission (TAM), excluding any observation on election day.

The TAM found that the parliamentary elections in Belarus failed to meet international standards for democratic elections, including those formulated in the 1990 Copenhagen Document of the OSCE. Despite some improvements since previous elections, the process remained flawed. Representatives of the newly elected Parliament and the 13th Supreme Soviet competed for recognition by the OSCE Parliamentary Assembly. However, the OSCE PA decided to leave the Belarus parliament's seats in the assembly vacant and to reconsider the decision after the presidential election.

On 7 June 2001, the House of Representatives of Belarus called for a presidential election on 9

September 2001. In early July, another meeting convened by the OSCE Chairmanship, with the participation of the OSCE/ODIHR, the OSCE Parliamentary Assembly, the OSCE/AMG, the Council of Europe, the European Commission, the European Parliament, and the US-based National Democratic Institute (NDI) recommended that the OSCE/ODIHR establish a full observation mission for the 9 September presidential election in Belarus, including the deployment of short-term observers for election day. On 9 July, the OSCE/ODIHR communicated its intentions to observe the presidential election to the Belarus Ministry of Foreign Affairs (MFA). In subsequent communications with the MFA, the OSCE/ODIHR reiterated that it was prepared to deploy the full observation mission on 1 August.

Development of Civil Society

In connection with the presidential election, civil society in Belarus showed encouraging and significant signs of substantive engagement by citizens on democracy issues.

Non-governmental organizations cooperated closely in order to set up a countrywide network of independent election observers. More than 10,000 such observers were registered by the non-governmental organizations cooperating under the umbrella group “Belarus Initiative – Independent Observation”. Thousands more were registered on behalf of other candidates and non-governmental organizations.

For years, several political parties of the opposition cooperated within the framework of an “Advisory Council”. In 1999, they negotiated with the authorities on limited democratic reforms involving the opposition’s access to the media, the functions of the Parliament, a legal framework for democratic elections, and the respect of human rights. First results were achieved in November 1999, but abandoned by the authorities shortly thereafter. Nonetheless, these events enabled the opposition to develop a political culture of cooperation and a capacity to compromise.

After in-depth discussions on the issue of participation or boycott in the parliamentary elections, the opposition divided. Nevertheless, unity was reestablished in 2001 for the presidential election. Thus, a large number of political and social groups initiated the establishment of a coalition in support of a single candidate for the presidential election, and eventually achieved this goal. They agreed to introduce five candidates initially in order to ensure the registration of at least one. They also agreed that those of the five registered would then pick a single candidate to represent them and the others would withdraw their candidatures.

In conclusion, the emergence of a genuine choice for citizens and the emergence of a coalition of political and social forces constitute a strong indication for the maturing of democratic forces capable of shouldering public responsibility on all levels of government and legislation – local, regional and central.

Delayed Observation and Visa Denials

The Belarus authorities delayed the invitation to the OSCE/ODIHR to observe the presidential election by several weeks and then further delayed issuing visas to members of the observation team. As a result, the OSCE/ODIHR could not start the deployment of the long-term team until 17 August. This prevented the OSCE/ODIHR from observing critical early phases of the election

process and forced it to deploy a Limited Election Observation Mission (LEOM) rather than a standard, full, and in-depth mission.

The delayed invitation prevented the OSCE/ODIHR from fulfilling its mandate to observe the entire electoral process – “before, during and after elections” (Budapest Concluding Document, Chapter VIII, par. 12, 1994; and Istanbul Summit Declaration, par 26, 1999). The OSCE/ODIHR was prevented from observing: (1) the formation of election commissions; (2) the signature gathering for candidates; (3) the candidate registration and the complaints and appeals thereafter; and (4) the first week of a four-week election campaign and media coverage.

In addition, two members of the LEOM were denied visas and entry into the country.

The OSCE/ODIHR is aware of the sovereign right that States have to control entry into their territory. However, in order to fulfil its mandate as an independent institution, the OSCE/ODIHR must be able to determine the size, composition and duration of its election observation missions without undue interference from States.

