



Office for Democratic Institutions and Human Rights

## REPUBLIC OF BELARUS

### PRESIDENTIAL ELECTION

19 March 2006

#### OSCE/ODIHR Election Observation Mission Report



Warsaw  
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**REPUBLIC OF BELARUS  
PRESIDENTIAL ELECTION  
19 March 2006**

**Final Report <sup>1</sup>**

**I. EXECUTIVE SUMMARY**

On 19 January 2006 the Minister of Foreign Affairs of the Republic of Belarus invited the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) to observe the 19 March 2006 presidential election. The OSCE/ODIHR established an Election Observation Mission (EOM) on 7 February 2006. The OSCE/ODIHR EOM assessed the degree to which the 2006 presidential election complied with commitments agreed by all OSCE participating States. On election day, the OSCE/ODIHR EOM joined efforts with the OSCE Parliamentary Assembly (OSCE PA) to form the International Election Observation Mission (IEOM).

On 17 February, four candidates were registered to contest the presidential election: Sergei Gaidukevich (Liberal Democratic Party); Alexander Kozulin (Social Democratic Party, Hramada); incumbent President, Alexander Lukashenko (non-party), and Alexander Milinkevich (non-party). Despite the fact that these candidates offered voters a genuine choice, the authorities subsequently failed to ensure equal conditions for a meaningful contest. The treatment of candidates by State authorities exhibited a decisive advantage for the incumbent President, Mr Lukashenko, and raised doubts regarding the authorities' willingness to tolerate political competition based on equal treatment before the law and by the authorities.

State power was employed arbitrarily against opposition candidates, thwarting their campaign efforts. Throughout the campaign, opposition campaign workers were routinely harassed, detained and arrested. Due to harassment by State authorities, campaign representatives reported that as the campaign progressed, it became increasingly difficult to recruit volunteers and campaign staff.

Civil and political rights guaranteed by the Constitution were disregarded, including freedoms of expression, association, and assembly, and the right to access, gather and disseminate information. Amendments to the Criminal Code which now criminalize participation in an unregistered or liquidated organization or political party, offered State authorities another avenue to restrict an individual's ability to exercise his or her right of association, and to seek, receive and impart views.

Belarusian broadcast media granted incumbent President Lukashenko extensive and favourable coverage. Other candidates received an extremely narrow coverage of their views. The disparity in coverage of views could not be offset by the limited free airtime and space granted to all candidates. There was a general absence of direct discourse between the candidates, further lessening voters' ability to make informed choices. State structures obstructed the few independent print media remaining in operation.

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<sup>1</sup> This report is also available in Russian and Belarusian. However, the English version remains the only official document.

The Election Code restricts candidates' ability to campaign effectively and voters' ability to freely receive information, lacks sufficient election administration safeguards, and fails to guarantee the integrity of early voting and election day voting, counting and tabulation procedures. These shortcomings are further compounded by a lack of demonstrated political will to implement elections in line with OSCE commitments. In general, the State authorities, including the Central Commission on Elections and National Referenda (CEC), applied legislation in a restrictive and, at times, arbitrary manner.

At the same time, the almost complete exclusion of persons nominated by the opposition from all levels of the election administration failed to provide pluralism and significantly reduced the transparency of these bodies. Furthermore, the CEC management often took decisions outside formal CEC sessions. The application of the legislation compounded the shortcomings of the Election Code and lessened the scope for genuine competition.

The legal provisions on filing election complaints and appeals did not provide an effective mechanism for legal redress against election malpractice. While the Code provides that CEC decisions on specific issues may be appealed to the Supreme Court, no practical mechanism exists to file a legal challenge against CEC decisions on other electoral issues. Significantly, legal appeals are not admissible to challenge the election results as declared by the CEC.

Prior to the election, voter lists were compiled for each polling station, and no centralized and publicly available information existed on the number of voters registered in territorial electoral administrative units. The method of compiling the voter lists lacked transparency and did not ensure accuracy. Lists would appear not to have been cross-checked for possible multiple entries.

Notwithstanding these significant shortcomings, in general, the CEC, TECs and Precinct Election Commissions (PECs) administered preparations for the election in an efficient manner. Prior to the election, the CEC, the large majority of TECs and PECs provided observers with information upon request. However, provisions of the Electoral Code were used by the election administration to limit legitimate observation activities and lessened the scope for a meaningful observation by international and domestic observers.

While the CEC announced that some 32,000 domestic observers had been registered by TECs and PECs, the majority were fielded by labour collectives and organizations generally supportive of the incumbent. Observation by independent non-partisan domestic observer groups was limited. On 21 February, the State security services (KGB) arrested the leaders of "Partnership", an unregistered civic association, which in previous elections had coordinated non-partisan domestic observer efforts, deploying thousands of observers.

The conduct of early voting between 14-18 March lacked the necessary transparency, and therefore diminished confidence in the integrity of this phase of the electoral process. The Election Code does not require the recording of the number of 'early votes' cast each day, nor the total number of 'early votes' to be included in the official protocol. In addition, ballot boxes are not adequately secured overnight. The OSCE/ODIHR EOM received reports that company managers and directors of educational institutions had issued instructions to employees and students to vote early or face negative consequences. According to the CEC, 31 per cent of voters cast ballots before 19 March.

On 17 March, a joint statement was issued by opposition candidates Mr Kozulin and Mr Milinkevich, who declared their lack of confidence in the CEC for “gross violation of the Constitution and a number of election-related laws”, and demanded the appointment of a new CEC and the postponement of the election until July. KGB statements on the eve of the election, associating the opposition with preparing a violent overthrow of the government on election day, contributed to an uncertain and oppressive political climate.

On 19 March, voting was conducted in a calm and peaceful atmosphere. In general, voting appeared to be well organized and PECs and voters had a good understanding of voting procedures. Overall, the conduct of voting was assessed positively in 90 per cent of observation reports. However, 10 per cent of observers reported being impeded in their observation activities. Serious shortcomings were also noted, including: vote secrecy violations; pressure on voters; group voting; unauthorised persons inside polling stations; seemingly identical signatures on voter lists and signs of multiple voting.

