



**Office for Democratic Institutions and Human Rights**

**REPUBLIC OF BELARUS**

**PRESIDENTIAL ELECTION**

**19 March 2006**

**OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT**

**24 - 27 January 2006**



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# **REPUBLIC OF BELARUS**

## **PRESIDENTIAL ELECTION 19 MARCH 2006**

### **OSCE/ODIHR Needs Assessment Mission Report**

#### **I. INTRODUCTION**

The Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) undertook a Needs Assessment Mission (NAM) to the Republic of Belarus between 24-27 January. The NAM included Gerald Mitchell, Head of the OSCE/ODIHR Election Department, Holly Ruthrauff, OSCE/ODIHR Election Adviser and Andreas Baker, OSCE Parliamentary Assembly Program Officer. The purpose of the NAM was to assess the conditions and level of preparation for the presidential election scheduled for 19 March, in line with OSCE commitments, and to advise on the establishment of an OSCE/ODIHR Election Observation Mission (EOM).

The NAM held meetings in Minsk with representatives of the governmental authorities, election administration, political parties, media, civil society and international community (see annex).

The OSCE/ODIHR is grateful to the Belarusian authorities for their co-operation and assistance provided during the NAM. The OSCE/ODIHR would also like to thank the OSCE Office in Minsk for the assistance offered during the visit.

#### **II. EXECUTIVE SUMMARY**

The presidential election in the Republic of Belarus was announced on 16 December, 2005, establishing the date for the election as the 19 March, with the possibility of a second round within two weeks if no candidate receives more than 50 per cent of the vote. The March date was scheduled somewhat earlier than anticipated, as the election did not need to be conducted until July.

The Ministry of Foreign Affairs of the Republic of Belarus issued an invitation to the OSCE/ODIHR on 19 January to observe the forthcoming presidential election. The parliament also issued an invitation to the OSCE Parliamentary Assembly on 19 January.

The incumbent, President Alexander Lukashenko, has been allowed to compete for a third term through the passage of a referendum held on 17 October 2004, which changed the constitution, abolishing the previous two-term limit. The OSCE/ODIHR observed the parliamentary elections that were also conducted at this time, but did not observe the referendum. Previous OSCE/ODIHR election observation missions reported that the conduct of elections in Belarus fell significantly short of OSCE commitments and other universal principles for democratic elections.

Almost all interlocutors with whom the NAM met expressed support for international observation of the presidential election by the OSCE/ODIHR, although a few voiced some doubt as to the merits and utility of observation in the current environment. Most with whom the NAM spoke view the forthcoming election as an uneven contest. While some interlocutors explained that the incumbent is a very popular President and describe the opposition as weak and fragmented, others point to significant obstacles facing any prospective independent candidates.

Throughout its visit the NAM noted that the election preparations are taking place against a background of increased constraints on civil society, independent media and opposition political parties. Many interlocutors referenced new amendments to the Criminal Code as a source of increased fear among political activists, journalists and citizens in general. Following the 2004 parliamentary elections, opposition political parties have no representation in the parliament, and pursuant to legislation requiring re-registration under a "legal address", many regional party branches have been de-registered. No independent broadcast media exists in Belarus, and independent newspapers have reportedly been closed or have had their subscription and distribution services terminated.

A total of eight prospective candidates, including the incumbent, established initiative groups to collect the 100,000 signatures necessary for registration as a candidate in the presidential election. At the time of the NAM visit, the candidate initiative groups were preparing to submit signature lists to the newly formed Territorial Election Commissions (TECs) for verification, but only five candidates decided to submit signature lists by the 27 January deadline. The Central Election Commission (CEC)<sup>1</sup> informed the NAM that it had prepared a booklet to guide this process, although some interlocutors raised concerns as to the method, transparency and consistent application of the signature verification process.

Candidates will be registered between 12-21 February, following both the signature verification process and the review of each prospective candidate's financial disclosure reports. The CEC has issued official warnings to two prospective candidates, Mr. Milinkevich and Mr. Pozniak, for distributing campaign materials ahead of the official campaign period. However, the CEC informed the NAM that while official warnings are taken into account, ultimately the decision to register candidates (or de-register them) is at the discretion of the CEC.

