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REPUBLIC OF BELARUS
PRESIDENTIAL ELECTION
19 December 2010

OSCE/ODIHR Needs Assessment Mission Report

I. INTRODUCTION

On 16 September 2010, in accordance with OSCE commitments, the Ministry of Foreign Affairs of the Republic of Belarus invited the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) to observe the 19 December presidential election. The OSCE/ODIHR undertook a Needs Assessment Mission (NAM) to Belarus from 27 to 29 September. The OSCE/ODIHR NAM was composed of Beata Martin-Rozumilowicz, Deputy Head of the Election Department, Armin Rabitsch, Senior Election Adviser, Lusine Badalyan, Election Adviser and Anna Chernova, OSCE Parliamentary Assembly Programme Officer.

The purpose of the NAM was to assess the pre-election environment and level of preparation for the upcoming election, and to advise on the deployment of a possible OSCE/ODIHR election observation activity. The OSCE/ODIHR NAM held meetings in Minsk with state authorities, election administration officials, potential presidential candidates and political parties, media, civil society and the diplomatic community. A complete list of meetings is included as an annex to this report.

The OSCE/ODIHR expresses its appreciation to the Ministry of Foreign Affairs for the timeliness of its invitation to observe the presidential election. The OSCE/ODIHR is also grateful to the Central Election Commission, the parliament, the presidential administration, and to all other interlocutors for sharing their views with the NAM as well as to the OSCE Office in Minsk for the support and assistance provided during the visit.

II. EXECUTIVE SUMMARY

On 14 September, the House of Representatives set the date of the presidential election for 19 December. A previous two-term constitutional limit was abolished by a 2004 constitutional referendum. Incumbent President Lukashenko has indicated his intention to run for a fourth term.

In an inclusive process, 17 of 19 candidate initiative groups were accepted by the Central Election Commission (CEC) on 27 September. Potential candidates must now collect 100,000 valid support signatures from voters by 29 October to be placed on the ballot. A pluralistic field of candidates is of crucial importance to provide voters with a genuine choice. The CEC has stated that it will oversee the process with maximal respect for freedom of assembly. OSCE/ODIHR NAM interlocutors expressed the hope that this will extend to the entire campaign period. Campaigning commences once a candidate has been registered and the final deadline for candidate registration is 23 November.

Five potential presidential candidates met by the OSCE/ODIHR NAM voiced their concern about the difficulties of running a campaign in what many interlocutors perceive as a restrictive political environment in which opposition political forces have been marginalized.
Two opposition leaders, who campaigned for the 2006 presidential election, have decided not to compete in this election.

While removing some existing flaws, recent electoral code amendments present a mixed picture. Some of them represent significant improvement, but their positive impact will depend on their proper implementation in good faith. Serious concerns, specified below, however, persist and the legislation requires further improvement. The Belarusian authorities have expressed confidence that these recent changes mark a positive step towards more open elections. Some political party, media and civil society representatives stressed that while certain aspects have improved since 2006, they did not note substantial progress during the 2010 local elections.

The election will be administered by three levels of election administration comprised of the CEC, 155 Territorial Election Commissions (TECs) and about 6,350 Precinct Election Commissions (PECs). According to the law, at least one third of members of TECs and PECs are to be drawn from political parties and civil society. Ultimately, however, local administrations decide upon the nominations, often according to criteria that are not entirely clear. As a result, only 14 of 70 TEC nominees from parties considered to be oppositional were accepted.

The CEC started its preparations upon the announcement of the election in September. The CEC confirmed to the OSCE/ODIHR NAM that voter lists are compiled at precinct level by the local authorities, that no total number of voters is yet available, and that no centrally compiled voter register exists.

Early voting, counting and tabulation procedures continue to be under-specified and therefore could be problematic in the forthcoming election. The CEC told the OSCE/ODIHR NAM that no further regulations or instructions are planned in this regard. They committed themselves to implement recent improvements to the electoral code concerning early voting, such as displaying early voting protocols with the numbers of those who voted after each day of polling, sealing the ballot box at the end of each early voting day, and allowing observers to be present when ballot boxes used for early voting are sealed and opened.