The process deteriorated during the vote count, which often lacked minimum transparency. Observers assessed the count negatively in 50 per cent of reports. Shortcomings included disregard for procedure, presence of unauthorised persons, inappropriate handling of complaints and tampering with result protocols. Almost 70 per cent of PECs did not announce the number of votes for each candidate before completing the protocols.

Despite assurances that observers could follow the tabulation of PEC results by TECs, observers were restricted, or even obstructed, in their efforts to observe this phase of the process in 39 per cent of observations. In some instances, this included being denied access to TEC premises. In 43 per cent of observation reports, the transparency of the tabulation was assessed as “bad” or “very bad”.

On election night, Mr Kozulin and Mr Milinkevich addressed a rally in central Minsk, claiming that the election had been falsified and did not express the will of the people. They demanded that democratic elections be held on 16 July 2006. While authorities initially allowed the demonstration to continue for five days, police routinely detained protesters when they left or returned to the site, and reportedly prevented people from bringing food, clothes or blankets to the protesters. Despite this, many persons continued their protest until police broke up the demonstration and arrested remaining protesters on the early morning of 24 March. Between 500 and 1,000 individuals were arrested in connection with mass protests during the week following the election, including Mr. Kozulin.

On 23 March, the CEC heard complaints filed by Mr Kozulin and Mr Milinkevich, and their requests to invalidate the election. Both requests were rejected. They attempted to challenge the results of the elections at the Supreme Court. On 5 April, the Court ruled the challenges inadmissible. The OSCE/ODIHR was denied entry to attend this session.

The conduct of the 2006 presidential election in Belarus failed to meet OSCE Commitments for democratic elections. In particular, paragraphs 5.4, 7.3, 7.4, 7.6, 7.7, 7.8, 10.1, and 10.3 of the 1990 Copenhagen Document were not respected, fully or in part.

The OSCE/ODIHR continues to stand ready to support efforts of the Republic of Belarus to conduct elections in line with OSCE commitments and other international standards.

## II. INTRODUCTION AND ACKNOWLEDGEMENTS

On 19 January 2006, the Minister of Foreign Affairs of the Republic of Belarus invited the OSCE Office for Democratic Institutions and Human Rights (ODIHR) to observe the 19 March 2006 presidential election. On 24 January, the OSCE/ODIHR sent a Needs Assessment Mission (NAM) to Belarus, and subsequently an OSCE/ODIHR Election Observation Mission (EOM) was established on 7 February. The OSCE/ODIHR EOM was headed by Ambassador Geert Hinrich Ahrens (Germany). The EOM consisted of a core team of 14 election experts and administrative staff based in Minsk and 38 long-term observers (LTOs) deployed to Minsk and 14 other cities on 16 February.

The National Assembly of the Republic of Belarus invited the OSCE Parliamentary Assembly (OSCE PA) to send observers. The OSCE Chairman-in-Office, and Foreign Minister of the Kingdom of Belgium, H.E. Karel De Gucht, appointed the President of the OSCE PA, Congressman Alcee L. Hastings (United States of America), as Special Co-ordinator for the short-term observation.

On election day, the OSCE/ODIHR EOM joined efforts with the OSCE PA to form the International Election Observation Mission (IEOM). The IEOM deployed 546 short-term observers comprising 439 observers seconded by the OSCE participating States to the OSCE/ODIHR EOM<sup>2</sup>, and 96 parliamentarians<sup>3</sup> from the OSCE PA, together with 11 OSCE PA officials and parliamentary staff. Observers were drawn from 38 OSCE participating States. Observers submitted 231 election day observation reports on the opening procedures, 2,395 voting reports, 229 reports on vote counting at polling station level and 104 report forms on the tabulation of results at the Territorial Election Commissions (TECs). Prior to election day, observers submitted a total of 2,022 reports covering the early voting period.

This final report follows the release of the IEOM Statement of Preliminary Findings and Conclusions at a press conference on 20 March, the publication of two OSCE/ODIHR interim reports during the course of the mission and the OSCE/ODIHR Needs Assessment Report on 31 January. All of these documents are available at [www.osce.org/odihr](http://www.osce.org/odihr). The OSCE/ODIHR has previously observed a number of elections in Belarus, including the Limited Election Observation Mission to the 2001 presidential election and the Technical Assessment Mission to the 2000 parliamentary elections.

The OSCE/ODIHR EOM extends its appreciation to the Ministry of Foreign Affairs, the Central Election Commission (CEC) and other national and local authorities for the assistance and co-operation provided to it. However, it regrets that some of its local assistants were intimidated while serving with the OSCE/ODIHR EOM. The EOM is grateful for the support received from the OSCE Office in Minsk.

## III. BACKGROUND

The 19 March Presidential election was announced on 16 December 2005. While the election had to be held at the latest by July 2006, it was called some four months earlier. The

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<sup>2</sup> 8 OSCE/ODIHR short-term observers were not granted visas or were refused entry into the country.

<sup>3</sup> 19 members of the OSCE PA Delegation were denied visas or entry into Belarus.

contest was the third presidential election to be held since independence in 1991. Incumbent President, Alexander Lukashenko, was allowed to compete for a third term through the passage of a referendum held on 17 October 2004 that abolished a constitutional two-term limit. The OSCE/ODIHR did not specifically observe the 2004 referendum, but it did observe the 2004 parliamentary elections which were conducted concurrently.

