

**INTERIM REPORT No. 1
15 – 24 November 2010**

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I. EXECUTIVE SUMMARY

- The presidential election is scheduled for 19 December and is being conducted under amended electoral legislation that incorporated a number of previous recommendations made by OSCE/ODIHR and the Venice Commission of the Council of Europe. While some amendments mark significant improvements, serious concerns persist.
- The Central Election Commission (CEC) is actively preparing the elections by adopting decisions within legal deadlines. On 5 November, it adopted two resolutions: one allows observers from registered political parties or public associations to attend any electoral commission meetings. Another stipulates that observers are to be provided “with a real opportunity to observe the counting procedure.” Detailed instructions regarding the implementation of these resolutions are yet to be developed by the CEC.
- Lower-level election commissions were appointed within legal deadlines. For the first time, at least one third of members had to be nominated by political parties and public associations. In a striking contrast, at the level of Territorial Election Commissions (TECs), 93 per cent of nominees by organizations considered as supporting the president were appointed, against 20 per cent of those considered to be in opposition to the president. Similar divergences in success rates were noted at the level of Precinct Electoral Commissions (PECs).
- Ten presidential candidates were registered by the CEC, in an inclusive process. Presidential candidates noted that the registration generally took place under improved conditions as compared with previous elections. The collection of signatures in support of candidates was conducted without major problems although signature verification was not entirely transparent.
- The election campaign started on 18 November with the CEC’s official registration of the ten presidential candidates. So far the campaign environment has been low key and calm. Several rallies, including an unsanctioned rally in Minsk, have taken place without any incidents.
- State TV has so far complied with the legal requirement to provide free airtime to candidates who have addressed voters uncensored in live broadcast. Some of them used this opportunity to sharply criticize the government. Under the amended Electoral Code, televised debates will be organized between candidates.
- The broadcast media has so far shown limited interest in the candidates’ campaigns, focusing instead on the activities of the CEC. Public statements made by candidates during the official registration ceremony were not aired on State TV.

- The OSCE/ODIHR Election Observation Mission (EOM) opened on 15 November, deployed long-term observers and has begun an active programme of meetings with various election stakeholders. The OSCE Chairperson-in-Office has appointed Mr. Tony Lloyd as Special Co-ordinator to lead the OSCE short-term observer mission for this election.

II. INTRODUCTION

On 14 September, in accordance with the Constitution, the House of Representatives set the date of the presidential election for 19 December. On 16 September, the Ministry of Foreign Affairs issued a timely invitation to the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) to observe the election. Based on the recommendation of a Needs Assessment Mission, the OSCE/ODIHR established an EOM on 15 November. The OSCE/ODIHR EOM, headed by Ambassador Geert-Hinrich Ahrens, consists of a 14-member core team based in Minsk and 40 long-term observers deployed in the regions, drawn from 26 participating States. The OSCE participating States have been requested to second 400 short-term observers to observe early voting, polling, counting and tabulation of results.

III. BACKGROUND AND ELECTION SYSTEM

The President of the Republic of Belarus has extensive powers. The incumbent, Alexander Lukashenko, has held office since 1994 and is seeking a fourth consecutive term. The president retains tight control over all branches of government. In the 2008 parliamentary elections, none of the candidates considered in opposition to the president gained a seat in Parliament. Past elections have been assessed as falling short of OSCE commitments.¹

The two opposition candidates who contested the 2006 presidential election decided not to run again. One of them explained that under the current circumstances the chances of an opposition candidate to be elected are non-existent. He also underscored the opposition's lack of unity.

The president is elected in a two-round majoritarian contest. If no single candidate succeeds in getting over 50 per cent of the votes cast in the first round, a second round is to be held within two weeks. In addition, at least 50 per cent of all registered voters must take part for the election to be valid.

IV. LEGAL FRAMEWORK

The Constitution of the Republic of Belarus (1994, last amended in 2004) and the Electoral Code (2000, last amended in 2010) regulate the presidential election. Supplementing this framework are the Law on Mass Media, the Law on Public Events, the Civil Procedure Code, relevant provisions of the Criminal Code, the Code of Administrative Offences, the Law on Applications of Citizens (the law provides the obligation of the CEC to reply to all applications of the citizens) and Resolutions of the CEC.