Although, according to civil society representatives, the media space started to open in 2009, new legislation on media and internet passed in 2010 is seen by them as overly restrictive. The media landscape is largely state-controlled. The National Television and Radio Company is to provide each registered candidate with free airtime. For the first time, a televised debate between candidates is foreseen. Interlocutors, however, report that state media have avoided covering opposition politicians except in a negative manner. For any use of internet, including at internet cafes, identification is now required.

A number of non-governmental organizations continue to face administrative obstacles to register. Recent amendments to the electoral code expanded the list of individuals who can serve as domestic election observers. Now, any individual nominated by a political party or civil society organization can be accredited as an observer. Restricted access, however, especially during the count, continues to be noted by many interlocutors. The domestic observer group “Human Rights Defenders for Free Elections” intends to monitor the entire election process.
All OSCE/ODIHR NAM interlocutors welcomed the idea of a full-fledged OSCE/ODIHR Election Observation Mission (EOM) and OSCE Parliamentary Assembly observers. While the authorities stressed their intention of holding elections consistent with OSCE commitments, others underscored the added value of international observation to impartially report on the election and enhance transparency. Concerns related to early voting, counting and tabulation procedures continue to be voiced. Some interlocutors encouraged a longer presence of short-term observers (STO) to cover the crucial five day early voting period.

Based on the findings outlined in this report, the OSCE/ODIHR NAM recommends the deployment of an EOM to observe the presidential election. The OSCE/ODIHR NAM recommends requesting OSCE participating States to second 40 long-term observers to follow the election process throughout the country. As well as, 400 STOs will be requested to follow election day procedures, including key elements of early voting, polling, and counting at a significant number of the more than 6000 PECs as well as the tabulation of results which will take place across 155 TECs. It also recommends deploying STOs for a longer period in order to observe early voting.

The OSCE/ODIHR encourages the authorities of Belarus to implement their stated intention to conduct the forthcoming election in line with OSCE commitments and to take steps to address outstanding issues outlined in this report, *inter alia*: respecting fundamental freedoms, including the possibility for all contestants to campaign freely; strengthening the integrity of early voting; providing clear instructions on counting and tabulation procedures; and ensuring an open and transparent counting process in order to improve public confidence.

### III. FINDINGS

#### A. BACKGROUND

The Republic of Belarus is a strong presidential system. The president has extensive powers, including the authority to decide to dissolve the parliament, to issue presidential decrees which have the force of law when the legislature is out of session, to declare a state of emergency or to impose martial law. The president, among numerous other responsibilities, appoints the prime minister with the consent of the House of Representatives and six members of the Central Election Commission (CEC). With the consent of the Council of the Republic, the president also appoints the CEC chairperson.

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.

Belarus is also marked by a weak political party structure, which has eroded over the course of the past decade. Parties function mainly as vehicles for individual political leaders, although some parties, such as the Christian Democracy Party and the Social Democratic Party attempt to make inroads on more programmatically oriented platforms.

The majority of potential candidates in this race will, thus, represent individual political viewpoints, rather than wider party policy options. Incumbent President Alexander Lukashenko has announced his intention to compete for a fourth term which is possible
because a constitutional two-term limit was abolished by a referendum held on 17 October 2004. Some prospective candidates are reportedly discussing the possibility to unite behind a single candidate ahead of the election. Alexander Kozulin and Alexander Milinkevich, who campaigned for the 2006 election, have decided not to compete in the 2010 election. Mr. Milinkevich declared that his decision not to seek office was based on the consideration that transparent vote counting is not guaranteed.

Previously, the OSCE/ODIHR concluded that the 2006 presidential election “did not meet OSCE commitments for democratic elections”, and that the 2008 parliamentary elections “ultimately fell short of OSCE commitments for democratic elections” although “the authorities gave a number of clear signals of their interest to improve the election process.”