The Constitution of the Republic of Belarus (1996) confers the President with wide-ranging authority, without a clear separation of powers among State institutions.<sup>4</sup> The Constitution limits the convening of the legislature to two sessions per year, totalling no more than 170 days. Presidential decrees issued when the legislature is out of session have the force of law. If a law is in conflict with a presidential decree, in general, the decree prevails.<sup>5</sup>

Although a number of political parties have been established in Belarus since the emergence of the Belarus Popular Front in 1988, the State has not created conditions conducive to genuine political pluralism. Most parties and political organizations have weak organizational structures and play a limited role in public life. In recent years, some opposition parties' regional branches have been de-registered and closed due to legislation requiring re-registration under a "legal address". Following the 2004 parliamentary elections, opposition parties have no representation in the 110-member National Assembly.<sup>6</sup>

In recent years, NGOs and civic initiatives have been restricted or curtailed in their activities. In 2003, 51 NGOs were de-registered, in 2004, 38 NGOs were de-registered, and in 2005, 68 NGOs were de-registered. At the same time, it has become increasingly difficult to register an NGO. According to the Ministry of Justice, in 2005 it received 1,284 NGO registration applications, of which only 61 were successful.

## **IV. LEGAL FRAMEWORK**

### **A. APPLICABLE LEGISLATION**

The Constitution of the Republic of Belarus (1996) contains general provisions on elections. The Election Code (2000) is the principal act regulating the conduct of elections. A variety of other laws impact on the course of the elections including: the Code on Administrative Violations, the Criminal Code, the Law on Mass Events, the Law on Press and other Mass Media, and CEC regulations.

Under the Constitution and the Election Code, for presidential elections to be valid, 50 per cent of the registered electors must participate as voters. To be elected, the winning candidate must receive more than half of all votes cast. If no candidate secures an election victory, a

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<sup>4</sup> According to the Venice Commission of the Council of Europe, the Belarusian Constitution grants "excessive powers of the President without adequate checks and balances." Strasbourg, 8 October 2004.

<sup>5</sup> Article 137 of the Constitution provides that "In the case of inconsistency of a decree or an order with the law, the law prevails only when the powers to issue the decree or the order have been provided by that law".

<sup>6</sup> Only three parties are represented in the National Assembly: the Communist Party (8 seats), the Agrarian Party (3 seats), and the Liberal Democratic Party (1 Seat) – none of which are in opposition to the President. The remaining 98 seats are held by persons who contested the 2004 parliamentary elections as candidates unaffiliated to any political party.

second round is held within two weeks between the two candidates who received the most votes. The turnout requirement is also applicable in the second round. The winning candidate requires a majority of all votes cast, including “invalid ballots” and votes “against all”. Thus, it is possible that an election will not be legally considered “as valid” in instances where the turnout requirement is not met.

## **B. ASSESSMENT OF THE LEGAL FRAMEWORK**

The Election Code has been extensively reviewed on previous occasions by the OSCE/ODIHR. Numerous and substantial shortcomings were noted in its previous election reports.<sup>7</sup> The Election Code limits civil and political rights, lacks sufficient safeguards for political pluralism and transparency and fails to guarantee the integrity of early voting, election day voting, counting and tabulation of results. Although recommendations were made to bring the Code more closely in line with OSCE commitments for democratic elections,<sup>8</sup> the Belarusian authorities have not, to date, appeared willing to consider them. The Election Code has not been amended significantly since 2000. Implementation of the Code further undermined possibilities for the law to safeguard the election process in line with OSCE commitments.

The Election Code does not ensure a sufficient basis for free and fair campaigning. While the Code does not contain explicit campaigning prohibitions, according to the CEC’s interpretation of the legislation, candidates may only engage in certain forms of campaigning: using the free airtime and space in the State media, organizing meetings with voters and distributing certain types of printed campaign material.<sup>9</sup> By law, the State authorities must provide candidates with funds for printed campaign materials.<sup>10</sup> For the 2006 election, 66,700,000 Belarusian Roubles (approximately US\$31,000) was available to each candidate for this purpose.

Although the Election Code does not explicitly limit non-State funding of a campaign, Article 48 of the Code prohibits “material assistance during the preparation and conduct of the election”. The CEC interpreted this article to mean that candidates were not allowed to utilize their own private funds or direct donations to finance their election campaign and could finance their campaigns only from the funds provided by the State (i.e. US\$ 31,000). Candidates were not allowed to use the state funds to rent billboard space. Candidates could face de-registration for violations of campaign provisions contained in the Election Code.

The Law on Mass Events (1997) covers several types of public assembly, and was applied to campaign events. The Law places restrictions on the freedom of public assembly; e.g., by requiring that requests to hold a public event be filed 15 days in advance of the event, entitling local authorities to decide on whether to permit the holding of a public (campaign) event, and even to change its time and venue. The 15-day time period for such a request is

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<sup>7</sup> See “OSCE/ODIHR Assessment of the Electoral Code of Belarus”, 25 July 2000; “OSCE/ODIHR Final Report on 2004 Parliamentary Elections”, 9 December 2004, “OSCE/ODIHR Final Report on 2001 Presidential Elections”, 4 October 2001, at [www.osce.org/odihr](http://www.osce.org/odihr)

<sup>8</sup> Ibid.

<sup>9</sup> *Inter alia*, permitted printed material includes campaign posters, leaflets, photo materials etc. The content of the material must respect the provisions of Article 47 of the Code.

<sup>10</sup> The funds are managed by the CEC. Candidates place the orders for printing and provide the CEC with the bills, which are paid by the CEC.



too long, all the more so in what was a relatively short campaign period. The CEC informed the OSCE/ODIHR EOM that the 15-day notice period required by law to hold an indoor meeting would not be applied during the campaign period. However, State authorities did apply the Law to outdoor election campaign events. In so doing, in effect they decided that the provisions of the Law take precedence over the Election Code<sup>11</sup>, thereby negating rights granted to candidates under Article 45 of the Election Code. Violations of the provisions of the Law on Mass Events constitute administrative offences that can be punished by up to 15 days administrative arrest.

