



Office for Democratic Institutions and Human Rights

**REPUBLIC OF BELARUS
PARLIAMENTARY ELECTIONS**

OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT

14-16 June 2004



**Warsaw
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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 14-16 June. The NAM included Gerald Mitchell, Head of the OSCE/ODIHR Election Section and Holly Ruthrauff, OSCE/ODIHR Election Adviser. The purpose of the NAM was to assess the conditions and level of preparation for the parliamentary elections expected for the 17 October, in line with OSCE commitments, and to advise on the establishment of an 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 for list of meetings).

The OSCE/ODIHR is grateful to the Belarusian authorities, and in particular the Ministry of Foreign Affairs (MFA), for their co-operation and assistance provided during the NAM. The OSCE/ODIHR would also like to thank the OSCE Office in Minsk, and particularly Ambassador Eberhard Heyken, for the assistance offered during the visit.

II. EXECUTIVE SUMMARY

Elections to the Chamber of Deputies of the National Assembly of Belarus are anticipated for the 17 October 2004, with the possibility of a second round in some constituencies following within two weeks. President Alexander Lukashenko is expected to call elections three months prior, in mid-July.

All interlocutors with whom the NAM met expressed support for international observation of the elections by the OSCE/ODIHR. The NAM stressed that the issuance of a timely invitation would be required for the OSCE/ODIHR to seriously consider an EOM. A verbal assurance of such an invitation was given by senior Belarusian authorities to OSCE Chairman-in-Office Minister Solomon Passy, during his visit immediately preceding the NAM.

Just prior to the NAM visit on 8 June, parliament scheduled a first reading of draft amendments to the electoral code for 22 June. The amendment had been proposed by members of the deputy group *Respublika*, who had begun a hunger strike on 3 June to

urge parliament to consider the draft legislation. Other demands of the hunger strike included the release of opposition politician Mikhail Marynich, who was arrested on 26 April, and the preclusion of a third term in office for President Lukashenko. Since the NAM visit, the hunger strike was called off on 21 June and the parliament rejected the draft amendments in a 22 June session.

At the time of the NAM visit, the Central Election Commission (CEC) was in the process of preparing its training of election officials. In this regard, the CEC informed the ODIHR that it has also prepared an instruction manual for its staff.

Throughout its visit the NAM found a distinct and profound gap in confidence on electoral issues between the authorities on the one hand, and the opposition (most of which is extra-parliamentary) and civil society representatives on the other. As the OSCE/ODIHR has consistently maintained, clarification of the legal framework for elections through amendments, or the promulgation of regulations, is necessary to enhance confidence in the process in line with OSCE commitments. Discussion of the legislative framework dominated both official and unofficial meetings during the visit.

Previous OSCE/ODIHR election observation missions reported that the conduct of elections in Belarus fell short of a number of OSCE Commitments and other universal principles for democratic elections. The NAM recommends that an OSCE/ODIHR Election Observation Mission be established to observe the forthcoming parliamentary elections in Belarus. The OSCE/ODIHR requests OSCE participating States to second to the mission 30 long-term observers to follow the election process country wide from the beginning of September until the election is completed, and 300 short term observers to observe election day procedures, including voting, counting of votes and tabulation of results at all levels of the election administration.

III. FINDINGS

A. POLITICAL CONTEXT

Candidates can be nominated by political parties or can apply as independent candidates through signature collection. The fact that deputies are elected in majoritarian contests, and political party names do not appear on the ballot, seems to de-emphasize the role of political parties in the election process. At the same time, some interlocutors expressed concern that the arbitrary manner in which signatures are validated effectively prevents independent candidacy as an option for those who are not aligned with the presidential administration, and for that reason such persons will seek nomination through political parties.

Interlocutors informed the ODIHR that a large majority of the current parliament were elected as independent candidates, and that it is expected that many of the pro-administration candidates will again run as independents. At the same time, other parties are expected to nominate candidates nation-wide. Both the Liberal Democratic Party and the Five Plus Coalition informed the ODIHR that they plan to field candidates in all 110 constituencies.

In order for political parties to nominate candidates, they are required to have a registered office in that constituency. Some parties have experienced problems registering their branches in order to nominate candidates. One party representative reported that recent redrawing of constituency boundaries had deprived his party of representation in five constituencies where they had previously had offices. There is also a new requirement that party offices be registered at a “judicial address” – i.e., not in a private home. Although the Ministry of Justice has clarified that this only applies to new offices, not existing ones, it may still limit the participation of some parties in some constituencies. The candidate nomination process includes an income and property declaration that some interlocutors identified as vague and open to arbitrary decisions made on a political basis.