In contrast to the delayed invitation and visa denials by the MFA, all observers of the ILEOM were promptly accredited by the Central Commission of the Republic of Belarus for Elections and the Conduct of Republican Referenda (CEC). In addition, the MFA granted all visa requests for short-term observers.

Legal Framework

The Constitution of the Republic of Belarus, the Electoral Code, other legislative acts governing election-related activities, presidential decrees, and decisions of the CEC constitute the legal basis for the presidential election. The Constitution provides that generally accepted principles and norms of international law supercede national laws (Article 8).

Article 79 of the Electoral Code provides that a candidate is elected if more than half of citizens included in the voter register take part and if the candidate wins more than half of the votes cast. Otherwise, a second round takes place not later than within two weeks between the two candidates with the highest votes. The same requirements apply to the second round and the process is repeated until the two conditions are met.

The Electoral Code was adopted in February 2000 and amended in July of the same year, shortly before the parliamentary election. Some shortcomings detailed in earlier OSCE/ODIHR reports were remedied, but other more fundamental flaws were not changed.

The Electoral Code may provide for democratic elections if it is not interpreted in a restrictive spirit. The CEC has the right to explain the Electoral Code and other election-related legislation for the purpose of their uniform implementation (Article 33). On 15 June 2001, the Constitutional Court, interpreting liberally the Constitution’s Article 80 provision for “citizen of the Republic of Belarus, permanently residing in Belarus” and acting upon a request from the CEC, ruled that there was no constitutional bar for the CEC to register the initiative group of Zenon Poznyak for the presidential election, even though Poznyak has lived abroad for the past three years.

The problematic and fundamentally flawed aspects of the legislative framework include:

- **Rule by Presidential Decree** – although the Constitution (Article 101, par. 3) generally permits the President to issue decrees in “instances of necessity and urgency”, as illustrated by Decrees No. 8, 11, and 20, such decrees fall short of the intent of the constitutional provision when the President is also a candidate and the decrees impact the electoral process, in particular by restricting the rights of other participants in the process – namely political parties, potential candidates, and public associations.
- **Insufficient provisions to ensure the integrity of the voting and no transparency during the tabulation of results** – overly permissive early voting provisions; absence of separate accounting for the early and mobile voting; and the complete absence of polling station level details to substantiate the vote tabulation results at the territorial, oblast, and CEC levels.
- **Restrictive provisions for observers** – a prohibition to hold press conferences before election day is over; no right to accompany result protocols during transport to higher level commissions; no right to approach the work area where ballots are handed to voters, their identification checked, the voter register marked, and no right to periodically inspect the voting booths.
- **Restrictions on free and fair campaigning** – excessive campaign regulations that restrict candidates’ ability to reach voters and that stifle public debate during the electoral process. Presidential Decree No 11 (7 May 2001) introduced additional limitations on the freedom of expression. Thus, political parties, trade unions, and other organizations may only organize demonstrations with an expected turnout over 1,000 with prior permission from the head of oblast or the city of Minsk executive committee. The organizing party or trade union may be disbanded for a violation of this Decree.
- **Limited opportunities to challenge CEC decisions** – The Electoral Code stipulates that only a limited number of CEC decisions may be appealed to the Supreme Court: the denial of registration of a nominated candidate, acceptance of the withdrawal of candidate without valid cause, and the invalidation of elections. In addition, the time frame for appeals is short, e.g., appeal on invalidation of elections shall be lodged with the CEC not later than the day following the elections.
- **Independence of electoral commissions not ensured** – The Code does not ensure sufficient institutional independence of the CEC and lower commissions from executive bodies. The Code provides that executive authorities should support the election commission in their work (Article 38). The executive authorities have instead attempted to direct the work of the electoral commissions.

Election Administration

The election is administered through a pyramid structure of election commissions, beginning with the CEC and descending down through the Territorial Election Commissions (TEC) of oblast and Minsk City level (7), then rayon (region), city and city district level (161), and thereafter to the Precinct Election Commission (PEC - polling station) level (6,753). From an organizational point

of view, the preparations for the election were conducted well, respecting the legal terms for formation of the commissions, registration of candidates, and voter registration.