The Election Code recognizes the role of election observers and Article 13 of the Election Code contains some general provisions promoting transparency in the conduct of elections. The Code provides for international observation and domestic election observation by partisan and non-partisan organizations. However, some provisions could be used to limit legitimate observation activities and lessen the scope for a meaningful observation of the process. The same Article prohibits an observer to “be present next to ballot-issuing desks ...” *Inter alia*, this limits the possibility for observers to verify if voters present correct identity documents, to scrutinize the voter list and to see clearly how many ballots are issued to voters. During the counting phase, this provision was also used to prevent observers from standing close enough to verify the transparent implementation of vote count procedures.<sup>12</sup>

The Code does not contain sufficient safeguards to ensure the integrity of voting, counting and tabulation. It does not provide sufficient detail on counting procedures, with the result that the counting process is administered in a haphazard and inconsistent manner by PECs. During the counting of votes, the Code’s failure to require PECs to announce, or demonstrate for which candidate a voter has cast his or her ballot, is a serious shortcoming which can cast doubt on the integrity of the vote counting process.

Article 53 of the Code provides for five days of ‘early voting’ prior to election day. The requirement that a voter has to indicate the date of voting in the voter list when receiving their ballot, opens possibilities for coercing voters to vote early. During this period only two PEC members conduct voting. The legislation does not require the recording of the number of ‘early votes’ cast each day or the total number of ‘early votes’ to be included in the official protocol as a separate line. During the early voting phase, ballot boxes are not adequately secured overnight, increasing the possibility for electoral malfeasance. These factors lessen the transparency of the early voting process and reduce confidence in its integrity.

The regulation on the use of mobile voting is similarly permissive, allowing a voter to apply for a home visit of the PEC members in cases where he or she are not able to come to the polling station (Article 54.1-2). Moreover, the oral request for mobile voting may come from any other person up until 6pm on election day. Two members of the commission pay the visit with a provisional voter list prepared by the Chairperson or the Secretary. In some rural areas, a considerable share of the votes was cast through mobile voting.

In 2005, the Criminal Code (1999) was amended. *Inter alia*, it incorporated new provisions that restrict the activities of NGOs and civic initiatives. For example, Article 193<sup>1</sup> provides

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<sup>11</sup> On 9 March, the CEC Chair endorsed this legal interpretation.

<sup>12</sup> Paragraph 7.4 of the OSCE Copenhagen Document stipulates that *the participating States should* “ensure that [votes] are counted and reported honestly with official results made public.”

that participation in an unregistered or liquidated organization or political party is a criminal offence, punishable by up to two years imprisonment. These factors have lessened an individual's ability to exercise his or her right of association, and to form and participate effectively in NGOs. This curbs an individual's right to seek, receive and impart views freely as provided for in paragraphs 10.1 and 10.3 of the OSCE Copenhagen Document. Other provisions of the Criminal Code criminalize "discrediting Belarus to an international organization or foreign government" and to insult or slander the President or certain state officials. Such provisions limit a citizen's right to free expression.

## V. ELECTION ADMINISTRATION

### A. STRUCTURE AND COMPOSITION OF THE ELECTION ADMINISTRATION

The presidential election was conducted by: the Central Commission for Elections and National Referendums (CEC), 165 Territorial Election Commissions (TECs) and 6,586 Precinct Election Commissions (PECs).<sup>13</sup> Of those, 41 PECs were established overseas in diplomatic missions for out-of-country voting.

The CEC is a permanent body with a five-year mandate expiring in January 2007. It has 12 members, of which six are appointed by the President and six by the indirectly elected Council of the Republic (Upper House of Parliament). The Chair, Secretary and Head of the Legal and Organizational Department are professional election administrators. The other nine members participate in the work of the CEC along with other employment duties. The Deputy Chair of the CEC headed the National Legislative Drafting Center, but resigned this post on 1 February, and another member is Deputy Minister of Justice.

The TECs correspond to the structure of the State administration at sub-national level. Thus, there were seven 'Regional' (*Oblast*) Election Commissions, six 'Town' Election Commissions (established mainly in regional centres) and 152 'District' (*Rayonaya*) election commissions. In general, each TEC had 13 members. TEC members could be nominated by a variety of organizations including: public associations, labour collectives, political parties, and individual applicants supported by citizens (self-nominees).

TEC members were appointed at joint sessions of local legislatures and local executives held on or before 28 December 2005. Of the 2,124 appointed members, 44.8 per cent were self-nominated. Labour collectives nominated 23.4 per cent of appointed members, and 9.6 per cent were local government officials. Political party nominees constituted only 2.6 per cent of TEC members. Of these, 47 were nominated by the Communist Party of Belarus, which offers political support to President Lukashenko. Public associations nominated the other TEC members. While there was no formula regarding the composition of TECs and PECs, the role of the local legislatures and executives in appointing commission members resulted in their significant control over the election administration.

The appointing authorities finalized the composition of PECs on or before the 1 February deadline. Although the Code provides that the process of selecting PECs should be

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<sup>13</sup> The CEC was appointed in line with the provisions of the Law on the Central Commission for Elections and National Referendums, and TECs and PEC according to the provisions of the Election Code.

pluralistic and offer a choice, in some cases their appointment suggested otherwise, and lacked transparency and uniformity. The OSCE/ODIHR EOM sampled 18 TECs, which included 740 PECs. The EOM established that the number of appointed PEC members was very close to the number of applications filed. Out of 8,540 available positions, TEC records showed that 8,662 applications were filed. In many cases, heads of State institutions are tasked by the local executive with administering elections.

Often members of a PEC come from the same institution and are chaired by their supervisor or employer. Several political parties and NGOs informed EOM observers that while they had submitted PEC applications, these had not been accepted. According to information received from the CEC, only 0.2 per cent of PEC members were nominated by a political party, while most were self-nominated (49.3 per cent) or nominated by labour collectives (35.4 per cent). Local government officials made up five per cent of PEC members and the remaining members were nominated by public associations.

## **B. ASSESSMENT OF THE ORGANIZATION OF THE ELECTION**

Notwithstanding significant shortcomings in the composition and functioning of the election administration, in general, the CEC, TECs and PECs administered preparations for the election in an efficient manner. The CEC complied with legally established deadlines.