The OSCE/ODIHR recommends that an Election Observation Mission be established to observe the forthcoming presidential election. The OSCE/ODIHR therefore requests OSCE participating States to second 40 long-term observers to follow the election process country-wide from the middle of February until the election process is completed, and 400 short-term observers to observe election day procedures, including voting, counting of votes and tabulation of results at all levels of the election administration.

A pre-requisite for electoral competition, and therefore meaningful election observation, is a credible field of candidates offering voters a genuine choice, and the absence of such

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<sup>1</sup> The formal name is the Central Commission of the Republic of Belarus on Elections and Holding of Republican Referendums.

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a credible field of candidates would be cause to reconsider the utility of a full-scale OSCE/ODIHR election observation mission.

### III. FINDINGS

#### A. POLITICAL CONTEXT

In line with the electoral code, prospective presidential candidates had to form initiative groups within five days of the announcement of elections, and initiative groups then had to collect 100,000 signatures within a 30-day period. While the CEC originally registered eight candidate initiative groups on 28 December, only five candidates decided to submit signatures by the 27 January deadline.<sup>2</sup>

The five candidates who decided to submit signatures included: incumbent President Alexander Lukashenko; General Valery Frolov, former MP from the “Respublika” group; Sergei Gaidukevich, leader of the Liberal Democratic Party and 2001 presidential candidate; Alexander Kozulin, leader of the Belarusian Social Democratic Party (Hramada); and Alexander Milinkevich, “united opposition candidate” selected by the Congress of Democratic Forces in early October.

The CEC informed the NAM that it issued two official warnings during the signature collection period to the initiative groups of Mr. Milinkevich and Mr. Pozniak. In the case of Mr. Milinkevich, the warning was for distribution of campaign materials (calendars and New Year cards) printed with “undisclosed financial sources” outside of the official campaign period. Similarly Mr. Pozniak was warned for distributing campaign materials outside of the campaign period. The CEC clarified that campaign materials could only be printed from the funds provided by the CEC for this purpose during the official campaign period. The CEC also informed that while official warnings are taken into account, ultimately the decision to register candidates (or de-register them) is at the discretion of the CEC. Denials of candidacy can be appealed to the Supreme Court.

At the same time, several initiative group representatives told the NAM that they had faced significant obstacles to collecting signatures, including denied access to student residences and state premises, detention of signature collectors and pressure on initiative group members. Some interlocutors also claimed that the incumbent’s initiative group had used administrative resources, including requiring students and employees of state enterprises to collect signatures and sign signature lists, in order to gather an overwhelming number of signatures (over 1.9 million). It was explained by several interlocutors that state employees, who make up about 80 per cent of the total workforce, are particularly vulnerable as they depend on the state for their livelihood and generally have short-term contracts (one to two years).

Other interlocutors, including the initiative group representing the incumbent and CEC officials, cast doubt on these complaints, and said that violations had been relatively minor and had been resolved.

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<sup>2</sup> Alexander Voitovich announced his withdrawal from the contest on 9 January and Sergei Skrebets and Zenon Pozniak announced their withdrawals on 26 January.

## B. LEGAL FRAMEWORK

On 16 December 2005, the parliament announced the Presidential Election for 19 March. According to the Constitution (Article 81), presidential elections shall be conducted no later than two months prior to the expiration of the term of office of the previous president. Since the incumbent President Alexander Lukashenko was inaugurated on 20 September 2001, the election had to be held before 19 July 2006.

Presidential elections are mainly regulated by the Constitution of the Republic of Belarus and the Electoral Code of the Republic of Belarus (adopted by the parliament on 24 January 2000, with minor amendments added on 22 June 2000)<sup>3</sup>, as well as regulations adopted by the CEC. Prior to the 17 October 2004 referendum called by President Lukashenko, Article 81 of the Constitution did not allow a person to hold more than two five-year terms as President. The referendum changed the wording of Article 81, excluding the reference to a term limit.

Several interlocutors commented that the legal framework does not provide equal conditions for all competitors. Interlocutors expressed concern that the electoral code contains many ambiguities that might be interpreted in an inconsistent manner. Others commented that the electoral code did not ensure political party or candidate representation on election commissions and that domestic observer rights were not clearly defined.