The Law on the Central Commission of the Republic of Belarus for Elections and Republican Referenda (30 April 1998) established the CEC as an independent body. Through its resolutions and decisions, the CEC provided for the uniform application of the Electoral Code. However, the CEC declined to issue regulations, instructions or decisions to improve some of provisions of the Electoral Code that were problematic during the parliamentary election in October 2000 – e.g., early voting, tabulation of results, the rights of observers. An exception is the mobile voting process that was improved.

The LEOM received notice to attend only three out of the five meetings of the CEC held during the three weeks leading to election day. However, regular contact was maintained with the CEC and its staff. Although the election commissions have generally responded to inquiries from the LEOM, detailed information about the composition of the lower level commissions has been difficult to obtain. Based on information available for 30 out of 161 territorial, rayon, town and town district election commissions and for all six oblast and Minsk City election commissions. A quantitative analysis shows almost 81% of members are closely associated with or dependent on the executive administration (the so called “vertical structures”).

The CEC has provided the following information on the composition of election commissions:

- 168 TECs – 2,179 members (1,094 women – 50.02%), of which only 67 were nominated by political parties;
- 6,753 PECs – 78,407 members (50,616 women – 64.56%), of which only 172 were nominated by political parties.

The LEOM was not yet deployed when these commissions were nominated and appointed. However, from complaints filed by citizens and associations as well as from the limited statistical data presented above, it becomes clear that the appointment process can hardly be described as balanced. The Electoral Code failed to ensure the representation of various political interests in the commissions.

The Electoral Code provides for the independence of the election administration from the State and local administration (Art.11), and for clear distinction between the role of the election commissions and the supporting role of the local executive. The latter’s role is limited to providing premises for the commissions and logistic support, to create conditions for the normal conduct of the campaign by candidates. etc.. In order to secure better co-ordination the Electoral Code provides for the bodies appointing the commission to have a representative member (Art.35). However, instead of the prescribed supportive role, the local executives were “supervising” the work of the commissions. This “closeness” is always explained with practical and operational reasons.

Registered Voters

The total number of voters registered for the election is 7,221,434 (as of 4 September). They will cast ballots in 6,753 polling stations throughout Belarus and 37 abroad. The voters are nearly evenly distributed throughout the country, with the largest region, Minsk City, only 5% greater in number of resident voters than the smallest.

The legislative provisions and CEC regulations for the compilation of voter registers do not provide comprehensive guarantees that each voter is included in the voter list of only one polling station.

The LEOM was informed by the CEC that the number of printed ballots exceeds the size of the electorate by approximately 7%. The order to the printing house was prepared on the basis of the requests of oblast and Minsk City election commissions.

Candidate Registration

Initiative groups of 22 candidates were registered by the CEC to collect the required 100,000 signature petitions. Eventually, 16 presented candidate petitions for approval by rayon, city, and city district commissions. While the failure of the Belarus authorities to invite the OSCE/ODIHR promptly prevented the LEOM from observing the entire candidate registration process, the LEOM reviewed the complaints regarding the signature gathering process and found allegations about: (1) unauthorized local officials involved in registration of signature sheets, (2) petitioning among employees of State enterprises, (3) observers not allowed to monitor the petitioning process, and (4) obstacles to petitioning. In the case of the first allegation, the CEC found for the complainant and addressed the relevant TEC. The last case was referred to the Prosecutor's Office. In the case of the remaining allegations, the CEC found insufficient evidence.

In the end, four candidates were registered by the CEC on 14 August: the incumbent, President Aleksandr Lukashenko; Vladimir Goncharik; the current head of the Federation of Trade Unions of Belarus and the former governor of Grodno Oblast ; Semion Domash: and the leader of the Liberal Democratic Party, Sergey Gaidukevich. In keeping with an agreement forged between a broad coalition of opposition parties, associations and NGOs, Semion Domash withdrew his candidacy on 22 August in favor of Vladimir Goncharik, the joint or “single democratic candidate”. Only the remaining three appeared on the ballot paper. Thus, a genuine choice is available to voters in Belarus in this election.

The controversial Presidential Decree No 20 regarding the income and property declaration of candidates and their relatives was not used to disqualify candidates.