Prior to the election, the CEC, the large majority of TECs and PECs provided observers with information they requested. While the Election Code does not clearly state that all election documents are available for public inspection, the CEC published most of its decisions and maintained a website where documents were posted. However, basic information such as the number of voters registered in each TEC before the election, the number of ballots printed and distributed, and the instruction on the management of the “emergency” 10 per cent overprint of ballots, was not made publicly available.

The almost complete exclusion of persons nominated by the opposition from all levels of the election administration failed to provide pluralism and significantly reduced the transparency of these bodies. OSCE/ODIHR EOM observers also found reason to question their independence from the State Executive authorities. Many reported that the local administration, although ostensibly not involved in the election administration, exercised significant influence over its decisions. Domestic observers were also drawn from the ranks of the local administration.

Sittings of the commissions at all levels were open to observers, representatives of registered candidates<sup>14</sup> and the media. However, the CEC held only two meetings - for the registration of candidates and their proxies on 17 February, and on announcement of the election results on 23 March. The CEC Chair and Secretary often took administrative and legal decisions outside formal sessions, apparently without reference to other commission members. This approach to decision making meant that few decisions were taken collegially. With rare exceptions, TECs did not have sittings in the period of the observation, preferring instead to decide on issues during unofficial meetings.

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<sup>14</sup> Each candidate was entitled to appoint 30 authorized representatives.

Mr Kozulin and Mr Milinkevich repeatedly stated their lack of confidence in the political impartiality of the election administration. On 17 March, in a joint statement, they declared their lack of confidence in the CEC for “gross violation of the Constitution and a number of election-related laws”, and demanded the appointment of a new CEC and the postponement of the election until July.

## VI. CANDIDATE REGISTRATION

By law, to be nominated, candidates required the support of an ‘initiative group’ of voters, comprising not less than 100 persons. Initiative groups had to apply for registration with the CEC no later than 85 days before election day, seven days after the announcement of the election date. To register a candidate, an initiative group needed to collect the signatures of at least 100,000 eligible persons (hereafter ‘supporting signatures’). Initiative groups had 30 days to collect supporting signatures, commencing 80 days before election day. Initially, the CEC registered eight initiative groups.

The OSCE/ODIHR EOM was not able to observe the signature collection process, as it was completed on 26 January 2006, prior to its deployment. However, observers received numerous allegations of unequal treatment by state authorities towards the campaign representatives of different opposition candidates in the signature collection process. Interlocutors claimed that they were denied access to student dormitories and workplaces, whereas those collecting signatures for Mr Lukashenko and Mr Gaidukevich were in general granted access. Observers heard accounts that persons were put under duress to sign in favour of Mr Lukashenko and that pressure was exerted over supporters of opposition candidates, including threats of dismissal from employment or expulsion from university.

Four prospective candidates submitted a sufficient number of supporting signatures to Territorial Election Commissions (TECs)<sup>15</sup>: Sergei Gaidukevich (Liberal Democratic Party); Alexander Kozulin (Social Democratic Party, Hramada); incumbent President, Alexander Lukashenko (non-party)<sup>16</sup>, and Alexander Milinkevich (non-party)<sup>17</sup>. TECs had 15 days to verify the authenticity and number of the supporting signatures.

Between 27 January and 11 February, prospective candidates had to submit income and property declarations to the CEC. Declarations were required not only for the candidate, but also for close relatives, including the spouse and parents of the spouse.

On 17 February, the CEC formally registered four candidates. Mr Kozulin and Mr Milinkevich profiled themselves as in opposition to the incumbent, while Mr Gaidukevich presented himself as an alternative to President Lukashenko. The registration of the four candidates offered voters the potential for a genuine choice. However, even after their formal registration, a candidate’s right to contest the election was not guaranteed. If an inaccuracy had been found in a candidate’s income and property declaration, or if the candidate violated

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<sup>15</sup> The initiative group of Valery Frolov submitted an insufficient number of signatures, prospective candidate Alexander Voitovich withdrew from the contest on 9 January, and prospective candidates Sergei Skrebets and Zenon Pozniak withdrew on 26 January.

<sup>16</sup> Some 40 public associations and organizations formally supported Mr Lukashenko.

<sup>17</sup> Mr Milinkevich was formally supported by the “10-Plus” coalition of organizations.

campaigning provisions, the CEC had the right to revoke his registration as a candidate. No revocation was undertaken, however.

## **VII. VOTER REGISTRATION**

No centralized and publicly available information existed on the number of voters preliminarily registered in the various territorial electoral units. Voter lists were compiled for each electoral polling station and there was no consolidated data at any level above the individual polling station. Voter lists would appear not to have been cross-checked for possible multiple entries.

Initially, each PEC received a preliminary voter list from the local administration, to be verified and updated as necessary. The law does not specify how this should be done, but the CEC manual for PECs advised that door-to-door checks be conducted to verify the preliminary voter lists. The process was completed by 4 March. The updated lists were available for inspection by voters at PEC premises. A regulation adopted by the CEC provides that a citizen may check only his or her own entry on the voter list. Candidates had no right to review voter registration information.

The Election Code does not provide for the 'closure' of voter registration prior to election day. Furthermore, it does not require PECs to provide the public or higher level commissions with data on the number of registered voters in the polling stations, or for the CEC to announce the number of registered voters countrywide prior to the election. However, on 9 March the CEC Secretary announced that 7,020,000 citizens were registered to vote.

A voter whose name did not appear on the voter list can be added up to the close of polls on election day upon presentation of valid documents. The PEC protocol of results does not require that the number of voters added to the lists on the six election days should be recorded as separate figures. The final number of 7,133,978 registered voters was only announced with the election results on 23 March.