Many interlocutors pointed to the newly amended Criminal Code, which entered into force at the beginning of the year, as the most significant change to the legal framework. These include a number of provisions that restrict activities of NGOs and civic initiatives and increase the penalties for individuals who violate the provisions, including up to two years imprisonment. For example, participation in an unregistered or liquidated organization or political party is now a criminal offence. Another provision criminalizes “discrediting Belarus” to an international organization or foreign government. Several interlocutors pointed out that they could be held liable, for instance, for speaking with the NAM.

## C. ELECTION ADMINISTRATION

Presidential elections are administered by the Central Election Commission (CEC), Territorial Election Commissions (TEC) and Precinct Election Commissions (PEC). 165 territorial commissions were formed by the 28 December deadline: 6 Regional commissions and Minsk City Commission, 118 district commissions, 16 city commissions, and 24 commissions in the districts of towns and cities. 6,627 PECs will be formed, including 41 abroad.

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<sup>3</sup> The Election Code has been extensively reviewed on previous occasions by the ODIHR. The ODIHR has stated that the text of the Electoral Code limits civil and political rights, lacks sufficient safeguards for political pluralism and transparency and fails to guarantee the integrity of electoral processes (see ODIHR Assessment of the Electoral Code of the Republic of Belarus, 25 July 2000).

Several interlocutors expressed concern that only a very small number of political party representatives were appointed to TECs. According to figures announced by the CEC, 2.6 per cent of the TEC members appointed represent political parties, or 55 out of 2,124 TEC members. While the electoral code affords political parties, public associations, labour collectives and groups of more than 30 citizens the right to nominate members of lower election commissions, it does not entitle them to representation. The deadline for nominations to PECs was 29 January.

The CEC explained that 152 TECs would be verifying the signature lists submitted by candidate initiative groups based on the methodology defined in a CEC brochure, also distributed to initiative groups. In line with the electoral code, TECs verify a random 20 per cent of signatures, and if more than 15 per cent are declared invalid, then they verify another 15 per cent. If 15 per cent of the total signatures verified are invalid, then the whole list for that district is declared invalid. The CEC explained that most initiative groups submit extra signatures for this reason.

Some initiative group representatives did not feel confident that signatures would be checked on an equal basis. One representative pointed out that it was not technically feasible to verify the large number of signatures submitted by the incumbent. Some representatives expressed concern that their observers would not be allowed during signature verification, but another representative explained that his group had fostered good relations with the TEC members and could receive information about the verification process.

At the time of the NAM visit, the CEC had received 75 appeals, including approximately 24 complaints. According to the CEC, most of the appeals related to identification cards for signature collectors. The CEC has three days to consider a complaint, although this period can be extended to 10 days for those issues requiring further investigation. Only those decisions related to denial of candidacy are eligible to be appealed. The CEC had especially received a number of complaints from the Milinkevich and Kozulin initiative groups during signature collection, but had found them to be groundless.

Following the verification of signatures, the CEC would be considering other criteria for registration, including financial disclosure documentation of the candidate and spouse, and would decide on the registration of candidates between 12-21 February. Once candidates are registered, they have the right to begin campaigning, using only the state funds distributed by the CEC. One initiative group complained that these funds are not sufficient for a campaign, and that they only receive reimbursement of expenses, rather than an initial sum.

#### **D. MEDIA**

Several interlocutors commented that the media environment had become further constrained since the 2004 parliamentary elections, consistent with the March 2005 report of the OSCE Representative of the Freedom of the Media who stated that "Overall, the media situation has deteriorated in Belarus over the past couple of years." One interlocutor described an "information vacuum" where elections are rarely mentioned and some people are not aware that an election is forthcoming.

At the same time, the CEC reminded that free airtime and space for publication of programs in newspapers would be allocated to all registered candidates during the campaign period. The CEC also maintained that coverage of the President had been of a “state protocol” nature and had not been in violation of the law. The CEC has set up an “information dispute council” to oversee such issues.

According to interlocutors, the only real opportunity for candidates to campaign in the media would be in independent newspapers and the Internet. However, many independent newspapers have been closed, but even those that have remained registered (an estimated 30 independent political publications) reportedly now have difficulty getting their limited circulation to readers. The NAM was informed that the state postal service “Belposhta” excluded 16 publications from its subscription catalogue, and 19 publications have been excluded from distribution in news stalls. No daily independent newspaper exists – the former daily *Narodna Volya* was de-registered and now is printed twice weekly in Smolensk, Russia and delivered to Belarus.