The Campaign

The rigid restrictions imposed on candidates by the existing legal and administrative framework, together with the Constitutional powers granted to the incumbent, made for a skewed political contest. Each candidate is entitled to the equivalent of approximately \$12,500 in funds provided for the campaign by the State. They are not allowed to use funds other than those contributed to

the common election fund and distributed equally among candidates. Presidential Decree No. 11 further limited candidates' opportunity to organize public mass meetings with supporters.

The official campaign began immediately after candidates were registered on 14 August. In the latter stages of the campaign, a small number of events were organized, in particular by the incumbent on 4 September in Minsk (approximately 2,500 attending), and by Goncharik on 3 September, also in Minsk (approximately 3,000 attending). Both Goncharik and Gaidukevich held smaller meetings/rallies in regional centers, where in some cases the authorities turned a blind eye to the requirement of prior approval. Otherwise, there was little evidence of any substantive campaign either in Minsk or in the regions. Supported by State institutions and the State-owned mass media, candidate Lukashenko dominated the election campaign.

The tone of the campaign became increasingly fraught and negative as the electoral period approached. Goncharik repeated warnings of early-voting fraud, the danger that his campaign manager would be arrested and that his candidacy itself was in danger of being curtailed by a CEC ruling for alleged abuses of the Electoral Code. Similarly, the President threatened to expel the OSCE Advisory and Monitoring Group Head of Mission, and accused "countries with mature democracy" of an "onslaught" on Belarus, holding back economic performance. Some public statements by senior officials in the election administration structure at the very least created a perception of biased election commissions, i.e., CEC Chairwoman Yermoshina's characterization that any potential defeat of the incumbent would be "a personal tragedy" for her.

During the weeks leading to the election, there was little if any visible evidence of public display of materials for mobilizing supporters. Posters were restricted to a limited number of approved sites, and otherwise routinely removed either by the cleaning services or, as claimed by the opposition political parties, by members of the security forces. However, a public information campaign sponsored by the CEC featuring politically neutral posters and TV spots informed voters on election procedures.

The LEOM was also deeply concerned about the level of harassment of political opposition and domestic monitoring groups. Specific incidents of seizure of office equipment and campaign materials, frequent tax inspections, and detentions of those found in possession of materials deemed slanderous of the President were recorded. These incidents had a chilling effect on an already minimal level of public campaigning.

There was a considerable increase in the number and variety of public opinion polls immediately prior to the 30 August legal ban on the publication of opinion poll results. The polls reflected a wide divergence between information sources available for the public in the mass media. Those issued in State-owned publications, such as *Narodnaya Gazeta* on August 30, indicate an "assured victory of A. G. Lukashenko in the first round (65-70%)". Conversely, polls attributed to opposition or independent sources indicated a much closer race.

The Media

The State-owned outlets dominate both the broadcast and print media in Belarus. State-owned radio and TV are the major source of information on political developments. Other broadcast media exercising significant impact, such as Russian TV channels, and some private FM stations,

did not provide voters with sufficient information on the electoral process, except for the last week of the campaign. The only alternative sources of political information were the independent print media. However, they were handicapped with higher prices than those charged to the State media and limited distribution, often making them unattainable for most sections of the public.

The CEC's Supervisory Board on Information Disputes is mandated to address all disputes related to media conduct during the campaign. They addressed a number of complaints filed by the opposition candidates concerning unequal conditions. According to information provided to the LEOM by the CEC, only one of the complaints related to candidates' presentations was decided in favor of complainant Gaidukevich. He had lodged a complaint about an interview with Vladimir Zhirinovsky MP (Russian Federation) broadcast on TV BT (Belarusian Television) and published in the State-owned newspaper *Narodnaya Gazeta*. In the interview, Zhirinovsky accused Gaidukevich of many misdeeds. On 27 August, the CEC Supervisory Board accepted Gaidukevich's complaint and ordered TV BT and *Narodnaya Gazeta* to provide the candidate free airtime and newspaper space to refute the allegations. Instead of complying with the CEC decision, TV BT rebroadcast the interview on 28 August, thus making a mockery of the CEC decision.