## **VIII. PARTICIPATION OF NATIONAL MINORITIES**

According to the 1999 census, the population of the Republic of Belarus was 10,045,237, including: 8,159,073 Belarusians, 1,141,731 Russians, 395,712 Poles, and 237,014 Ukrainians. In addition, other categories are estimated under 30,000 each, including: Jews, Armenians, Tatars, Roma and others.

International estimates put the number of Roma at just under 50,000. Belarusian citizens from the Roma community, according to Roma lawyers, were frequently not included in the voter lists, but were generally able to add their names upon request.

## **IX. PARTICIPATION OF WOMEN**

No women ran as candidates in this election. A woman chairs the CEC, and women are well represented in the election administration structures. On TECs, women made up 52 per cent

of members, while on PECs, women made up some 66 per cent of members and 40 per cent of chairs.

## X. ELECTION CAMPAIGN

### A. CAMPAIGN ACTIVITY

The election presented the opposition with an opportunity to present their views to citizens directly through the State media and at public meetings, albeit in a highly regulated and constrained environment. Despite restrictions, limitations and obstructions, opposition candidates and political parties did attempt to mount meaningful campaigns. The few independent print media attempted to provide voters with alternative political opinions.

The official campaign period began on 17 February after the registration of the four candidates. Campaigning before the commencement of the official campaign period was prohibited by the Election Code. In the run-up to his registration as a candidate, Milinkevich campaigners were regularly stopped by police for possession of campaign materials, and several campaign activists were detained. Some persons that did not comply with the prohibition on 'early campaigning' were penalized under administrative regulations.

The OSCE/ODIHR EOM noted only a few campaign events held in support of Mr Lukashenko. In these cases, the candidate did not appear in person. Proxies spoke in support of his re-election. Mr Lukashenko gained high visibility through carrying out his official duties and his extensive and favourable coverage in the media. Many observers reported difficulties in establishing contact with his campaign staff at regional or district level.

On the other hand, a separate campaign, the "*za Belarus*" campaign, which promoted the country's achievements, was highly visible.<sup>18</sup> It featured concerts and events across Belarus that were televised by the channel ONT and a large number of billboards.<sup>19</sup> As it was not officially related to a specific candidate, provisions of the Election Code were not applied to the "*za Belarus*" campaign. However, on several occasions, speakers at "*za Belarus*" events, including State officials, made direct appeals to citizens to vote for Mr Lukashenko. A formal complaint was filed by the Milinkevich campaign regarding this campaign. The complaint was not successful.

During the campaign, Mr Gaidukevich informed the OSCE/ODIHR EOM that he was actively campaigning. However, observers were aware of only a few Gaidukevich campaign events.

State authorities did not provide for a meaningful campaign environment in which candidates, or campaign representatives and activists, could meet voters at will and exchange views freely. Observers also reported that Lukashenko supporters frequently disturbed meetings organized by the opposition. Furthermore, the Milinkevich and Kozulin campaigns were disadvantaged because of the media's failure to allow them an opportunity to present

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<sup>18</sup> The "*za Belarus*" campaign mirrored the similar campaign which took place in 2004 to advocate for the abolishing of the presidential two-term limit and allowing President Lukashenko to run for a third term.

<sup>19</sup> ONT declined a request by the EOM to meet to discuss the purpose and funding of the "*za Belarus*" campaign.

their views and qualifications outside the free media airtime given to all candidates. This limited voters' exposure to opposition candidates' campaign platforms.

## **B. RESPECT FOR CIVIL AND POLITICAL RIGHTS: ROLE OF THE STATE AUTHORITIES**

State structures lent support to Mr Lukashenko, and conversely, State power was used against the opposition arbitrarily. The opposition's campaign activity was highly restricted and fears of job loss or arrest constricted citizens' ability to act freely. A pattern of intimidation, and the further suppression of independent print media, was evident throughout the campaign. Such actions impeded the possibility for vibrant campaign discourse, and raised doubts regarding the authorities' willingness to tolerate political competition based on equal treatment before the law and by the authorities.

Opposition campaign workers were intimidated or harassed, and their attempts to meet voters were often impeded.<sup>20</sup> Observers reported that some campaign venues designated by local authorities were either too small, were located on the outskirts of cities and towns, or were otherwise difficult to reach.<sup>21</sup> Other forms of campaigning, such as leafleting and placing posters, were restricted and routinely disturbed<sup>22</sup>, and in some cases the police confiscated campaign material.<sup>23</sup> Courts fined some campaigners who had been distributing leaflets for littering offences.<sup>24</sup> Due to harassment by State authorities, campaign representatives in some regions reported to observers that, as the campaign progressed, it became increasingly difficult to recruit volunteers and campaign staff.

Some 80 per cent of employees work in the public sector, mostly on short-term contracts. This had the potential to create a climate of insecurity, providing an opportunity to exert undue influence over public workers in their political views and activity. OSCE/ODIHR EOM observers noted serious misuse of authority, for example where senior members of Executive Committees convened meetings to issue instructions to pressure employees into voting for the incumbent.<sup>25</sup> EOM observers also received many reports that campaigning in favour of the incumbent was carried out by senior management at factories and

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<sup>20</sup> By election day, the EOM had compiled a list of some 400 verified campaign-related incidents where opposition campaign staff had been harassed, fined or arrested.

<sup>21</sup> For example, in Orsha only two indoor venues were designated. One was too small for a public meeting and the other (with an approximate capacity of 300) was far from the town centre. In this town, the Milinkevich campaign held an outdoor meeting that the police deemed to be illegal.

<sup>22</sup> In Grodno, with an estimated population of 280,000, the local authorities designated only 23 places to post campaign posters. Observers reported a few cases where local authorities attempted to apply the provision regarding the display of campaign material to restrict the locations where campaign leaflets could be handed out to citizens.

<sup>23</sup> In Zhlobin, Milinkevich's campaign material that contained the text "the new President" was confiscated by the police who claimed that it was illegal. A significant amount of Milinkevich campaign literature was confiscated on various grounds, including "transgression of sanitary norms" (Minsk, 11 March). The Minister of the Interior, Mr Naumov, informed the EOM that the police were only confiscating campaign material that had been produced with funds that exceeded the prescribed limit.

