

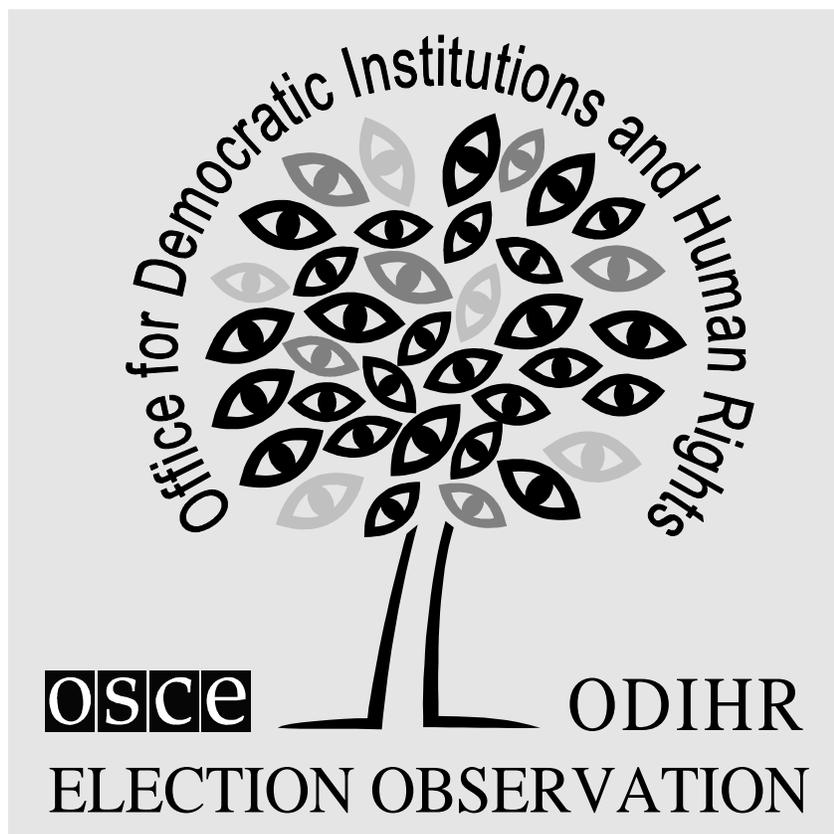


Office for Democratic Institutions and Human Rights

**REPUBLIC OF BELARUS
PRESIDENTIAL ELECTION**

9 September 2001

**OSCE/ODIHR Limited Election Observation Mission
Final Report**



4 October 2001 (Revised)
Warsaw

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Revised Version, 4 October 2001¹

I. CONCLUSIONS OF THE INTERNATIONAL LIMITED ELECTION OBSERVATION MISSION (ILEOM) – 10 SEPTEMBER 2001

The following Conclusions were included in the Statement of Preliminary Findings and Conclusions published by the International Limited Election Observation Mission, published in Minsk on 10 September 2001:

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;*

¹ Please see footnote 17 for an explanation for this revised version.

- *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.

II. EXECUTIVE SUMMARY

The Constitution of the Republic of Belarus was amended in 1996 after a controversial referendum, following which the Supreme Soviet was transformed into a bicameral Parliament and its powers curtailed, and the President's term of office, due to expire in 1999, was extended until 2001 and his powers were broadened. In tandem with these changes, fundamental freedoms in Belarus deteriorated. These changes provoked a crisis in the country's relations with the international community, including a suspension of its guest status with the Council of Europe and non-recognition of the Parliament by the OSCE Parliamentary Assembly. The 2000 parliamentary elections failed to reverse these trends.

Regrettably, the 2001 presidential election also failed to meet the OSCE commitments for democratic elections formulated in the 1990 Copenhagen Document.

Although the election process on 9 September was generally positive, violations committed against domestic observers and in some cases against international observers raised questions about the integrity of the process. These questions were further aggravated when combined with the high turnout during the permissive early voting process (14-19%), the mobile vote (4.5%), and the absence of transparency during the critical tabulation of the nationwide aggregated voting results.

Nonetheless, election day proceedings were not the determining factor for concluding that the presidential election failed to meet the OSCE commitments for democratic elections. Already during the months leading to 9 September, conditions in Belarus were such that the presidential election could not meet the OSCE commitments for a free, fair, equal, transparent and accountable election. In a political culture unaccustomed to opposition and pluralistic political debate, with vertical State structures in control of not only all levels of government but also industry, agriculture, education and social services, and the great majority of the population dependent on these vertical structures for its livelihood, far from being conducive to a democratic election, the environment did not provide an equal opportunity for contestants nor the possibility for the public to be informed about the choices available.

This legacy of pervasive control and intolerance must be overcome before remedies to the technical aspects of the electoral process can bear genuine results. Such fundamental changes cannot be promoted and fostered in a country in isolation. As such, the isolation of Belarus is not in the best interest of its people and is not conducive to strengthening democratic development.

Thus, the OSCE/ODIHR stands ready to consider cooperation with and assistance to the authorities and civil society of Belarus in order:

- To promote a constructive dialogue across the political and social spectrum of civil society, and between the government and civil society;
- To facilitate the parallel processes of promoting the democratic transition of Belarus and its integration in European structures; and
- To eventually remedy the technical shortcomings and to build on the strengths identified in this report.

In this context, the AMG has a critical role and the OSCE/ODIHR looks forward to continuing its full cooperation with the Group.

III. INTRODUCTION AND ACKNOWLEDGEMENTS

The OSCE Office for Democratic Institutions and Human Rights (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. Regrettably, due to a delayed invitation by the authorities of Belarus, the OSCE/ODIHR limited its observation to the last three weeks of the electoral process only (see Section III, C).

The LEOM was headed by Mr. Hrair Balian and included nationals from 20 countries throughout the OSCE region – Bulgaria, Croatia, Denmark, Germany, Italy, Kyrgyzstan, Lithuania, the former Yugoslav Republic of Macedonia, the Netherlands, Poland, Romania, the Russian Federation, Slovakia, Sweden, Switzerland, Tajikistan, Ukraine, the Federal Republic of Yugoslavia, the United Kingdom, and the United States of America.

For election day, the LEOM was joined by the OSCE Parliamentary Assembly (OSCE/PA), the Parliamentary Assembly of the Council of Europe (PACE), and the European Parliament (EP) to form the International Limited Election Observation Mission (ILEOM). Mr. Kimmo Kiljunen MP (Finland), Vice-president of the OSCE PA, was designated by the OSCE Chairperson-in-Office as Special Co-ordinator for the OSCE Limited Election Observation Mission to Belarus. Mr. Stef Goris MP (Belgium) led the delegation of the PACE. Mr. Jan Wiersma MP (Netherlands) led the delegation of the EP.