The independent media have been under economic and legal pressure since the beginning of the campaign. Noteworthy was the temporary closure of the "Magic" printing house, which prints national and regional independent newspapers. Magic was reopened a few days later, but with a new director more sympathetic to the authorities who then undertook actions akin to censorship. The LEOM has documented more than 20 incidents of violations involving the freedoms of expression and information regarding the independent or opposition media during the pre-election period. These ranged from repeated tax inspections, to the seizure and theft of computer equipment, confiscation of newspaper issues, closing of editorial premises, editorial interference akin to censorship, and the detention of journalists.

On 4 September, during public meeting in Minsk with 2,500 supporters from across the country, President Lukashenko was reported to have issued the following threat: "... perhaps, we must have patience. In case we shut somebody down now.... They are asking for it ... from Wieck to yellow papers. We should not do it now. We will call them to account after the elections...."

The LEOM monitored four television and one radio stations, and eight print media outlets as follows: State owned TV BT (Belarusian Television); State owned radio BR1 (1st Channel of Belarusian Radio); three Russian TV channels ORT (Public Russian Television), RTR (Russian Tele-Radiocompany), and NTV (Independent Television); four State-owned newspapers *Sovietskaya Belorussiya*, *Respublika*, *Zviazda*, and *Narodnaya Gazeta*, four independent newspapers *Narodnaya Volya*, *Nasha Svaboda*, *Belorusskaya Delovaya Gazeta*, and *Komsomolskaya Pravda v Belorussii*.

The legal requirement for the provision of free and paid airtime as well as newspaper space for all candidates equally to reach their supporters, a positive element of this electoral process, was met. President Lukashenko chose not to use the one hour of pre-recorded time available on State television to all candidates. On 5 September, the largest State-owned newspaper *Sovietskaya Belorussiya* printed President Lukashenko's campaign platform for the second time, almost doubling the print run from 350,000 to 629,000. The newspaper was distributed free in Minsk.

The LEOM monitoring shows a high degree of coverage of President Lukashenko by the State media, predominantly in positive tone. Most State-owned newspapers and TV only mention the other candidates sparingly and then often in negative terms. The opposition candidates receive coverage in a limited number of opposition-oriented newspapers. As such, voters were deprived of the opportunity to receive from the mass media sufficient information about all candidates.

Observers

An umbrella group, “Belarus Initiative – Independent Observation” (IO), mobilized more than 10,000 domestic observers to monitor the presidential election. Another group of NGOs lead by the Belarusian Patriotic Union of Youth (BPSM) and supported by the Republican Coordination Council (RCC) also registered thousands of observers.

During the final stage of the pre-election period, allegations were made by the Ministry of Justice against “Viasna”, one of the leading NGOs in the “Independent Observation”, regarding violations of observer nomination procedure. “Viasna” and seven other NGOs received warnings about these alleged violations. During a CEC session on 8 September that examined these cases, the “Viasna” Chairman offered to remedy the problem by the same evening, but the offer was rejected. As a result, some 2,000 “Viasna” observers’ accreditation were annulled by the CEC. Nonetheless, two other NGOs were granted time until the same evening to remedy a similar problem.

The group “Belarus Initiative – Independent Observation” initiated a parallel vote tabulation (PVT) of the election results based on a representative sample of 500 polling stations. A widespread misunderstanding as to what a PVT exercise entails led to open hostility on the part of the authorities. The methodology was characterized either as an abstract, and less than scientific experiment with no bearing on the actual process of the count, or, at the more extreme limits of discourse, as “charlatanism” and a precursor to widespread public disorder. The latter quote is attributed to the CEC Chairwoman.

The Ministry of Justice intervened in the process by issuing a series of public statements that exit polling is illegal under the Electoral Code. The Ministry has confused the concept of PVT with that of exit polling and, in so doing, runs the risk of creating serious abuses of observer rights on 9 September. The Electoral Code provides for observers to be present at the vote count, familiarize themselves with the result protocols, and make a copy of the protocol with their own means. While the election commissions are the only bodies legally entitled to count ballots and declare official results, there is nothing in the Code that prevents observers from tabulating results from polling stations observed, aggregating them at the district and oblast levels and thereafter declaring the outcome of their tabulation. Given the concerns about the PVT, the LEOM urged the authorities of Belarus to render a PVT redundant by publishing not only the total tabulated voting results, but the worksheets used in the tabulation process to justify those total results with polling station level details. Such transparency could provide the level of confidence among observers and the voters of Belarus to make a PVT unnecessary.