B. LEGAL FRAMEWORK

Under article 81 of the Constitution, “the president shall be elected directly by the people of the Republic of Belarus for a term of office of five years by universal, free, equal, direct and secret ballot.” This election is mainly regulated by the Constitution, the amended Electoral Code and by regulations issued by the CEC. Following a dialogue with OSCE/ODIHR, substantial amendments to the electoral code were introduced in January 2010 based to some extent on the recommendations formulated after the 2008 parliamentary elections. A joint opinion by the OSCE/ODIHR and the Venice Commission assessed 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.”

The joint opinion highlighted a number of issues which represent significant improvement. These included the abolishment of the requirement for permission to organize campaign meetings, the provision on the conduct of debates between candidates, the possibility of appeal against decisions of the CEC to the Supreme Court, and the requirement to complete a voting protocol at the end of each day during the five-day early voting.

Further, the amendments allowed candidates to establish their own campaign funds, although with low limits on donations, and established categories of complaints which must be considered by the CEC on a collegial basis including all complaints relating to decisions by lower-level commissions. Yet, as pointed out by the joint opinion, the quality of future elections in Belarus will depend not only on the quality of the legislation but also on its proper implementation.

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1. The European Commission for Democracy through Law (Venice Commission) at that time stated that “the question concerning the possibility for Mr. Lukashenko to again be candidate in the forthcoming election is in direct and clear contravention of this law [the constitution]. It can therefore not be decided by referendum.” See Venice Commission Opinion on the Referendum of 17 October 2004 in Belarus; Adopted by the Venice Commission at its 60th Plenary session, Sec. 7, http://www.venice.coe.int/docs/2004/CDL-AD(2004)029-e.asp. The OSCE/ODIHR observed the 2004 parliamentary elections that were held together with the referendum, but did not observe the referendum.
4. 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).
During the local government elections in April 2010, domestic observers concluded that legal improvements to the electoral code were not seen as substantial progress towards a democratization of the election process and that “the 2010 local elections in Belarus were overshadowed by serious and systematic violations of democratic electoral standards.”

The current early voting, counting and tabulation procedures continue to be considered problematic for truly transparent elections by numerous OSCE/ODIHR NAM interlocutors. They noted that during early voting, the entire state apparatus is mobilized to ensure a high voter turnout, partly by pressuring state employees and students. The long period of early voting, non-standard ballot boxes, and lack of security of ballot boxes overnight, as well as insufficiently clear and inconsistently implemented procedures have made the oversight of early voting by political parties and observers extremely difficult. There have been no amendments to mandate the CEC and lower-level election commissions to immediately publish detailed preliminary and final results of the vote by polling stations.

Further, the CEC indicated no intention to the OSCE/ODIHR NAM to improve the counting procedures, for example by issuing adequate regulations that each voter’s choice should be read aloud or that ballot papers be visible to everyone present and results made public at the end of the count. The training of election commission members on transparent counting procedures could still be considered. The CEC committed itself to fully implement amendments of the electoral code on early voting such as to display early voting protocols with the numbers of those who voted after each day of polling, to seal the ballot box at the end of each early voting day, to allow the observers to be present when the boxes used for early voting are opened and sealed, to use separate ballot boxes for election day and to indicate the numbers for early voting separately in the PEC protocols.

C. ELECTION ADMINISTRATION

The presidential election will be administered by the CEC, 155 TECs and about 6,350 PECs, including some 40 PECs abroad. While the CEC is a permanent body and has been appointed for a five-year term in 2007, TECs and PECs are temporarily appointed by joint decisions of regional / local legislative and executive bodies.

The CEC informed the OSCE/ODIHR NAM that according to recent amendments at least one-third of election commission members of TECs and PECs are to be drawn from political parties, public associations, work collectives and representatives of citizens. However, the relevant local administration bodies retain full discretion over all appointments and their criteria for selection are not clear. The CEC outlined to the OSCE/ODIHR NAM that of 2,681 nominations for the 2,000 positions at the 155 TECs, only 70 nominations came from ‘opposition’ political parties. On 29 September, the CEC announced TEC appointments and stated that almost all applications submitted by political parties had been accepted. However,

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6 Article 33 of the amended electoral code provides the CEC with the competence to provide clarifications regarding the legislation and to direct activities of electoral commissions as well as to provide to these commissions methodological, organizational and technical support.