On election day, the ILEOM deployed 293 short-term observers, including 57 from the OSCE PA, 12 from the PACE, and 10 from the EP. The members of the parliamentary delegations represented the political spectrum. The ILEOM monitored the polling and vote count in over 1,000 polling stations throughout Belarus.

Thanks to generous voluntary contributions from participating States, the OSCE/ODIHR was able to recruit experts and observers 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.

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

The LEOM wishes to express appreciation to the Ministry of Foreign Affairs, the Central Commission of the Republic of Belarus for Elections and the Conduct of Republican Referenda (CEC), and other national and local authorities for their assistance and cooperation during the course of the observation.

IV. POLITICAL CONTEXT

A. 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 selected deputies and a Council of Republic consisting of 69 appointed members. In 1997, the Council of Europe suspended the Republic's guest status in the organization. The OSCE/PA continued to recognize the members of 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.

On 21 May 2000, the OSCE/ODIHR, the OSCE/PA, the OSCE Advisory and Monitoring Group (AMG), the PACE, the EP, and the European Commission met in Vienna to review the criteria for democratic elections in Belarus. These criteria were summarized as follows:

- The establishment of a democratic electoral code, guaranteeing full transparency of the electoral process and a representative composition of the Central, Regional and Local Election Commissions;
- Satisfactory procedures for the access of all political parties to the mass media, especially the electronic media;
- The establishment of meaningful functions for the Parliament to be elected; and
- The observance of a "peace period" for the development of minimum trust and confidence during the run-up to the elections (abstention from political repression by way of criminal court proceedings and from harassment by police and security forces).

In August 2000, the same institutions met again to review progress since May and concluded that the Belarus authorities had not made enough progress to justify the presence of a full election observation mission. However, the meeting concluded that the improvements and changes in the legal framework for elections justified the deployment of a more limited OSCE/ODIHR Technical Assessment Mission (TAM), excluding any observation on election day. At the conclusion of the process, 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.

B. Development of Civil Society

In the intervening period between the parliamentary and presidential elections, civil society in Belarus took significant steps of substantive engagement in issues relating to democratic development.

Since 1999, several opposition political parties 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. However, they split on the issue of participation or boycott in the 2000 parliamentary elections. 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 they would then pick one of the registered candidates to represent the democratic opposition and the others would withdraw.

At the same time, 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 the incumbent.

C. Delayed Observation and Visa Denials

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/PA, the OSCE/AMG, the PACE, the European Commission, the EP, 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 starting on 1 August.

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 some 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 arbitrarily 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.

Nonetheless and in contrast to the delayed invitation and visa denials by the MFA, all short-term observers of the ILEOM were promptly accredited by the CEC and the MFA granted all their visa requests.

V. 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 the 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 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 elections. 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). As an example of such non-restrictive and inclusive interpretation, 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 to the CEC's registration of 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:²

- **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,

² These comments should be read together with a set of comprehensive comments on the Electoral Code and recommendations issued by the OSCE/ODIHR during the past 18 months, including: OSCE/ODIHR Assessment of the Adopted Electoral Code of the Republic of Belarus, Warsaw, 6 March 2000; OSCE/ODIHR Assessment of the Electoral Code of the Republic of Belarus and of the Position of the Government of Belarus on the Electoral Code as Stated by the Central Election Commission of Belarus, Warsaw, 26 July 2000; and Belarus Parliamentary Elections, Technical Assessment Mission Final Report, Warsaw, 30 January 2001.

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 transparency during the tabulation of results** – overly permissive early voting provisions (see Section X, A); 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 (see Section XI, D).
- **Restrictive provisions for observers** – a prohibition to hold press conferences before the end of election day; no right to approach the work area where ballots are handed to voters, their identification checked, and the voter register marked; no right to periodically inspect the voting booths; and no right to accompany result protocols during transport to higher level commissions (see Section X, B).
- **Restrictions on free and fair campaigning** – excessive campaign regulations that restrict candidates' ability to reach voters and 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, for example, appeals on the invalidation of elections must be lodged with the CEC not later than the day following an election (Article 79).
- **Independence of electoral commissions not ensured** – The Code does not ensure that the CEC and lower commissions are institutionally independent from the executive bodies. The Code provides that executive authorities should support the election commissions (Article 38). The executive authorities have instead attempted to direct the work of the electoral commissions.

VI. ELECTION ADMINISTRATION

A. Structure

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 (district), city and city district level (161), and thereafter to the Precinct Election Commissions (PEC - polling station) level (6,753). From an organizational point of view, the preparations for the election were conducted well, respecting the legal deadlines for the formation of commissions, the 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 issued inadequate regulations or declined altogether to issue regulations, instructions or decisions to enhance the application of some 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-week period prior to election day. However, regular contact was maintained with the CEC and its staff. Although the election commissions generally responded to inquiries from the LEOM, detailed information about the composition of the lower level commissions was difficult to obtain. Based entirely on information provided by the CEC for 30 out of 161 territorial, rayon, city and city 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 Electoral Code provides for the independence of the election administration from the State and local administration (Article 11), and for a clear distinction between the role of election commissions and the supporting role of the local executive. The latter’s role is limited to providing premises for the commissions and logistical support, to create conditions for the normal conduct of the campaign, etc. In order to secure better co-ordination, the Electoral Code provides for the government bodies appointing the commission to have a representative member (Article 35). However, instead of the prescribed supportive role, the local executives were “supervising” the work of commissions. This “closeness” was always explained as for practical and operational reasons.

The CEC 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 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, the appointment process can hardly be described as balanced. With only 239 out of some 80,000 commission members nominated by political parties, the Electoral Code clearly failed to ensure a balanced representation of both pro-governmental and opposition political interests in the commissions.

Although women represent a majority in lower level commissions, Chairpersons and Secretaries of commissions at these levels were mostly men. Women were also well represented in the leadership of the Republican Coordinating Council, a broad collective of public associations and

political parties supporting the incumbent, and the Advisory Council of opposition political parties, a broad spectrum of parties supporting candidate Goncharik.

B. Role of Election Administration Officials

Some public statements by senior officials in the election administration at the very least created a perception of bias, i.e., CEC Chairperson Yermoshina's characterization that any potential defeat of the incumbent would be "a personal tragedy" for her.³ Similarly, Nikolai Prisada, Chairperson of the Grodno Oblast TEC, in a statement broadcast over local television, affirmed that he would vote for the incumbent and that he was ready to entrust his own fate and the fate of his family, children and friends to the incumbent.

The LEOM was also concerned about repeated negative public references to observers by senior election commission officials. CEC Secretary Nikolai Lozovik was quoted during the early voting period stating that the main goal of domestic observers was to "arrange a torrent of complaints" in order to prevent the election from being internationally recognized. In an interview granted to the State-controlled newspaper *Zvyazda* on 30 August, the Chair of the CEC accused the OSCE/ODIHR observation team in Belarus of following orders from the US Department of State. She added, "a negative assessment of the Belarus presidential campaign by experts of the OSCE/[ODIHR] ... would prove that they acted under a political order".⁴

These statements contrast with the CEC Chairperson's earlier public statement that "The CEC's genuine independence is a guarantee of its fairness since it is made of politically neutral people who are respected in the society".