<sup>24</sup> A Milinkevich campaign worker was sentenced for distributing leaflets in Gomel on 6 March, and another went on trial on 9 March.

<sup>25</sup> For example, this occurred in Molodechno where the Deputy Head of the District Executive Committee summoned managers of local enterprises to a meeting, during which he called for them to support the incumbent and to call their employees to do likewise.

universities.<sup>26</sup> In addition, pressure was applied, in particular on state employees and students, with regard to their right to engage in the political process, including instances that threatened loss of employment or expulsion from university for supporting the opposition.

Frequently, local authorities and the police used the provisions of the Law on Mass Events to prevent the holding of opposition election-related gatherings, including meetings of campaign activists held in residences. This curtailed the freedoms of association and public assembly. Those organizing unsanctioned public meetings were often detained and fined. Shortcomings in the Law on Mass Events were compounded by the approach taken by local courts which, particularly during the latter stages of the campaign, used Article 31 of the Code on Administrative Offences to place those persons that had organized or participated in unsanctioned campaign events under administrative arrest.<sup>27</sup>

Many key figures of the opposition campaigns were detained or arrested, severely disrupting their campaign activity. By 18 March, eight of Mr Milinkevich's 30 authorised representatives were detained or under administrative arrest, including party leaders Mr Viachorka (Belarusian Popular Front) and Mr Lebedko (United Civic Party).<sup>28</sup> In addition, approximately 100 other campaign activists were detained or placed under administrative arrest. Mr Kozulin's campaign reported that 80 of their campaign workers faced similar treatment.<sup>29</sup> Observers at local and central level did not receive any reports from the Lukashenko and Gaidukevich campaigns that their staff had faced this type of treatment by the authorities.

The most significant other factors in conflict with paragraph 7.7 of the OSCE Copenhagen Document, and that contributed to a climate of intimidation and insecurity during the campaign, included:

- Statements made at a press conference by the head of the KGB, the Chief Prosecutor and the Interior Minister on 16 March that "under the guise of elections" the opposition was preparing a violent overthrow of the government on election day. Their declaration that all individuals who joined election day protests would be "considered as terrorists under Article 289 of the penal code" created public fear, equally, the head of the KGB's comment that Mr Milinkevich would not be arrested "before the end of the campaign" sent a clear message of intimidation;
- On 17 March, President Lukashenko addressed the country in a televised broadcast, raising the spectre of a violent seizure of power. Later, he guaranteed that there would be "no coup d'etat" and threatened those implicated, including opposition supporters and civil society activists, by saying "we shall tear their heads off at once, like those of ducklings".

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<sup>26</sup> In a documented case from Vitebsk, the manager of a group of state-owned companies issued a written order to all employees to vote during the early voting period (14-18 March), during working hours, and cast their vote for Mr Lukashenko.

<sup>27</sup> This action occurred despite the fact that administrative arrest should be used only in exceptional circumstances, and that other less stringent sanctions could have been applied. For example, Article 167-1 of the Code on Administrative Offences provides for a fine as a measure for participation or organization of mass events in violation of the established procedures.

<sup>28</sup> Mr Viachorka and another proxy, Mr Shantsev, were imprisoned for 15 days. Mr Lebedko was detained twice.

<sup>29</sup> One of Mr Kozulin's proxies, Mr Levkovich, was fined the equivalent of US\$2,200 for meeting campaign workers in a private apartment.



- In mid-March Mr Lukashenko's campaign team stated that "citizens should consider the welfare of their families" before attending unsanctioned campaign rallies. This could have raised fears among ordinary citizens that they may face legal retribution for exercising their right to seek and receive information and assemble peacefully;
- On 2 March, Mr Kozulin was violently apprehended at the registration for the government-organised Third All-Belarus People's Assembly. In incidents linked to his detention, a number of journalists were violently assaulted and pistol shots were fired at a civilian vehicle in the vicinity of OSCE observers. After being detained for several hours, Mr Kozulin was charged with two offences under the Criminal Code;
- Visits to campaign offices by police and seizure of campaign material ostensibly to verify if campaign material was produced in accordance with Belarusian legislation, particularly in line with campaign finance regulations;<sup>30</sup> and
- Continual harassment of campaign workers by the authorities using 'stop and search' provisions added to the climate of intimidation.<sup>31</sup>

## **XI. MEDIA AND ELECTIONS**

### **A. FREEDOM OF THE MEDIA**

According to the Ministry of Information, there are 1,222 print media outlets, 8 information agencies, 54 TV and 154 radio channels registered in Belarus.<sup>32</sup> State structures have a majority share in all countrywide broadcast media that originate in Belarus. According to Belarusian media representatives, local broadcast media do not provide wide coverage of Belarusian political issues. TV and radio broadcasts that are transmitted from neighbouring countries increase the range of media available to the Belarusian public. However, these broadcasts have either limited territorial coverage, or in the case of Russian channels, limited information on Belarusian political issues.

The broadcast media, although often not formally part of the State media network, reports extensively and favourably on the activity of the President and the government. While a few private broadcast media operate at local level, no independent Belarusian broadcast media with countrywide coverage exists. The non-State print media and the Internet are the major sources of independent information. According to the Belarusian Association of Journalists, of over 1,000 registered print media, about 30 have an independent editorial line on social and political issues. However, in recent years many non-State national and regional print media have been closed. Currently, no independent daily newspaper exists. Many of the remaining independent print media are no longer able to distribute editions through the State distribution networks. The difficulties imposed on independent media run counter to paragraph 7.8 of the 1990 Copenhagen Document.

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<sup>30</sup> For example, on 21 February in Mogilev, the Head of Milinkevich's local campaign office was detained for six hours and 26,170 legally produced campaign leaflets were seized. The materials were returned on 24 February. In Brest, the Milinkevich HQ, located in a house, was searched on the pretext of finding illegally produced alcohol. During the search campaign material was seized.