7 The number of territorial commissions has been reduced by ten because it was decided to avoid setting up city commissions in the cities, which are subdivided into districts where city district commissions will operate. Six regional commissions, one Minsk city commission, 118 district commissions, 6 city commissions, and 24 commissions in the districts of towns and cities.
According to an official government webpage only 14 of the 70 opposition nominees were accepted.

According to the domestic observer group “Human Rights Defenders for Free Elections”, citizens lodged a complaint with the CEC over the incumbent president’s submission of his application for the registration of his initiative group through the minister of education and not in person, as stipulated by the law. According to new legal amendments, such a complaint should be dealt with during a CEC meeting.

In order to vote, Belarusian citizens must be at least 18 years of age by election day and permanently or temporarily resident within a precinct. The CEC confirmed to the OSCE/ODIHR NAM that voter lists are compiled at precinct-level by the local authorities, that no total number of voters is yet available and that no centrally compiled voter register exists. Domestic observers criticized the lack of transparency since voter lists are not publicly displayed and voters are only entitled to check their own entry.

D. CANDIDATE REGISTRATION

Any citizen born in Belarus who is above the age of 35 and who has lived permanently in the country for at least the last ten years is entitled to stand for office. Potential candidates had to submit applications for registering initiative groups by 24 September 2010.

In an inclusive process, 17 of 19 candidate initiative groups were accepted by the CEC on 27 September. Potential candidates must now collect 100,000 support signatures from voters by 29 October. TECs then have 15 days to verify the authenticity and number of support signatures. Each voter can put his/her signature in support of several potential candidates. Ensuring a pluralistic field of candidates is crucially important to provide voters with a genuine choice during this election.

The CEC has stated that it will oversee the process with maximal respect for freedom of assembly and that regulations regarding the venues where signatures can be collected have been relaxed. OSCE/ODIHR NAM interlocutors expressed the hope that this will extend to the entire campaign period. Campaigning commences once a candidate has been registered and the final deadline for this is 23 November, 25 days before election day.

Once candidates are registered, they have the right to begin campaigning using the state funds distributed by the CEC. In addition, due to the recent legal amendments, private funds up to a total amount of BYR 105 million (about EUR 25,600) can be solicited. This is a welcome improvement, in line with past OSCE/ODIHR recommendations. The CEC’s new power to

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8 The Belarusian Leftist Party “Fair World” nominated 36 (5 appointed), United Civil Party nominated 24 (6 appointed), the Belarusian People’s Front nominated 7 (2 appointed), the Belarusian Social Democratic Party (Hramada) nominated 3 (1 appointed). At the same time 92.6, 97.2 and 100 per cent of the nominees of the pro-government Communist Party of Belarus, Belaya Rus and Belarusian National Youth Union, respectively, became commission members, See: http://www.belarus.by/en/press-center/belarus-elections-news/political-parties-ngos-take-half-of-seats-in-territorial-election-commissions-in-belarus_1_0000001498.html.

9 The electoral code provides that not later than 85 days before elections the list of the members of the initiative group should be submitted to the CEC “by the person who has the intention to be nominated as candidate for President”. Nomination of candidates begins 80 days and ends 50 days before election day; (Article 60, 61).
revoke candidates’ registration on the basis of excessive campaign spending, however, raises concern.

Five potential presidential candidates met by the OSCE/ODIHR NAM voiced their concern about the difficulties of running a campaign in what many perceive as a largely state-controlled media landscape and a restrictive political environment in which opposition political forces have been marginalized. In some candidates’ opinion, the government is trying to present a positive picture for the international community with purely cosmetic amendments to the legislation, while the political situation is not improving. According to OSCE/ODIHR NAM interlocutors, opposition politicians, as well as some media and civil society groups, are increasingly confronted with administrative harassment by the authorities, including inquiries by state tax authorities.

E. MEDIA

In its 2008 final report, the OSCE/ODIHR EOM concluded that the media environment continued to be constrained by a lack of media providing alternative views and opinions and that the media coverage of the campaign was not sufficient to enable voters to gain meaningful information about candidates in order to make an informed choice during elections.