C. Voter Lists

The legislative procedures and the CEC regulations for the compilation of the voter lists do not provide for their reliable maintenance and updating nor do they provide comprehensive guarantees that each elector is included in the voter list of only one polling station.

Concerns about voter list accuracy arose in part from changes in the number of electors nationwide: from 7,228,506 on 25 August, when the voter lists were offered for review; to 7,221,434 on 4 September, the eve of the early voting period; and to 7,356,343 officially announced by CEC in the final results. During election day, the total number of electors increased by almost 108,000 of which 32,000 were added in Minsk city alone. These changes and discrepancies were not explained adequately.

The 8 September CEC decision recommending that PECs accept any identification document with photo as proof of voter identity weakened existing controls on the voter lists at a crucial time. Earlier, the CEC was less lenient with voter identification, reportedly refusing to recognize the use of pension books as sufficient identification during the signature-gathering phase of candidate registration. Furthermore, while international observers had the right to review the lists

³ Belapan, 28 August 2001.

⁴ Belapan, 30 August 2001.

during the pre-election period, access was refused to domestic observers. On election day, most observers were refused access to the voter lists.

Voters are nearly evenly distributed across the oblasts, with the largest region, Minsk City, only 5% greater in number of resident voters than the smallest. The LEOM was informed by the CEC that the number of printed ballots exceeded the size of the electorate by approximately 7%. However, the order to print ballots was prepared on the basis of requests from oblast and Minsk City election commissions, rather than from a central calculation of the number of voters. In addition, the LEOM inspected the printing house where the ballots were printed and found that controls and security were inadequate.

VII. POLITICAL CAMPAIGN

A. Candidate Registration

Initiative groups of 22 candidates were registered by the CEC to collect the required 100,000 signature petitions. Eventually, 16 presented petitions for approval by rayon, city, and city district commissions. Although 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; the head of the Federation of Trade Unions of Belarus, Vladimir Goncharik; 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, Domash withdrew his candidacy on 22 August in favor of Goncharik, the "single democratic candidate". Only the remaining three appeared on the ballot paper. Thus, a genuine choice was 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.

B. "Non-Campaign"

The rigid restrictions imposed on candidates by the legal and administrative framework, together with the constitutional powers granted to the incumbent, made for an unequal political contest. Each candidate was entitled to the equivalent of approximately \$12,500 in funds provided by the State for the campaign. In addition, citizens could contribute to a common election fund that was then distributed equally among candidates. This mechanism discouraged individual financial

contributions to the campaign, disadvantaging the opposition and favoring the incumbent who had access to other State resources.

The official campaign began 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 (with reportedly 2,500 attending), and by Goncharik on 3 September, also in Minsk (with reportedly 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 for prior approval of public meetings. Otherwise, there was little evidence of any substantive campaign either in Minsk or in the regions. Thus, 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 early voting period commenced. Goncharik repeated warnings of fraud during the early voting, 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 incumbent threatened to expel the OSCE AMG Head of Mission, and accused “countries with mature democracy” of an “onslaught” on Belarus, holding back economic progress.⁵

During the last two weeks of the campaign, an increasing number of foreign dignitaries, mostly from the Russian Federation, visited Minsk to support the incumbent’s election campaign. These dignitaries included the Governor of the Kemerovo Region (Siberia), the Mayors of Moscow and St. Petersburg, the head of the Communist Party of Russia, the head of the Liberal Democratic Party (Vladimir Zhirinovski), and the head of the Communist Party of Ukraine. Despite the strict prohibition in the Electoral Code against foreigners interfering in the election campaign, the authorities of Belarus remained passive against these repeated and blatant violations. By contrast, the reaction to a US trade union activist’s alleged statements in support of candidate Goncharik during the same period was prompt, earning him a summary deportation from the country.

Otherwise, 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, or 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 about election procedures.

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. Those issued in State-owned publications, such as *Narodnaya Gazeta* on 30 August, indicated 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.

⁵ Belapan, 6 September 2001.

C. Violations of Fundamental Freedoms

The pre-election period was marked by a high level of harassment directed against political opponents, domestic monitoring groups, the independent press, youth groups, trade unions, election campaign organizations and activists. During the campaign period, the LEOM recorded a surge in allegations involving: acts of intimidation, arbitrary arrests and detentions, and confiscations/seizures of office equipment. The LEOM documented some 100 such cases from around the country involving the freedoms of association, assembly and expression.

For instance, six members of the United Civic Party were detained for roughly 5 hours by militia while distributing opposition newspapers on 22 August in Minsk Oblast and the newspapers were reportedly confiscated. Specific examples of direct interference in the campaign of candidate Goncharik were also noted. For example, on the evening of 25 August, militia attempted to break into Goncharik's regional headquarters in Mogilev Oblast, but cut short their effort after confiscating campaign material and T-shirts bearing the slogan "Let's Say No to the Fool", deemed slanderous to the President. The T-shirts were not necessarily associated with Goncharik, but their perceived anti-incumbent tone led to a pattern of confiscations, usually involving a short period of detention for those found wearing the T-shirts. Long-term observers noted that such confiscations were widespread in the areas where the T-shirts had been distributed. Presidential Decree No. 11 further limited candidates' opportunity to organize public mass meetings with supporters. Domestic observers were especially targeted by security agencies. In one case, even an international long-term observer was targeted and harassed repeatedly.

The circulation of documents purported to originate from the State security services detailing the methods of "subversive organizations" funded by "the West" and planning a "Yugoslav scenario", and the suggested response to control and eliminate this scenario, typified an atmosphere in which campaigning was secondary to scare tactics. The dramatic and unexplained blockage of key internet sites associated with the opposition, domestic monitoring and human rights groups on the day of the election further increased tension.

These incidents had a chilling effect on an already minimal level of public campaigning and illustrate a trend in which opposition public organizations as well as individual citizens faced harassment or intimidation while attempting to exercise their constitutionally guaranteed rights of expression, association and assembly during the run up to elections.

VIII. ELECTION DISPUTES, COMPLAINTS & APPEALS

The Electoral Code included various provisions recognizing the right of voters, observers, as well as candidates, their proxies, and initiative groups to file complaints against violations of the Code and to 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 commissions' decisions on complaints alleging violation of the Electoral Code during voting and the vote tabulation may only be appealed to a relevant or superior election commission or to the Prosecutor's Office.

The LEOM reviewed copies of 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 through the OSCE AMG. The AMG received the originals or copies of more than 400 complaints and about 60 responses from the electoral commissions. Positive decisions on the complaints were adopted in six cases only.