The January 2010 amendments to the Electoral Code addressed some of the past recommendations offered by OSCE/ODIHR. In a joint opinion assessing the amendments, the

¹ Previous OSCE/ODIHR reports on elections in Belarus are available at <http://www.osce.org/odihr-elections/14353.html>.

Venice Commission and the OSCE/ODIHR concluded that “the amendments represent a step towards removing some flaws in Belarus’ election legislation, although they are unlikely to resolve the underlying concern that the legislative framework for elections in Belarus continues to fall short of providing a basis for genuinely democratic elections.”²

The major amendments include: replacement of a permission-based procedure with a two-day notification procedure prior to staging a public assembly; the inclusion of a provision allowing broadcast debates between candidates in the State media; the option to appeal decisions relating to the appointment of lower-level election commission members to a court at the corresponding level; the possibility to appeal certain CEC decisions to the Supreme Court; introduction of a private fund for campaign purposes; composition of at least one third of the members of the TECs and PECs by political parties and public associations. The amendments also contain regulation of early voting procedures and the introduction of a requirement to complete a protocol at the end of each day during the five-day early voting period.

Despite these improvements, electoral legislation still fails to address some important recommendations. Examples of these shortcomings include: the excessive role of the president in the appointment of CEC members; the lack of clear responsibility for overseeing implementation of the rules concerning appointment of TEC and PEC members; the absence of a detailed procedure for ballot counting; the lack of a clear description of observers’ rights; the absence of a requirement to publish preliminary and final results of the vote promptly.

V. ELECTION ADMINISTRATION

The forthcoming election is being administered by a three-tiered system of election commissions, consisting of the CEC, 155 TECs and 6,390 PECs.

The CEC is a permanent body, appointed for five years. Six of the 12 CEC members were appointed by the president, including the Chairperson, and six by the Council of the Republic (the upper chamber of the National Assembly). The CEC is actively organizing the election, adopting decisions required by the Electoral Code within legal deadlines. With a few exceptions, the 43 CEC decisions were approved unanimously. No dissenting opinion has been recorded to date.

TECs and PECs have been appointed within legal deadlines. For the first time, at least one third of members had to be nominated by political parties and public associations. The local authorities appointed some 2,000 TEC and 70,000 PEC members without using any formal criteria. The large majority of nominations made by pro-president organizations were approved. Out of 781 TECs nominees, 729 were appointed (93 per cent success rate). In a striking contrast, organizations considered to be in opposition to the president nominated 72 persons but only 14 of them (20 per cent) were appointed. They represent 0.7 per cent of the total number of TEC members. A similar pattern is observed at the PECs level. Out of 25,492 nominees of organizations considered as supporting the president, 23,689 members were appointed (93 per cent). Out of 1,073 nominations from organizations considered to be in

² European Commission for Democracy through Law (Venice Commission) and OSCE/ODIHR Joint Opinion on the Amendments to the Electoral Code of the Republic of Belarus as of 17 December 2009 adopted by the Council for Democratic Elections at its 33rd meeting (Venice, 3 June 2010) and by the Venice Commission at its 83rd Plenary Session (Venice, 4 June 2010).

opposition to the president, 183 members were appointed (17 per cent). These 183 members represent 0.26 per cent of the total number of PEC members.

TECs are conducting training seminars on election day procedures for PEC chairpeople, their deputies and secretaries. In addition the CEC has issued training guidelines to PECs in form of role plays.

VI. VOTER REGISTRATION

A citizen who is 18 years old on election day and has a permanent or temporary residence within a precinct has the right to vote at that precinct. The Electoral Code establishes that those declared in legal incapacity by a court, those in prisons, those in police custody, and those in pre-trial detention are not eligible to vote regardless of the gravity of the crime committed and the length of the sentence.

The system of voter registration is decentralized. Voter lists are compiled for each precinct by the relevant local administration and are updated by the PEC in a door-to-door verification procedure. Given the lack of a national computerized voter list, it is difficult to check for possible duplicates. The election authorities rely on the system of address registration maintained by the Ministry of Interior which they consider to be sufficiently comprehensive to prevent double registration. Given the decentralized system, the CEC will announce a tentative number of voters closer to election day.