Some party representatives also expressed concern about the ability of candidates to campaign effectively once registered. The election code provides that the electoral campaign is financed exclusively from the state budget and private contributions to a political party or candidate are prohibited. Each candidate receives an equal amount from the determined budgetary allowance, which in 2000 was approximately \$450. Several interlocutors stressed that these campaign finance regulations unfairly benefit candidates who affiliate themselves with the authorities, since they are expected to benefit from administrative resources. Candidates who exceed this modest spending limit risk de-registration.

B. GOVERNMENT BODIES TO BE ELECTED

Under the 1996 Constitution of the Republic of Belarus, the national legislative institution is the National Assembly, consisting of the Chamber of Representatives and the Council of the Republic. Deputies of the Chamber of Representatives are directly elected, while members of the Council of the Republic are indirectly elected. The Chamber of Representatives comprises 110 deputies elected in single mandate constituencies for a term of four years.

Elections are expected to be held on 17 October for all 110 deputies of the Chamber of Representatives in single mandate district contests. According to the election law, a candidate is elected if more than 50 per cent of registered voters in a constituency cast their ballot, and the candidate receives more than 50 per cent of the vote. If the turnout threshold is reached but no candidate gains 50 per cent of the vote, a second round election is held between the two candidates who obtained the most votes. In a second round election there is a turnout threshold of 25 per cent. If the 50 per cent turnout threshold for the first round and 25 per cent threshold for the second round are not met, then the entire election process is repeated in those constituencies.

C. LEGAL FRAMEWORK

The legal framework for elections remains central to the political discourse in Belarus. Many interlocutors with whom the NAM spoke pointed to deficiencies in the election code in particular, and called for either amendments or regulations to clarify vague provisions and enhance transparency in the process. At the same time, representatives of the CEC and prominent deputies expressed their confidence in the legal framework and did not accept the need for amendments.

The Deputy Head of the Supreme Court commented that the electoral code contains several provisions that are “considered to be ambiguous.” The CEC is entitled to adopt normative acts to clarify the vague provisions and these acts are then considered by the Constitutional Court. A CEC representative said that the CEC would be willing to issue further regulations to clarify some of the identified issues, within the framework of the law.

When asked about the specific areas of jurisdiction regarding election-related complaints and appeals, the Deputy Head of the Supreme Court referred to guidelines, which were later delivered upon request to the OSCE/ODIHR. These guidelines confirm the complexity of the process, and particularly in determining which cases can be addressed by the courts and which by the election administration.

Previous OSCE/ODIHR reports have stated that the electoral code does not ensure democratic elections and needs to be strengthened in certain key areas, including: composition of the election commissions, rights of observers, early voting procedures and the complaints and appeals process. The OSCE/ODIHR jointly organized a seminar in September 2003 with the CEC that identified these areas and provided for discussion with a range of election administration officials, civil society representatives and political party leaders. Many of these issues could be substantially addressed through the issuing of normative acts by the CEC.

In particular, interlocutors expressed the opinion that the CEC could pass regulations that: (1) clearly state the criteria for the inclusion of members on election commissions; (2) clarify provisions for campaign finance; (3) provide for observers to see the voting and counting processes in full view and receive a copy of the completed results protocol; (4) define requirements for income declaration during the candidate nomination process; (5) permit observers to sign the seal over the opening in the ballot box for safe storage during the early voting period; (6) clarify procedures for the vote count, including a reconciliation of the number of ballots issued with the number of votes cast; (7) specify in the results protocol the number of voters who voted during the early voting period at each polling station; and (8) allow for complaints regarding electoral violations to be made directly to the court or, at a minimum, for cases considered by the CEC, to have the standard possibility of an appeal to the courts.

D. ELECTION ADMINISTRATION

The Central Election Commission (CEC) is responsible for organizing elections in Belarus. The CEC oversees the work of the 110 district election commissions (DECs) and approximately 7,000 Precinct Election Commissions (PECs).

Six of the twelve members of the CEC, including the Chairman, are appointed by the President and six are appointed by the Council of the Republic. While a variety of sources are permitted to nominate members, no guarantee exists for pluralistic representation. According to the CEC, they have been asked to prepare a draft presidential decree which would allow political parties to appoint non-voting “advisory members” to the CEC. A similar measure was adopted prior to the 2000 elections, also by

presidential decree. Some interlocutors expressed the opinion that this decree would be more meaningful if it also included advisory members at the DEC level.

Members of DEC and PEC are to be nominated by political parties, other public associations and labour collectives. However, appointment of commission members is controlled by local executive committees and is considered to lack transparency. Several interlocutors claimed that criteria for selection of election commission members is not clear and a disproportionate number of members represent labour collectives and local executive committees, often in pre-existing hierarchical relationships. These interlocutors reported being told in the past that either the positions had already been filled or that they were not qualified. Interlocutors complained that labour representatives, often dependent on the State for their livelihood, were not appropriate actors to administer an election process, and certainly should not be given priority over political party or candidate representatives.