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 (83), including complaints related to the access of domestic observers, unauthorized campaigning and use of campaign materials (86), early voting (49), or issues involving the media (30). 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 argued decisions.

Complaints involving observer access to meetings of election commissions were routinely rejected. In a number of complaints, observers alleged that election commissions failed to provide notice of sessions. In these cases, the CEC found that electoral bodies had acted in accordance with the law.

IX. MEDIA

A. Media Landscape

State-owned media 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 during 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. It reviewed 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' presentation, was decided in favor of the complainant (Gaidukevich). He had lodged a complaint about an interview with Vladimir Zhirinovskiy MP (Russian Federation) broadcast on TV BT (Belarusian Television) and published in the State-owned newspaper *Narodnaya Gazeta*. In the interview, Zhirinovskiy 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 order, TV BT rebroadcast the interview on 28 August, thus making a mockery of the CEC decision. No further action was taken on the matter.

The independent media have been under economic, administrative and legal pressure since the beginning of the campaign. Noteworthy was the 22 August 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 documented some 26 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 or 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 a 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 [Head of AMG] to yellow papers. We should not do it now. We will call them to account after the elections....”⁶

The legal requirement for the provision of free airtime as well as newspaper space for all candidates equally to reach their supporters, a positive element of this electoral process, was generally met. The incumbent did not utilize the free time allocated to him by the Electoral Code provisions and used “only” regular TV and radio coverage of his daily activities as President. His “non-campaign” consisted of a series of presidential activities and initiatives extensively presented on a daily basis by the State TV – field trips to regions and visits to factories. On 5 September, the largest State-owned newspaper *Sovietskaya Belorussiya* almost doubled its print run from 350,000 to 629,000 when it printed President Lukashenko’s campaign platform for the second time in contravention of the Electoral Code. Whilst the CEC took immediate action in case of opposition candidates’ alleged breaches of the Electoral Code, its meaningless reaction, only on 9 September (election day), to the *Sovietskaya Belorussiya* case and radio BR1’s (1st Channel of Belarusian Radio) three-hour long live broadcast of candidate Lukashenko’s main campaign rally on 4 September stood in stark contrast.

B. Media Monitoring

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; three Russian TV channels ORT (Public Russian Television), RTR (Russian Tele-Radiocompany), and NTV (Independent Television); four State-owned newspapers *Sovietskaya Belorussiya*, *Respublika*, *Zvyazda*, and *Narodnaya Gazeta*, four independent newspapers *Narodnaya Volya*, *Nasha Svaboda*, *Belorusskaya Delovaya Gazeta*, and *Komsomolskaya Pravda v Belorussii*.

⁶ Belapan, 4 September 2001.

The LEOM monitored the prime time on BT starting from 17:00 till 24:00, the main news programs on Russian TV channels and radio broadcasting of *Radiofakt*, State-run radio's main news program, from 07:00 till 08:00. The criteria were as follows: the time and space given to the presentation of key figures; the manner in which the figures were portrayed; and the appearance of incorrect or unfair news stories. In addition, the LEOM monitored candidates' presentations in media outlets as stipulated by the Electoral Code and CEC regulations.

The LEOM media monitoring showed a high degree of coverage of President Lukashenko by the State media, predominantly positive in tone. Most State-owned media only mentioned the other candidates sparingly and then often in negative terms. The opposition candidates received 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 the three candidates. The tables annexed to this report further detail the unequal coverage of the campaign in the media.

1) Electronic Media

BT is the only Belarusian nation-wide TV channel. It showed a clear bias in favor of the incumbent, both in the amount of time given (68%) as well as in the tone of coverage, which was overwhelmingly positive. The portrayal of candidates Goncharik (20%) and Gaidukevich (7%) was overwhelmingly negative. Of the time devoted to candidates, 33% was allocated to Lukashenko as a candidate and 35% as the incumbent. Coverage of the incumbent was often incorporated into the President's visits to different sites (see Annex 1).

BT broadcast a wide range of programs portraying the opposition in a negative tone. Within the main news program *Panorama*, BT presented a regular feature called "The Angle of Attack" which portrayed different opposition figures, independent NGOs and the independent media in a negative light. The 27 August edition of the special program on BT entitled "Human Rights – Look at the World" included the following characterizations: "The West subsidizes the *so-called* democrats", "The democrats kill the idea of elections", and "Parallel vote counting is a fraud".

Radiofakt was similarly biased in favor of the incumbent. The incumbent accounted for 65% of election-related time within the main news program; the tone of coverage was overwhelmingly positive. Goncharik received 24%, and Gaidukevich 10% of the relevant time coverage. However, the portrayal of opposition candidates was generally neutral. On 4 September, the State-owned radio broadcast a 3-hour live coverage from the incumbent's main campaign rally; none of the other candidates were given a similar opportunity.

The influential Russian TV channels presented very little information related to the presidential campaign in their newscasts or other prime time programming. The only exception was RTR's 25-minute-long documentary on 2 September on the incumbent entitled "One Day with the President". While the incumbent received the greatest coverage on the Russian TV channels, the presentation of all candidates was much more balanced than that provided by Belarus media. Among all the Russian channels, NTV offered the most critical picture of the incumbent; the other candidates were portrayed in a mainly neutral manner.

2) Print Media

State-owned newspapers presented a similar portrait of the candidates – clear bias in favor of the incumbent in terms of space and tone of coverage, and the other candidates presented in a negative light. In contrast to the positive presentation of the incumbent by the State papers, the non-state-owned papers offered a markedly different distribution of space and a reversal of the tone associated with the candidates (see Annex 2). Whilst the incumbent was allocated the largest amount of space, the tone of the coverage was largely negative or neutral. The portrayal of Goncharik, Gaidukevich and Domash was mostly balanced, with Goncharik being openly supported by some of the papers.

In addition to economic pressure, the independent printed press also was subjected to censorship during the campaign period. For example, on 5 and 8 September, *Narodnaya Volya* appeared with blank spots on the front page. The 31 August issue of the *Predprinimatelskaya Gazeta* suffered the same fate. Other newspaper issues were confiscated or were never published (*Robochy*, 28 August) for one reason or another, generally when covering an opposition campaign related issue. Regional newspapers faced even more difficult challenges. On 6 September, the Belarus Association of Journalists protested against such actions to the State Committee for Press, but to no avail.

X. ELECTION OBSERVERS

A. Legal Provisions

Article 13 of the Electoral Code and a CEC resolution dating from 8 June 2001 define the rights of domestic and international observers. Most of these provisions are in line with the OSCE commitments outlined in paragraph 8 of the 1990 Copenhagen Document. However, some are unduly restrictive.

One of the provisions 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 prior to the 9 September election day. This imposed an unprecedented restriction on the ability of an international observation mission to maintain contacts with the mass media and to express its views on various aspects of the electoral process.