Article 13 of the Electoral Code and a CEC resolution dating from 8 June 2001 define the rights of domestic and international observers. One of the provisions of this legal framework unjustifiably

restricts the ability of international observers to hold press conferences or to provide comments to the mass media on *inter alia* the legislative framework for this election prior to the 9 September election day. Other unjustifiable restrictions, such as the Art. 13 provision that “observers are not entitled to ... be present next to ballot-issuing desks, polling booths or ballot boxes”, will hamper the ability of the LEOM to observe the election day proceedings effectively.

Election Disputes, Complaints & Appeals

The Electoral Code contains various provisions recognizing the right of voters, observers, as well as candidates, their proxies, and initiative groups to file complaints against violations of the Electoral Code and appeal certain decisions of election commissions. While individuals may file complaints with electoral bodies to a limited extent, not all types of complaints may be appealed to a court of law. For example, election commission decisions on complaints by observers alleging violation of the Electoral Code during elections and the vote tabulation may only be appealed to a relevant or superior election commission or to the Prosecutor’s Office.

The LEOM has reviewed 136 complaints and communications filed with the CEC. The LEOM also reviewed copies of about 70 complaints and communications filed with lower election commissions, as well as the Prosecutor’s Office at the local, regional, and national levels prior to election day. These complaints and communications were obtained from domestic observers, human rights organizations, individual voters, candidates or their proxies, and the OSCE AMG. By 9 September, the AMG has received more than 300 complaints. In general, the complaints and communications reviewed were initiated in response to alleged violations of the Electoral Code during the formation and work of election commissions, including complaints related to the access of domestic observers, unauthorized campaigning and use of campaign materials, or issues involving the media. In virtually all cases in which the CEC responses were available to the LEOM, the CEC found either no violation or insufficient facts to warrant consideration. For the most part, the CEC responded to these complaints within the required three days or within ten days if the alleged facts required verification. Many of the CEC’s responses merely cited the legal provision upon which its decision was based, seldom issuing fully reasoned decisions.

Complaints involving observer access to meetings of election commissions were routinely rejected. In a number of complaints, observers allege that election commissions failed to provide notice of sessions. The CEC found that electoral bodies had acted in accordance with the law. For example, in response to complaints in both Mogilev and Brest oblasts filed with the CEC on 1 and 2 August, alleging that the district election commissions violated the right of observers by not allowing them in the electoral commission sessions, the CEC ruled that observers only have the right to be present during official sessions of the election commissions, not during the processing of documents.

Early Voting

Permissive legal provisions for casting early votes open the electoral process to possible manipulation. Article 53 of the Electoral Code required no justification, documentary or otherwise, for citizens to vote early. The early voting provisions extended the 9 September election to a six-day process. Early voting could take place in all polling stations across the country and in the presence of a minimum of only two election commission members, though

observers could also be present. At the end of each day of early voting, no protocols were prepared, and the ballot boxes sealed and stored overnight. However, polling stations are not provided with unique seals and no specific instructions were issued by the CEC for securing the ballot boxes overnight. At the conclusion of voting on 9 September, the early, mobile and regular polling ballot boxes are required to be opened separately, and the votes counted and noted in a working protocol. The working protocols are not available to observers. Only the totals from all boxes are entered in the final and official polling station protocols available to observers. These final protocols include no information on the total number of ballots found in each of the early, mobile and regular voting boxes.

The ILEOM observed the early voting in more than 600 polling stations across the country where the average turnout was 18%. In Grodno Oblast, 17 polling station observed had a turnout of more than 30%. At the conclusion of early voting on 8 September, the CEC announced that the turnout was 14.7%.

In almost 90% of polling stations visited by the ILEOM, the back of ballots was signed in advance by commission members in violation of the Electoral Code. Domestic observers were not present in 49% of polling stations visited. In 45% of polling stations observed, unauthorized persons were present, in an overwhelming majority of cases (93%) police.