According to several interlocutors, the recent amendments to the Criminal Code have increased the pressure on independent journalists in Belarus, making any statements that could be viewed as critical grounds for their imprisonment. At the same time, they say the courts are unwilling to accept complaints of independent journalists and media outlets.

#### **E. INTERNATIONAL AND DOMESTIC OBSERVERS**

Almost all interlocutors welcomed the prospect of an OSCE/ODIHR Election Observation Mission to the presidential election, although a few voiced some doubt as to the merits and utility of observation in the current environment. Many interlocutors stated that this would allow an objective assessment of the process and that recommendations could be usefully made to improve the process.

The OSCE Parliamentary Assembly received an invitation from the Belarusian Parliament to observe the presidential elections, and is planning to do so. In this event, it is anticipated that the OSCE Chairman-in-Office would designate a Special Co-ordinator to lead the short-term OSCE observer mission.

The NAM met with representatives of the observation mission deployed by the Commonwealth of Independent States (CIS). The mission, headed by CIS Executive Secretary Vladimir Rushailo, had begun operating and was preparing for the arrival and deployment of long-term observers. ODIHR and the CIS agreed to maintain their established dialogue in the context of this election.

The NAM also met with some civil society representatives who planned to coordinate domestic non-partisan observation of the election process. They reported that this task has become more challenging because of the de-registration of many non-governmental organizations that had previously nominated observers and because of the newly passed amendments to Criminal Code, which are viewed by many civil society groups as targeted to prevent any kind of organized activism around the elections.

Despite these obstacles, domestic observers are planning both long-term and short-term observation efforts. Domestic observers can be accredited either through nomination by a



non-governmental organization or signature collection. While these provisions allow for a broad spectrum of domestic observers, interlocutors pointed out that domestic observers are guaranteed few rights and often have limited access to certain parts of the process. In particular, observers registered at the TECs only have the opportunity to observe official TEC meetings, rather than all of the TEC activities, including signature verification. Also, interlocutors reported difficulties in getting access to observe the counting process.

#### **IV. CONCLUSIONS AND RECOMMENDATIONS**

A pre-requisite for electoral competition, and therefore meaningful election observation, is a credible field of candidates offering voters a genuine choice, and an absence of such a credible field of candidates would be cause to reconsider the utility of a full-scale OSCE/ODIHR election observation mission.

The OSCE/ODIHR recommends that an Election Observation Mission be established, some six weeks before election day, to observe the forthcoming presidential election in Belarus. In addition to a core team of experts, the mission should also include 40 long-term observers (20 teams of two observers each) to be deployed throughout Belarus in mid-February. 400 short-term observers are considered necessary to gain a comprehensive understanding of the conduct of election-day processes. Arrangements for observation will be considered in the event of a second round.

The OSCE/ODIHR notes that since the issuance of its report on the 17 October 2004 parliamentary elections, it has not been possible to enter into dialogue with the respective authorities of Belarus to discuss the recommendations contained therein. Subsequent to an observation to the forthcoming presidential election, the OSCE/ODIHR would welcome the opportunity to discuss follow-up and implementation of previous recommendations, as well as recommendations that may result from the upcoming mission.

## ANNEX

### **List of Meetings Minsk 24-27 January 2006**

#### BELARUSIAN AUTHORITIES

Central Election Commission  
Ministry of Foreign Affairs

#### CANDIDATE INITIATIVE GROUPS

Initiative Group of Mr. Valery Frolov  
Initiative Group of Mr. Sergei Gaidukevich  
Initiative Group of Mr. Alexander Kozulin  
Initiative Group of Mr. Alexander Milinkevich  
Initiative Group of Mr. Alexander Lukashenko  
Initiative Group of Mr. Zenon Pozniak  
Initiative Group of Mr. Sergei Skrebets

#### CIVIL SOCIETY

Belarusian Association of Journalists  
Belarusian Helsinki Committee  
Independent Observers

#### INTERNATIONAL COMMUNITY

Commonwealth of Independent States Observation Mission to Belarus  
Embassy of Germany  
Embassy of Latvia (Representing the EU Presidency)  
Embassy of Poland  
Embassy of the Russian Federation  
Embassy of the United States of America  
OSCE Office in Minsk