Other unjustifiable restrictions, such as the CEC provision that “observers are not entitled to ... be present next to ballot-issuing desks, polling booths or ballot boxes”, hampered the ability of the LEOM as well as domestic observers to monitor the election day proceedings effectively.

B. International Observers

According to the CEC, 717 international observers from 45 countries were present for the 9 September election. The LEOM requested from the CEC on a number of occasions a list of invited international observers and the inviting institutions. The CEC declined to provide the information for “security” reasons. The CEC confirmed that 13 inter-governmental and non-governmental organizations were accredited. In addition to the organizations joined in the

International Limited Election Observation Mission, other organizations included the Association of Central and East European Election Officials (ACEEEO), and the Inter-parliamentary Assembly of the CIS.

Repeated statements by official and semi-official sources distorting the aims of some international observers created a climate of distrust between voters and observers and further undermined their capacity to observe the elections and verify the voting results effectively. These included senior political figures, for example, Mikhail Obrazov, one of the leaders of the Republican Co-ordination Council of Political Parties and Public Associations supporting the incumbent, stating on 24 August that observers were “pouring dirty information over our election results” and that “our task is to stop them”.⁷

C. Domestic Observers

According to the CEC, the total number of domestic observers accredited for the election was 21,887. An umbrella group of NGOs, “Civic Initiative – Independent Observation”, mobilized more than 10,000 observers. Another group of NGOs lead by the Belarusian Patriotic Union of Youth (BPSM) and supported by the Republican Coordination Council also registered some 10,000 observers.

Throughout the months leading to 9 September, an atmosphere of hostility orchestrated by the authorities, in particular the security agencies, prevailed in Belarus against domestic observers associated with the “Independent Observation” network. In April, the head of the Belarus Committee for State Security (KGB) was reported to have stated that “international assistance in training election observers was [akin to] the recruitment of spies” and threatened to take harsh measures against the organizers of such programs.⁸ This type of hostile discourse from official sources continued through the campaign period and during the election days.

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, one day prior to the election, 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” and some 1,000 “Lev Sapeiga Foundation” observers’ accreditations were annulled by the CEC. Nonetheless, one other NGO was granted time until the same evening to remedy a similar problem.

On 9 September, domestic observers associated with the “Independent Observation” network experienced great difficulty in accessing polling stations. In many cases, observers were required to produce documents not stipulated in the Electoral Code and consequently expelled from polling stations. In Grodno Oblast, one third of the 350 domestic observers were expelled from polling stations.⁹ Nonetheless, out of some 670 polling stations visited during the early voting,

⁷ Belapan, 24 August 2001.

⁸ Belapan, 12 April 2001.

⁹ Belapan, 9 September 2001.

the LEOM found domestic observers in 46% of cases, and out of more than 1,000 polling stations visited on 9 September, the LEOM found domestic observers in 83% of cases.

The “Independent Observation” network initiated a parallel vote tabulation (PVT) of the election results to be 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.¹⁰ The latter quote is attributed to the CEC Chairperson.

The Ministry of Justice confused the concept of PVT with that of exit polling and intervened in the process by issuing a series of public statements that exit polling is illegal under the Electoral Code. 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 to render a PVT redundant by publishing not only the total tabulated voting results, but also 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.

In the end, despite assurances that the PVT had been successful in collecting information from 5% of polling stations (minimum credibility threshold),¹¹ the “Independent Observation” network declined to publish the outcome of the PVT, arguing that the result of the PVT could not be considered “to be a reflection of the final results of the presidential election” and that they could not “confirm the results released by the central election commission”.¹²

XI. VOTING AND COUNTING

A. Early Voting

Permissive legal provisions for casting early votes opened 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 from 4 to 8 September in all polling stations across the country and in the presence 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 were sealed and stored overnight. However, polling stations were 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

¹⁰ Belapan, 22 August 2001.

¹¹ Belapan, “Parallel vote tabulation network has survived, co-ordinator says”, 9 September 2001.

¹² Belapan, “Parallel vote count fails”, 10 September 2001.

regular polling ballot boxes were to be opened separately, and the votes counted and noted in separate working protocols. These working protocols were not available to observers. Only the aggregated totals from all boxes were entered in the final and official polling station protocols available to observers. These final protocols included no information on the total number of ballots found in each of the early, mobile and regular voting boxes.

The LEOM observed the early voting in some 670 polling stations across the country and found an average turnout of 19%. In Grodno Oblast, 17 polling stations observed had a turnout of more than 30%. In Minsk Oblast, 11 polling stations observed had a turnout higher than 30%. At the conclusion of early voting on 8 September, the CEC announced that the early voting turnout had been 14.46%. The “Independent Observation” network announced a figure of 18.67% based on a separate PVT they conducted for the early vote. However, this figure was later changed to a more dramatic 22.83%, by comparing the early vote figure to the number of votes cast rather than the number of registered voters as correctly done originally.¹³

In 89% of polling stations visited by the LEOM, the back of ballots was signed in advance by commission members. The Electoral Code provides for two PEC members to sign the back of the ballots both during the early voting and on 9 September, but fails to specify when the ballots must be signed. The provision is aimed to avoid unauthorized circulation of ballots. The regulation is only effective if the ballots are signed immediately prior to their issuance to the voter and not when the ballots are signed well in advance. The frequency of misuse of this control is especially alarming given the overall weakness on the control of early voting procedures.

Domestic observers were not present in 48% of polling stations visited during the early voting. They were repeatedly expelled from, never admitted in polling stations or denied information more often during the early voting process than on 9 September. Equally alarming was that, in 46% of polling stations observed, unauthorized persons were present – police in an overwhelming majority of cases (95%). Another issue was the presence of campaign activities during the early voting – in 34% of polling stations visited, observers noted such illegal activities, however equally violated by the supporters of the incumbent and the opposition candidates.

By all accounts and regardless of the differences of turnout reported by the CEC and estimated by others, the 14-19% figures are questionably high for early voting, in particular when the controls are so weak. Combined with the violations of even the minimum safeguards provided by the Electoral Code, the early voting process was open to manipulation. Based on similar concerns, the “Independent Observation” network is prepared “to presume that a massive ... replacement of ballot boxes or their contents did take place”, and to “assume that during the substitution of the ballots ... about half of the ballots from the early-voting ballot boxes (12.5%-15% of the total amount), marked in favor of V. Goncharik, could have been replaced by the ones marked in favor of A. Lukashenko.”¹⁴ The OSCE/ODIHR is not prepared to engage in such assumptions.

¹³ The “Independent Observation” network draft report, “2001 Independent Belarusian Presidential Election Observation”, forwarded on 27 September 2001, page 4. Hereinafter IO Draft Report.

¹⁴ IO Draft Report, pp. 5 and 7.