Since 2008, the government has permitted independent newspapers Nasha Niva and Narodnaya Volya to resume national circulation, albeit limited, and newspapers Babrujski Kurier and Gantsavitski Chas to official local circulation. A new “Law on Mass Media” was enacted in February 2009 with a requirement to re-register media outlets. This process was completed on 8 February 2010 and the Belarusian Association of Journalists (BAJ) stated that this process was inclusive. At the same time, at least eight new non-state newspapers have been denied registration since February 2010 as the Ministry of Information has introduced additional restrictions for registration of new media outlets, according to the BAJ.10

The editor-in-chief of the prominent independent daily newspaper, Narodnaya Volya, informed the OSCE/ODIHR NAM that he recently received a fourth warning from the Ministry of Information. After a second warning, the minister is legally entitled to request the closure of a newspaper. Independent print media still faces constraints by a state-owned newspaper distribution system and newspaper stands. BelaPAN, a private news agency, briefed the OSCE/ODIHR NAM about difficulties of access to official information, to higher-ranking state officials, and of journalists to courts. The editor-in-chief of the largest state-owned newspaper Sovetskaya Belorussia explained to the OSCE/ODIHR NAM that his newspaper will provide each candidate with one single uncensored page of coverage to meet the legal obligations of “equal opportunities for election appearance of candidates”.

In the absence of any independent TV or radio channels with nationwide coverage, the state effectively controls the broadcast media. It is estimated that almost half of viewers are able to receive Russian media via cable and a fifth via satellite. Reportedly, state media has avoided coverage of opposition politicians except in negative manner. The CEC chairperson informed the OSCE/ODIHR NAM that due to the changes in the electoral code, each presidential candidate will receive free airtime (two times thirty-minutes, pre-recorded) on state TV and

radio. For the first time, a televised debate between candidates is foreseen. Additionally, according to the amendments, candidates can use their own campaign funds for specified activities such as paying for airtime and print space.

The Internet has become an increasingly important source of information. Internet sites (Charter 97, Belaruskii Partizan, Salidarnast) offer alternative sources of information. However, a new presidential decree regulating the Internet came into force on 1 July 2010.\textsuperscript{11} It requires every internet user to register by name, even in internet cafes.

The CEC told the OSCE/ODIHR NAM that it is yet to establish a media supervisory committee; its role would be to consider media-related complaints during the election campaign, but media monitoring is not envisaged.

\section{International and Domestic Observers}

A number of non-governmental organizations continue to face administrative obstacles to registration.\textsuperscript{12} Recent amendments to the electoral code expanded the list of individuals who can serve as domestic election observers. Now, any individual nominated by a political party or civil society organization can be accredited as an observer. Observers are allowed to be present throughout polling and counting. In the past observers had restricted access and there is still no provision for them to obtain certified copies of results protocols.

Viasna and the Belarusian Helsinki Committee confirmed to the OSCE/ODIHR NAM that they have formed a joint election observation campaign called “Human Rights Defenders for Free Elections” with 80 long-term observers (LTOs) already on the ground. For election day, an additional 600 observers are anticipated. Both groups indicated they had no intention of nominating members to election commissions since they perceive themselves primarily as observers.

The Commonwealth of Independent States (CIS) informed the OSCE/ODIHR NAM that it plans to deploy its LTOs in mid-October and STOs, including members of the CIS inter-parliamentary assembly, for election day.

\section{Conclusions and Recommendations}

All OSCE/ODIHR NAM interlocutors welcomed the idea of a full-fledged OSCE/ODIHR Election Observation Mission (EOM) and OSCE Parliamentary Assembly observers. While the authorities stressed their stated intention of holding elections consistent with OSCE commitments, others underscored the added value of international observation to impartially report on the election and enhance transparency. Concerns related to early voting, counting and tabulation procedures continue to be voiced. Some interlocutors encouraged a longer presence of short-term observers (STO) to cover the crucial five day early voting period.

\textsuperscript{11} Decree of the President of the Republic of Belarus No. 60 “On measures to improve the use of the national segment of the Internet”.