VII. CANDIDATE NOMINATION AND REGISTRATION

Presidential candidates must be at least 35 years of age and citizens of Belarus in permanent residence for the last ten years. They are required to collect at least 100,000 valid support signatures from voters. Presidential candidates noted that the registration of initiative groups to nominate candidates and the signature collection took place under improved conditions. The Secretary of the CEC stated that the Commission has registered initiative groups which did not conform strictly to the procedure of signature collection.³

Eleven individuals had filed their documents to be registered as presidential candidates within the legal deadline. Following the document and signature verification process at regional level the CEC registered ten candidates⁴ on 18 November. The CEC did not register one nomination due to a high number of invalid signatures. According to some candidates, the signature verification process was not entirely transparent.

VIII. CAMPAIGN ENVIRONMENT

The election campaign officially commenced on 18 November, the day the CEC publicly announced the presidential candidates, five days earlier than legally required. The campaign environment so far has been low key and calm. Candidates have so far been able to conduct unhindered rallies both in the capital and the regions. On 23 November, two of the opposition presidential candidates, Vital Rymasheuski and Nikolai Statkevich, organized a rally on

³ See <http://news.belta.by/en/pointOfView?id=584458&pointOfView=1>.

⁴ The ten presidential candidates are Ryhor Kastusiou, Alexander Lukashenko, Alexei Mikhailevich, Vladimir Nekliaev, Yaroslav Romanchuk, Vital Rymasheuski, Andrei Sannikov, Nikolai Statkevich, Viktor Tereshchenko, and Dmitri Uss.

Oktyabrskaya square in Minsk. Although the city authorities had not authorized the rally, it took place without incidents with a heavy presence of police and security forces.

On 14 October, the CEC issued a warning to the initiative group of Vladimir Nekliaev for allegedly using minors in collecting signature and for distributing leaflets prior to the start of the campaign.

IX. MEDIA

All media outlets in Belarus had recently been required under the Media Law to re-register with the Ministry of Information. Currently a total of 77 TV stations, 157 radio stations, 9 information agencies and over 1,300 print media outlets are operating in Belarus. The State controls all broadcast media outlets with nationwide coverage as well as the distribution networks for print media outlets. Broadcast media is the primary source of information in the country.

The Constitution enshrines freedom of expression as a fundamental right and guarantees the right to receive, store and disseminate information. However, these constitutional rights are constrained by national legislation. A new Media Law took effect in February 2009. The OSCE Representative for Freedom of Media expressed the view that “the majority of the provisions of the Law are unnecessary for, or detrimental to, freedom of expression and freedom of the media in Belarus.”⁵

By law, debates have to be organized between presidential candidates and each candidate is entitled to receive one hour free airtime on State TV and radio.⁶ While the CEC initially planned to pre-record the free-of-charge spots and the debates, on 18 November it decided that both are to be aired live. To date nine candidates have broadcast campaign speeches that were uncensored; some used this opportunity to sharply criticize the government. The broadcast media has so far shown limited interest in the candidates’ campaigns, focusing instead on the activities of the CEC. Public statements made by candidates during the official registration ceremony were not aired on State TV.

On 14 October, the CEC established a Supervisory Council to monitor the conduct of the election campaign in the media and to consider media-related disputes. This council, chaired by the Deputy Minister of Information, consists exclusively of State bodies and State-funded media.

On 18 November, the OSCE/ODIHR EOM started to monitor six TV channels, one radio station and eight newspapers.⁷

⁵ OSCE Representative on Freedom of the Media comment on the draft law of the Republic of Belarus on the mass media; available at: http://www.osce.org/documents/rfm/2008/06/31899_en.pdf.

⁶ In line with CEC resolutions, candidates may present their platforms between 19:00 and 20:00 on State TV and between 6:10 and 7:10 on State radio. Candidates’ proxies are not permitted to use free airtime on behalf of the candidates.

⁷ The TV channels are: First Channel, ONT, *TV Lad*, *Stolichnoe TV*, RTR-Belarus, NTV-Belarus. Radio is: National Radio. The newspapers are: (state) *Sovetskaya Belarus*, *Zvyazda*, *Respublica*, *Narodnaya Gazeta* (Private) *Komsomolskaya Pravda*, *Belorusy i Rynok*, *Narodnaya Volya*, and *Nasha Niva*.