B. Polling Procedures

The LEOM observed more than 1,000 polling stations on 9 September. The conduct of the voting was assessed “good” or “excellent” in 69% of polling stations visited. The LEOM’s long-term observer in Mogilev Oblast summarized the day’s proceedings as follows: “The vast majority of those who went to the polls on election day could vote in orderly fashion, without intimidation or obstruction. However, the pattern of incidents that occurred throughout early voting continued on election day, obstructing monitoring and observation efforts, and calling into question the integrity of the voting process. Individuals associated with the coalition of independent observers ... were subject to increased threats, obstruction, disqualification and police arrest.” The same pattern was reported from the other regions.

The most serious violation reported on election day was that ballot papers were pre-signed in 44% of polling stations visited (see discussion under early voting above). Group voting was another problematic area with 26% of polling stations visited reporting such cases, and unauthorized persons were assisting or directing the work of commissions during the voting process in 16% of cases. Some 28% of the latter cases were violations committed by the local administration and 66% by the police or other security forces.

The presence in the polling stations of persons who are neither members of PEC, nor accredited observers or mass media representatives, although less frequent, is also of concern. The Electoral Code and the CEC regulations do not provide explicitly for persons who are not PEC members, observers or media representatives to be present in the polling station premises during the voting and counting procedures. However, the legal provisions were interpreted permissively by the CEC Chairperson on the grounds that police and administrative officers may be present in order to secure both the general order and the voting materials, or to solve operational problems immediately. The large size of many PECs, ranging from 5 to 19 members with an average over 11, makes this appear especially unnecessary.

Mobile voting was another area of concern. Although the procedures had been somewhat improved, the mobile voting turnout remained high at around 4.5%, especially when combined with the early voting figures. Violations were reported from around the country, some of which were serious and involved ballot box stuffing.

Otherwise, voters were properly asked for identification documents in 86% of polling stations visited, signed the register in 87% of cases, and the secrecy of the voting was respected in 79% of polling stations visited. Again, in 83% of polling stations visited domestic observers were present. According to the “Independent Observation” network, they were present in 70% of polling stations across the country.¹⁵ A prevalent complaint from domestic observers was that they were unable to observe the process effectively from the distance where they were kept throughout the voting process. In some cases, international observers also experienced similar problems.

¹⁵ IO Draft Report, p. 7.

Thus, the voting process on 9 September was conducted generally in accordance with the Electoral Code, although violations took place. This is reflected in the small number of complaints received by the LEOM and the AMG relating to the voting process on 9 September.

Nonetheless, a serious concern during 9 September was the apparent censorship of internet sites covering the Belarus elections. Some 20 sites, such as *Belapan*, *Charter97*, *zubr*, and *svaboda*, mostly associated with opposition groups, could not be accessed. Access to these sites in Belarus is provided by the “Beltelecom” monopoly. Its director explained that, due to the high interest in the Belarus election, the network was overloaded and failed.

C. Vote Count

In general, the order of counting operations prescribed by the Electoral Code was respected. Although domestic observers were present in 93% of polling stations where the vote count was observed by the LEOM, this general observation must be tempered by the fact that more than 26% of observers reported that they did not have a real possibility to observe the count. This was often related to the distance at which they were kept from the counting process and the absence of confirmation of the working protocol totals prior to the completion of the official protocol. In these cases the observers reported the vote process not to be transparent.

Those who could observe noted the following type and frequency of violations:

- In 22% of the PECs observed, the unused ballot papers were not counted, canceled and sealed before the counting process began;
- In 17% of the PECs observed, the total number of voters was not determined from the voter list;
- In 22% of the PECs observed, the ballots from the early voting, mobile voting and regular ballot boxes were mixed together before the counting started; and
- In 15% of the PECs observed, the result protocol was not displayed for public viewing.

In addition to reports submitted by short-term observers, the LEOM received 44 complaints on election day. Of these, the two most dominant problems reported were observers’ inability to access polling stations and non-transparency in the vote count and results tabulation procedures. Of the latter, most cases claimed fundamental problems in the count and tabulation process, often indicating either the observer’s inability to see the count or flagrant discrepancies between the visible quantities of ballots collected for each candidate and the final result protocol.

D. 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 in time for the presidential election.

Two hours after the closing of the polls on Sunday 9 September evening, candidate Goncharik announced that, “based on information available to him”, a second round was warranted as he had won 40% of the vote and the incumbent 46%. On 11 September, Goncharik stated that the incumbent had “obtained 30% of the total vote by vote tampering and an ‘absurd vote count’”. The “Independent Observation” network immediately denied that these figures had originated from the PVT exercise. Later, based on their own observation of voting results in some 70% of polling stations around the country, the “Independent Observation” network found that the incumbent had received 70% of the votes cast.¹⁶ However, the “Independent Observation” network also concluded, “thus, if we sum up all possible replacement ballot stuffing in favor of Lukashenko, then it appears that about 20 to 25 percent of the total number of votes cast for Goncharik were illegally taken away from Goncharik and added to Lukashenko as a result of fraud and falsification.”¹⁷ Neither Goncharik nor the “Independent Observation” network have offered convincing evidence to support these conclusions.

On 10 September, candidate Goncharik, the Belarus Helsinki Committee (BHC) and the “Independent Observation” network submitted three complaints to the CEC, petitioning to invalidate the preliminary results of the election. The complaints alleged “large-scale fraud and numerous violations of the election law” because “election commissions had been fully controlled by the executive”, the incumbent had taken “advantage of his position during the campaign”, “no equal campaign conditions had been created for the candidates”, “irregularities during the early voting process”, and “obstacles to the independent observation of the voting process and the vote count”. On 14 September, the CEC examined the complaints and found most to be “groundless”. Some irregularities were found, including some precinct commissions’ failure to count the ballots cast during the early voting period separately from the ballots cast on the polling day, and an instance of giving two blank ballots to one person - a mother voting for her son. The CEC concluded that those “irregularities could not have influenced the election results” and dismissed the complaints. On 23 September, Goncharik appealed the CEC decision to the Supreme Court. On 27 September, the Supreme Court denied the appeal.

XII. RESULTS

The CEC released preliminary data through its website during the evening of 9 September and issued results on 12 September. The LEOM took note of the remarkable speed with which it was possible to complete the vote counting in the oblast areas. Minsk Oblast, the region around the capital, but excluding the City of Minsk, was officially reported to have counted 70.7% of all votes cast less than two hours after the close of polling stations. At that point, the City of Minsk reported having counted 6.56% of the votes cast. The pattern continued throughout the counting

¹⁶ IO Draft Report, page 20.

¹⁷ IO Draft Report, page 10. The English translation of this draft report provided to the OSCE/ODIHR by the AMG incorrectly referred to “20 to 55 percent” instead of the corrected translation “20 to 25 percent”, received one day after the original version of this final report was published on 3 October. Thus the requirement for this correction.

process: the region with the lowest turnout, the widest distribution of votes amongst candidates, and by far the easiest communications with the CEC, was the last to report results.