\textsuperscript{12} UN Human Rights Council, Working Group on the Universal Periodic Review, Report on Belarus, 17 February 2010, 
Based on the findings outlined in this report, the OSCE/ODIHR NAM recommends the deployment of an EOM to observe the presidential election. The OSCE/ODIHR NAM recommends requesting OSCE participating States to second 40 long-term observers to follow the election process throughout the country. As well as, 400 STOs will be requested to follow election day procedures, including key elements of early voting, polling, and counting at a significant number of the more than 6000 PECs as well as the tabulation of results which will take place across 155 TECs. It also recommends deploying STOs for a longer period in order to observe early voting.

The OSCE/ODIHR encourages the authorities of Belarus to act in accordance with their stated intention to conduct the forthcoming election in line with OSCE commitments and to take steps to address outstanding issues outlined in this report, *inter alia:* respecting fundamental freedoms, including the possibility for all contestants to campaign freely; strengthening the integrity of early voting; providing clear instructions on counting and tabulation procedures; and ensuring an open and transparent counting process in order to improve public confidence.
ANNEX: LIST OF MEETINGS

Officials

Presidential Administration
Valery Mitskevich, Deputy Head Presidential Administration
Andrei Molchan, Deputy Head Foreign Policy Department

Ministry of Foreign Affairs
Aleksei Skripko, Director General for Europe
Roman Romanovsky, Deputy Director General Directorate for Europe
Alexander Opimakh, Deputy Head of European Cooperation Department
Anton Shmygov, First Secretary of General Directorate for Europe

Central Electoral Commission
Lidia Yermoshina, Chairperson
Nikolai Lozovik, Secretary of the Central Election Commission

House of Representatives
Igor Karpenko, Deputy Chairperson of the Standing Committee on International Affairs and Relations with the CIS
Valentina Leonenko, Member of the Standing Committee on International Affairs and Relations with the CIS
Mikhail Orda, Deputy Chairperson of the Standing Committee on State Building, Local Governance and Procedural Commission

National State TV and Radio Company
Aleksandr Martynenko, Vice Chairperson, First TV Channel
Elena Ladutko, Deputy Chief of Television News Agency, First TV Channel

State newspaper Sovetskaya Belorussia
Pavel Yakubovich, Editor-in-Chief

Commonwealth of Independent States
Vladimir Garkun, Deputy Chairman of the CIS Executive Committee
Oleg Kuleba, Counsellor
Vera Yakubovskaya, Deputy Press Secretary
Sergey Kamenetsky, Director of Organizational Department

Political Parties and potential candidates

Andrei Sannikov, Co-ordinator, European Belarus
Aliaksandr Atroshchankau, Press secretary, European Belarus
Vlad Kobets, European Belarus
Vladimir Nekliaev, leader of the public campaign “Tell the Truth!”
Alexander Feduta, Political Advisor of Mr. Nekliaev
Ryhor Kastusiou, Deputy Chairperson, Belarusian Popular Front
Vital Rymasheuski, Co-Chairperson, Belarusian Christian Democracy
Civil Society and Media

Oleg Gulak, Chairperson, Belarusian Helsinki Committee
Ales Bialiatski, Chairperson, Viasna
Zhanna Litvina, Chairperson, Belarusian Association of Journalists
Iosif Seredich, Chief Editor, Narodnaya Volya newspaper
Ales Lipay, Director General, BelaPAN news agency

Diplomatic Community

H.E. Ambassador Michel Raineri, French Embassy
H.E. Ambassador Christof Weil, German Embassy
H.E. Ambassador Ferenc Kontra, Hungarian Embassy
H.E. Ambassador Alexander Surikov, Russian Embassy
H.E. Ambassador Benedikt Haller, Head of the OSCE Office in Minsk
Mr. Jean-Eric Holzapfel, Chargé d’Affaires, EU Delegation to Belarus
Mr. Michael Scanlan, Chargé d’Affaires, US Embassy
Mr. Kadyr Kassabulatov, Counsellor, Embassy of Kazakhstan
Mr. Asker Kiikov, First Secretary, Embassy of Kazakhstan
Mr. Radoslaw Darski, Second Secretary, Polish Embassy