X. COMPLAINTS AND APPEALS

The Electoral Code does not contain a distinct chapter dedicated to complaints and appeals. Article 49-1 of the recent electoral amendment regulates this process in general terms while rules on complaints and appeals are dispersed throughout the Code. In respect of electoral appeals lodged to a court, the Civil Procedure Code contains references to the Electoral Code rules on appeals.

Candidates, their proxies and observers have the right to lodge complaints and appeals with the election commissions and the courts. Decisions by the PECs and TECs can be appealed to the CEC. Along with such appeals the CEC also reviews all the applications concerning suggestions, requests and clarifications on electoral matters. The Electoral Code provides the list of decisions that are to be reviewed by the CEC collegially. All other applications, complaints and appeals are dealt by the staff of the CEC individually in the form of a letter.

The Electoral Code envisages that only decisions related to denial of candidate registration, registration of initiative groups and the validity of elections can be appealed to the Supreme Court. To date the Supreme Court has reviewed only one appeal against a CEC decision on denial of a candidate registration of presidential hopeful Mr. Provalski.

Decisions of PECs, TECs and regional executive bodies may also be appealed to the courts of the appropriate level. The Code contains an exhaustive list of decisions that can be appealed. Court decisions are final and cannot be appealed to a higher court.

So far, the majority of appeals to courts concern decisions of local executive bodies on non-inclusion of political parties' nominees in the composition of PECs and TECs. To date 18 appeals on TEC composition and 67 appeals on PEC composition have been lodged. All appeals have been dismissed.

XI. PARTICIPATION OF WOMEN AND NATIONAL MINORITIES

The Constitution and election legislation provide the basis for equal participation of women and men in the electoral process. There is no female candidate for this election. Gender issues did not feature in any of the candidates' manifestos. Women are well-represented in the electoral administration with a female CEC Chairperson, 54.6 per cent of PECs chairpeople and 25.8 per cent of TECs chairpeople being women.

Belarusian and Russian are official languages in Belarus. According to the 2009 Census⁸ the main ethnic group in the country are Belarusians, accounting for 83.7 per cent of the population, while Russians with 8.3 per cent, Poles with 3.1 per cent and Ukrainians with 1.7 per cent are the main minorities. None of the presidential candidates identifies himself as a member of a minority group.

XII. DOMESTIC AND INTERNATIONAL OBSERVERS

The Electoral Code provides for domestic and international observers. Representatives of public associations, political parties, citizens' groups, labour collectives, and media outlets

⁸ See National Statistical Committee of the Republic of Belarus:
<http://belstat.gov.by/homep/ru/indicators/pressrel/census.php>.

have the right to receive accreditation as domestic observers, to attend any session of the commission with which they are registered and to attend election day proceedings. So far, 3,195 domestic observers have been registered with TECs and PECs. The main civil society observer organization, Human Rights Defenders for Free Elections, has deployed a total of 80 long-term observers and issues weekly observation reports.

On 5 November 2010, the CEC adopted two resolutions: the first one allows national executive bodies of registered political parties or public association to send one observer to attend meetings of any election commission; the second one stipulates that observers are to be provided “with a real opportunity to observe the counting procedure”. Detailed instructions regarding the implementation of the Resolutions have yet to be developed by the CEC.

Members of Parliament and candidates’ proxies may observe the proceedings of any commission. In addition, local councillors may also exercise this right in their respective ward.

XIII. OSCE/ODIHR ACTIVITIES

The OSCE/ODIHR EOM formally opened in Minsk with a press conference held on 15 November. The Head of Mission has so far met the Minister of Foreign Affairs, the Head of the Presidential Administration, the Chairperson of the CEC as well as with some presidential candidates, representatives of civil society, representatives of OSCE participating States, the Head of the OSCE Office in Minsk, and the EU Commissioner for Enlargement and Neighbourhood Policy.

The OSCE Parliamentary Assembly will deploy an observer delegation for election day observation. The OSCE Chairperson-in-Office has appointed Mr. Tony Lloyd as Special Co-ordinator to lead the OSCE short-term observer mission for this election.