The final results as issued by the CEC were as follows:¹⁸

Oblast	Voter Turnout Presidential Election 2001 %	Voter Turnout Parliamentary Election 2000 %	Votes for Sergey Gaidukevich %	Votes for Vladimir Goncharik %	Votes for Alexsandr Lukashenko %
Brest	85.84	60.90	2.44	15.73	76.17
Vitebsk	84.67	60.30	2.41	12.76	77.45
Gomel	85.74	64.50	1.76	8.34	85.00
Grodno	85.67	67.00	2.87	15.08	76.96
Mogilev	85.26	62.40	2.17	9.84	83.03
Minsk	84.12	62.20	2.32	14.84	76.56
Minsk City	77.59	49.00	3.37	30.5	57.37
Republic of Belarus	83.86 6,169,087 votes	60.90 N.A.	2.48 153,199 votes	15.65 965,261 votes	75.65 4,666,680 votes

Without access to the worksheets at the TEC and CEC levels showing polling station level results, the OSCE/ODIHR is not in a position to confirm these aggregated totals. Throughout the past 18 months and in particular during the course of the observation of the presidential election, the OSCE/ODIHR has repeatedly urged the authorities of Belarus to publish these details in the interest of maximum transparency and in order to build confidence in the aggregated results of the presidential election. However, the authorities' response remained negative. Thus, given the possibility for manipulation at various stages of the process and the lack of transparency during the results aggregation process, the OSCE/ODIHR cannot confirm these results.

However, two facts are noteworthy. First, according to figures collected by the "Independent Observation" network from 70% of polling stations throughout the country, the incumbent received 70% of the votes cast as opposed to the officially (CEC) announced 75.65%.¹⁹ Moreover, the LEOM's observation of the vote count at some 90 polling stations across the country, albeit a small sampling, showed a 76.7% return for the incumbent. The LEOM's observation of the tabulation of results in 41 out of the 161 TECs across the country showed a 76.6% return for the incumbent.

¹⁸ All figures presented are provided by the CEC. Only the vote totals per candidate and the total of all votes cast have been published. The number of invalid votes, and the total cast "against all candidates" was not released.

¹⁹ IO Draft Report, page 20, Table 2 – Comparative Table of Voting Results, 1994 and 2001.

XIII. RECOMMENDATIONS

A substantial part of the recommendations made following the 2000 parliamentary elections remain unimplemented. The failure of the authorities to incorporate the improvements suggested in the Final Report of the OSCE/ODIHR contributed to the 9 September presidential election's failure to meet international standards. The following recommendations, offered in the context of the concluding paragraphs of the Executive Summary (Section II in this report), should be considered in conjunction with earlier recommendations issued by the OSCE/ODIHR in reports dated July 2000 and January 2001, respectively assessing the Electoral Code and the parliamentary elections.

A. Constitutional Framework

1. Presidential decrees should not be used to regulate the electoral framework.
2. All legislation related to elections, including all relevant public order legislation, should be amended to ensure harmonization with the Electoral Code. Should there be a conflict between various legislation during the election period, the Electoral Code should prevail.
3. A uniform appeals process to the highest courts of Belarus should be established for review of all decisions and actions of the CEC, and citizens given the opportunity to take their grievances to the highest courts.²⁰

B. Election Administration

1. Strict criminal and administrative sanctions should be formulated for any interference from the executive authorities in the electoral process.
2. The Electoral Code and the Law on the CEC should be amended to ensure multi-party and pluralistic representation on election commissions at all levels, not merely the right to nomination.
3. All CEC decisions should be public and available to interested parties immediately.
4. All important electoral documents should be published in a timely manner to allow for public examination at all levels of the election administration. The TECs should publish all data from the protocols of all the PECs. This task should also be performed by the CEC for TEC protocols. In particular, aggregated election results at national and regional levels should be supported by worksheets detailing the results at the polling station level, thus permitting any citizen or international observer to audit the results of an election from polling station to the national level.

²⁰ See "Resolving Election Disputes in the OSCE Area: Towards a Standard Election Dispute Monitoring System", Warsaw, 12 July 2000.

5. The Electoral Code should be amended to give PECs and TECs the right to proceed with a recount of the ballots, especially when an imbalance in the figures or serious mistakes in completion of the PEC/TEC protocols have been established. Such a recount should be executed in the presence of all PEC/TEC members.
6. All election documents related to the results (ballot papers, voter lists, complaints, working protocols and decisions) should be delivered to the relevant TEC for scrutiny. Only after the election results are officially announced, should these materials be delivered to local executive committees for storage.

C. Candidate Registration

1. The process of candidate signature list submission to lower-level commissions should be amended to ensure candidate initiative groups are given a written receipt of the number of submitted signatures and lists by an accountable member of the relevant commission.

D. Election Campaign

1. Unjustified restrictions on the fundamental freedoms of expression, assembly, and association should be abolished and the Electoral Code as well as other legislation should be amended accordingly. Libel or slander provisions in legislation, in particular relating to “insults” against officials should be removed or considerably narrowed.
2. Executive authorities should play no role, “logistical” or otherwise in organizing the campaign of candidates.
3. The Electoral Code should be amended to include a transparent and accountable system for candidates to receive campaign contributions directly.
4. CEC restrictions on the appearance and content of State-funded campaign materials should be eased considerably. Candidates should be provided with the possibility of choosing, within the framework provided by the law, the modality of their presentation.

E. Media

1. The Electoral Code should include provisions for equal access of candidates or political parties to all campaign-related broadcasts, including news and other information programs.
2. The CEC Supervisory Board on Information Disputes should be reviewed with a view to improving its impartiality.
3. Full use should be made of the limitations and penalties established by the Electoral Code to regulate the use of the State-owned media by State officials for campaign purposes.
4. Harassment such as unwarranted tax inspections and searches against the opposition and independent media should be stopped and addressed severely in accordance with the law.

5. Unfair economic conditions on the price and distribution networks of independent media restrain the electoral campaign and threaten the fundamental freedoms of expression and information.

F. Voter Register

1. The Electoral Code should be amended to ensure the production of an updated and centralized voter register.
2. The Electoral Code and CEC regulations should secure higher transparency and unimpeded access to the voter lists for domestic and international observers during the pre-election period and on election day.

G. Voting Procedures

1. Early voting provisions of the Electoral Code should be amended: (1) to limit the potential for early voting to a prior request based on justified reasons of inability to travel to a polling station on election day; (2) to limit the number of days early voting is conducted; and (3) to ensure that the early voting process is fully transparent and accountable – i.e., protocols at the end of each day's early voting if there should be more than one day of such voting. Both early and mobile voting should be regulated strictly and the results fully and separately reflected in the final result protocols of each polling station.
2. The Electoral Code should explicitly restrict, through detailed regulation, access of unauthorized persons, especially police and administrative officers, to the PEC or higher level commissions throughout the voting and counting period.
3. The PECs should organize their work in such a way that the ballots are signed just before they are issued to the voters. Pre-signing of ballots should be strictly prohibited.
4. The notion of voting “against all candidates” should be removed.