E. MEDIA

According to several interlocutors, there are no opportunities for citizens to receive independent viewpoints through broadcast media, except through re-broadcasts of Russian television. At the same time the state broadcast media has been increasingly portraying the opposition and independent civil society actors as traitors to the Belarusian state. Candidates are allocated very limited time (in 2000, five minutes each) to present their views. As a result, it is very difficult for candidates and parties to present their views to voters.

According to several interlocutors, no truly independent broadcast media exists and many independent newspapers have been closed or forced to close due to financial hardship. The ODIHR was informed that radio stations generally avoid transmitting news on political topics. Journalists are reportedly persecuted for their views, and the situation in the regions is viewed to be increasingly problematic, resulting in seeming self-censorship.

F. INTERNATIONAL AND DOMESTIC OBSERVERS

All interlocutors welcomed the prospect of an OSCE/ODIHR Election Observation Mission to the parliamentary elections. During the NAM, OSCE/ODIHR representatives stressed the need for a timely invitation in order to organize the necessary preparations for an EOM.

The OSCE/ODIHR anticipates that parliamentary assemblies, including the OSCE Parliamentary Assembly, would also be interested in observing the elections. In this event, it is anticipated that the OSCE Chairman-in-Office would designate the Head of the OSCE PA Delegation as a Special Co-ordinator to lead the short-term OSCE observer mission.

The law allows for both international and domestic observers. Domestic observers can include representatives of political parties, public associations, labor collectives, media and citizens who are nominated on the basis of ten voter signatures (100 signatures for accreditation at the constituency level). The law, however, does not provide sufficient

guarantees for the rights of observers, for instance, clear regulations for accreditation, and the right to receive a copy of the results protocol at the polling station and to view the voting and the count from a reasonable distance.

The recent pressure on public associations, including administrative warnings, tax investigations and in some cases, their liquidation, has limited the number of such groups able to effectively conduct observation efforts. However, at least one such initiative is planning to conduct non-partisan pre-election and election-day observation in all 110 constituencies.

Some other public associations that have experience in election observation have decided to support political parties in their efforts to recruit, deploy and train observers and to nominate members to the election commissions.

IV. CONCLUSIONS AND RECOMMENDATIONS

The NAM recommends that an Election Observation Mission be established, some eight weeks before the expected 17 October election day, to observe the forthcoming parliamentary elections in Belarus. In addition to a core team of experts, the mission should also include 30 long-term observers (15 teams of two observers each) to be deployed throughout Belarus at the beginning of September. Given the concerns for potential manipulation, including on election day, secondment of 300 short-term observers to follow election day procedures is considered necessary at this time. Arrangements for observation will be considered for possible second round contests.

ANNEX

**List of Meetings
Minsk
13 – 16 June 2004**

BELARUSIAN AUTHORITIES

Central Election Commission

Mr. Nikolai LOZOVIK, Secretary of the CEC
Ms. Nadezhda KISELEVA, CEC Member

Ministry of Foreign Affairs

Mr. Valery ROMASHKO, Deputy Head, Department for Europe
Mr. Alexander OPIMAKH, Head of OSCE and Council of Europe Division

National Assembly

Mr. Valery LIPKIN, Chairman of the Committee on Human Rights, National Relations
and the Media
Mr. Leonid GLUKHOVSKI, Deputy Minister of Interior and Member of Parliament

Supreme Court

Mr. Valery VYSHKEVICH, Deputy Chairman of the Supreme Court

POLITICAL PARTIES

Belarusian Liberal Democratic Party

Mr. Sergei GAIDUKEVICH, Chairman

Plus Five Coalition

Mr. Valery UKHNALEV, Secretary of the Central Committee, Party of Communists
Belorusskaya
Mr. Aleksei KOROL', Belarus Social Democratic Hramada
Mr. Sergei Alfer, Deputy Head, United Civic Party

Meetings were also requested with Mr. Mikhail Obrazov, Head of the Secretariat,
Coordinating Council of the Heads of Political Parties and Public Associations, and Mr.
Mikhail Shimanski, Chairman of the Agrarian Party

MEDIA

Belarusian Association of Journalists

Ms. Zhanna LITVINA

CIVIL SOCIETY

Belarusian Helsinki Committee

Ms. Tatiana PROTKO

Lev Sapeha Foundation

Mr. Alexander ZHUCHKOV, Chairman of the Board

IISEPS

Mr. Oleg Manaev

Novak Laboratory

Mr. Andrei VARDAMATSKI

Representatives of Civil Initiative “Partnership”

Mr. Valentin Stephanovich, formerly of liquidated NGO Viasna

INTERNATIONAL COMMUNITY

Embassies of OSCE participating States