Election Day & Vote Count

The ILEOM observed more than 1,000 polling stations on 9 September. The following comments are based on about 80% of these polling station reports processed. However at the time of writing this statement, the ILEOM had not processed narrative comments on the reports submitted.

International observers assessed the conduct of the voting “good” or “excellent” in 70% of polling stations visited. In 86% of polling stations visited, voters were asked for identification documents, voters signed the register properly in 87% of cases, and the secrecy of the voting was respected in 79%. However, group voting took place in 26% of polling stations visited, in 45% of cases the ballots were pre-signed, and in 15% of cases unauthorized persons were assisting or directing the work of commissions.

At the time of preparing this preliminary statement, the ILEOM had not processed the vote count reports submitted by observers.

Tabulation of Results

The provisions of the Electoral Code for the tabulation of the results at district, oblast and national levels are not sufficiently transparent to allow an independent audit by voters, candidate representatives and observers. The CEC is obligated to publish only the accumulated nationwide totals, without providing at each of the district and oblast levels detailed results by polling station to justify the totals announced. During past elections, this lack of transparency has raised questions about the integrity of the results announced. Regrettably, the authorities of Belarus declined to address this fundamental flaw in the electoral process of the country in time for the presidential election.

At the time of preparing this preliminary statement, the ILEOM did not have sufficient information to assess the actual tabulation of the results countrywide.

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

MISSION INFORMATION & ACKNOWLEDGEMENT

The OSCE/ODIHR Limited Election Observation Mission (LEOM) was established in Minsk on 17 August and shortly thereafter started monitoring the electoral process with 27 experts and long-term observers deployed in the capital and seven regional centers. The LEOM includes nationals from 20 countries throughout the OSCE region – Bulgaria, Croatia, Denmark, Germany, Italy, Kyrgyzstan, Lithuania, former Yugoslav Republic of Macedonia, the Netherlands, Poland, Romania, Russian Federation, Slovakia, Sweden, Switzerland, Tajikistan, Ukraine, Federal Republic of Yugoslavia, United Kingdom, and United States of America. On election day, the ILEOM deployed 293, including 57 from the OSCE PA, 12 from the Parliamentary Assembly of the Council of Europe, and 10 from the European Parliament, representing the political spectrum. The ILEOM monitored the polling and vote count in over 1,000 precincts throughout Belarus.

Thanks to generous voluntary contributions from participating States, the OSCE/ODIHR was able to recruit core team members and long-term observers including from participating States in transition to take part in the long-term phase of the LEOM, and 47 observers to take part in the short-term phase of the observation.

This statement of preliminary findings and conclusions is issued before the final certification of the results and before a complete analysis of the observation findings. The OSCE/ODIHR will issue a comprehensive report on these elections approximately one month after the completion of the process.

The ILEOM wishes to thank the OSCE Advisory and Monitoring Group (AMG) in Belarus as well as the embassies of OSCE participating States and members of the European Union and the Council of Europe for their support throughout the duration of the mission.

The ILEOM wishes to express appreciation to the Ministry of Foreign Affairs, the Central Election Commission, and other national and local authorities for their assistance and cooperation during the course of the observation.

For further information, please contact:

- Hrair Balian, Head of the OSCE/ODIHR LEOM, in Minsk (+375-17-270-72-88);
- Petr Sich, Co-Secretary of the Political Affairs Committee, Parliamentary Assembly of the Council of Europe, in Strasbourg (+33-670-16-28-52);
- Pentti Väyänen, Deputy Secretary General (+358-40-7788664), Jan Jooren, Press Officer, OSCE PA, in Copenhagen (+45-33-37-80-40);
- Henrik Olsen, Principal Administrator, European Parliament, in Brussels (+32-3-284-2779);
- Jens-Hagen Eschenbaecher, Spokesperson, OSCE/ODIHR, in Warsaw (+48-603-693122).

**IBB, 11 Prospekt Gazety Pravda
220116 Minsk
Republic of Belarus**

**Phn: 375-17-270-7288
Fax: 375-17-272-3930
e-mail: odihr.observe@osce.org.by**