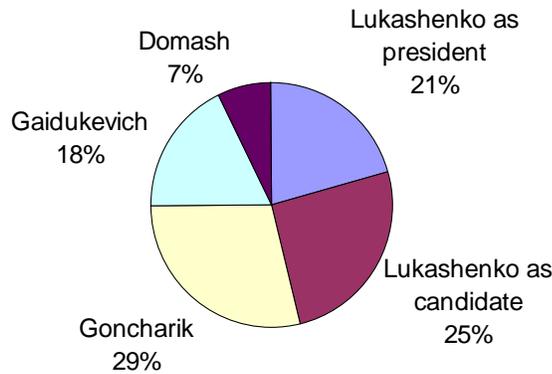
H. Observers

1. The Electoral Code should be amended and regulations introduced: (1) to include remedies for observers in the event that their rights are denied during the course of observation; (2) to permit international and domestic observers to monitor the process of voting and counting, close enough to be able to detect violations; (3) to require that international and domestic observers be provided with a certified copy of official results at all levels upon request; (4) to permit international and domestic observers to accompany the transfer of protocols between election commissions at all levels; and (5) to remove the prohibition for observers to maintain contacts with the mass media or hold press conferences whenever deemed necessary.
2. The Electoral Code and CEC regulations should be amended so that PECs, TECs and the CEC are obligated to ensure observers' rights are guaranteed.

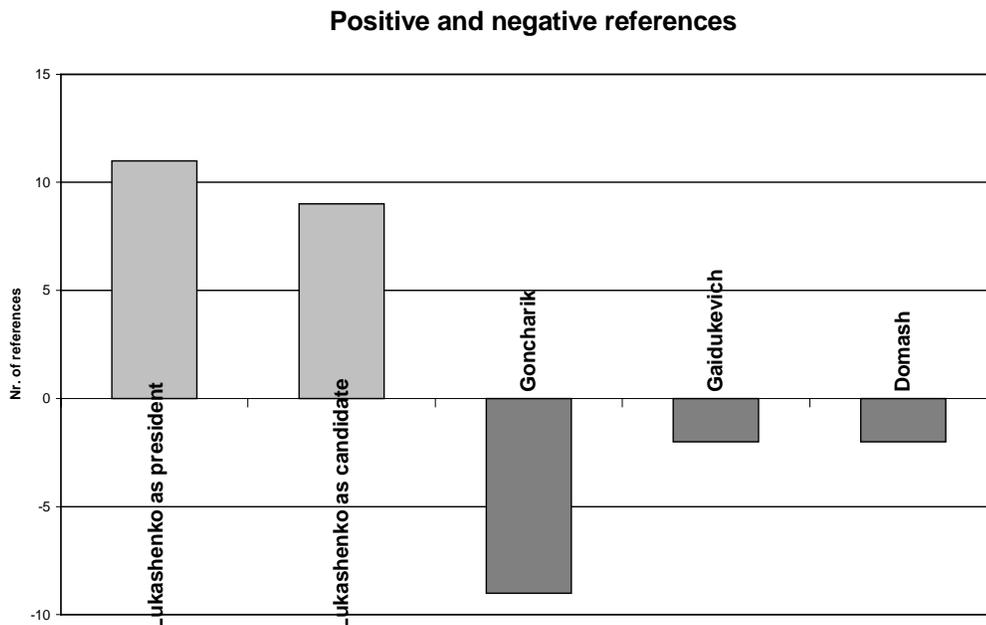
ANNEXES

Annex 1 – Media Charts

**Chart 1 - Belarusian State Television
 Space Dedicated to Candidates and President in Analytical Programmes**



**Chart 2 - Belarusian State Television
 Positive and Negative References to Candidates and President in Analytical Programmes**



Neutral references

Lukashenko as president	Lukashenko as candidate	Goncharik	Gaidukevich	Domash
3	5	4	3	2

Annex 2 - Analysis of Printed Media

**Space Devoted to Candidate / Positive and Negative References
 Period from 14 August to 8 September 2001**

SPACE			REFERENCES					
Candidate	Space	Space %	Candidate	No.	Positive	Negative	Neutral	
INDEPENDENT NEWSPAPERS								
<i>Belorusskaya Delovaya Gazeta</i>								
Lukashenko	8538	44%	Lukashenko	70	1%	70%	29%	
Goncharik	6972	36%	Goncharik	36	25%	11%	64%	
Gaidukevich	1904	10%	Gaidukevich	5	20%	20%	60%	
<i>Narodnaya Volya</i>								
Lukashenko	15180	60%	Lukashenko	70	4%	83%	13%	
Goncharik	7296	29%	Goncharik	45	33%	2%	64%	
Gaidukevich	787	3%	Gaidukevich	10	20%	10%	70%	
<i>Nasha Svaboda</i>								
Lukashenko	7982	62%	Lukashenko	59	8%	76%	15%	
Goncharik	3801	29%	Goncharik	45	22%	0%	78%	
Gaidukevich	92	1%	Gaidukevich	3	0%	0%	100%	
<i>Komsomolskaya Pravda v Belorussi</i>								
Lukashenko	3095	39%	Lukashenko	40	0%	40%	60%	
Goncharik	3020	38%	Goncharik	34	15%	3%	82%	
Gaidukevich	1410	18%	Gaidukevich	24	8%	4%	88%	
STATE-OWNED NEWSPAPERS								
<i>Sovietskaya Belorussiya</i>								
Lukashenko	26122	86%	Lukashenko	99	64%	2%	34%	
Goncharik	3042	10%	Goncharik	17	0%	65%	35%	
Gaidukevich	906	3%	Gaidukevich	9	0%	33%	67%	
<i>Respublika</i>								
Lukashenko	17269	83%	Lukashenko	91	69%	0%	31%	
Goncharik	2519	12%	Goncharik	19	0%	68%	32%	
Gaidukevich	918	4%	Gaidukevich	10	0%	40%	60%	
<i>Narodnaya Gazeta</i>								
Lukashenko	25458	85%	Lukashenko	132	77%	3%	20%	
Goncharik	2722	9%	Goncharik	16	0%	69%	31%	
Gaidukevich	1457	5%	Gaidukevich	9	11%	33%	56%	
<i>Zvyazda</i>								
Lukashenko	11342	70%	Lukashenko	71	49%	3%	48%	
Goncharik	2986	18%	Goncharik	25	4%	36%	60%	
Gaidukevich	1462	9%	Gaidukevich	11	0%	27%	73%	