<sup>31</sup> The Milinkevich campaign in Gomel reported to observers that between 23 February and 2 March, 23 cases were recorded where campaign activists had been held by militia for 3 hours or more. A complaint was filed to the local Prosecutor.

<sup>32</sup> As of 1 February 2006.

Due to difficulties in finding a print house in Belarus, the independent titles *Narodnaya Volya* and *Tovarisch* were printed in Smolensk (Russian Federation). Both newspapers are considered to be sympathetic to the opposition. On 3 March, the police seized *Narodnaya Volya's* entire print run (250,000 copies). On several occasions, police confiscated copies of *Narodnaya Volya* and *Tovarisch* from vendors. On 13 March, the Smolensk print house terminated its contract with these papers as well as the newspaper *BDG Delovaya Gazeta* for “political and economical reasons”.

These media attempted to continue their operations through printing issues at other print houses outside Belarus. On 14 March, once again, *Narodnaya Volya's* entire print run was seized, and on 17 March, 190,000 copies of *Tovarisch* were seized. The Police failed to provide any official documents supporting their actions. After the 14 and 17 March seizures, no further editions of the newspapers were issued before the 19 March election day.

Media representatives reported to the OSCE/ODIHR EOM that journalists commonly practice self-censorship.<sup>33</sup> A restrictive legal framework, in which slander of the President and certain State officials is punishable by lengthy terms of imprisonment, and the significant political influence exerted over the broadcast media, constrains the free exchange of political views. During the campaign period, a number of journalists were detained by the police or violently apprehended while undertaking their professional duties.<sup>34</sup> A significant number of journalists were also arrested while covering post-election events (see below, “Post-Election Developments”)

## **B. REGULATORY FRAMEWORK**

The Election Code provides candidates with the equal right to make election campaign presentations on State television and radio stations and to receive space in the State print media. The airtime and newspaper space is provided free of charge. However, in its news coverage and programs with political content, the State media is not obliged to provide equal access to candidates or balance in its reporting on their activity. The Election Code does not provide for the holding of televised debates between the candidates.

The Code does not specifically regulate the role, rights and responsibilities of private media in the elections and does not stipulate whether paid campaign advertising may be bought or free advertising provided by media. The Chair of the CEC publicly warned non-designated media that providing candidates with space to print campaign material would violate Article 48 of the Election Code. However, a latter statement by the CEC Secretary, which justified the publication of Mr Lukashenko's campaign platform in a non-designated newspaper on the grounds of ‘editorial discretion’, appears to conflict with the earlier interpretation of the law by the CEC Chair. The lack of clarity on the legal rights of private media to cover candidates' campaigns caused a degree of confusion among media outlets.

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<sup>33</sup> For example, during the campaign period, one newsheet in Bobruisk intended to interview candidates' representatives, but decided against this after warnings from the authorities.

<sup>34</sup> On 2 March during Mr. Kozulin's attempt to attend the All-Belarus People's Assembly, several journalists were detained for a few hours and at least two journalists were beaten by unknown civilians. One of them was subsequently hospitalized with a nose fracture. On 12 March, while covering live one of Mr. Milinkevich's meetings, a Ukrainian journalist from Ukrainian TV channel was detained for several hours.

On 8 February, the CEC adopted a regulation covering candidates' right to campaign in the media. This permitted each candidate to publish five typewritten pages of campaign material in seven State newspapers<sup>35</sup> and to air free-of-charge two pre-recorded presentations on television and two on the radio, each not exceeding 30 minutes. On 17 February, a lottery was held to determine the order in which candidates' presentations would be broadcast on television and radio. The campaign slots were aired between 21 February and 6 March<sup>36</sup>, from 6 to 7 pm, outside peak viewing hours. No formal presentations were broadcast after 6 March, almost two weeks prior to the 19 March election day.

On 12 December 2005, the CEC established the Supervisory Council to monitor the conduct of the election campaign in the media. It was composed of seven members drawn from government structures and State media outlets. The OSCE/ODIHR EOM met with the Chair, the Deputy Minister of Information, who stated that the CEC, rather than the Supervisory Council, has the jurisdiction to rule on complaints or disputes regarding the media's coverage of candidates' campaigns, while the Supervisory Council's role was purely advisory. During the campaign period, the Supervisory Council met only infrequently and its decisions did not appear to play a significant role in the resolution of media-related disputes.

### C. MEDIA MONITORING

Beginning on 12 February, the OSCE/ODIHR EOM analysed qualitatively and quantitatively the content of the prime-time broadcasts of four television channels, the morning news programmes of State radio, and nine newspapers.<sup>37</sup>

The national media reported on procedural aspects of the election. During the official campaign period, BT1 dedicated approximately 9 per cent of time in its newscasts to election issues. In the newscasts of the television channels BT1, ONT and STV, statements of the CEC representatives received approximately 5 per cent of time dedicated to coverage of political and election actors.

Mr Lukashenko did not use the free campaign airtime available to him, while the other three candidates submitted presentations for airing. On 2 March, the National State Television and Radio Company cut part of Mr Kozulin's television address, as it considered that he made "uncorroborated accusations" against Mr Lukashenko and his two sons.<sup>38</sup> On 6 March, the

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<sup>35</sup> *Belorusskaya Niva, Narodnaya Gazeta, Respublika, Sovetskaya Belorussiya, Znamya Yunosti, Zvyazda* and *7 Dnei*.

<sup>36</sup> On the State channel BT1, the presentations were aired on 21 and 22 February and on 1 and 2 March. On the State radio BR1, they were aired on 24 and 27 February and on 3 and 6 March.

<sup>37</sup> The monitored media outlets included: state-owned TV channel BT1 (First National TV channel), TV channels owned by joint-stock companies with a majority State holding - ONT (Nationwide TV) and STV (Capital TV), the Russian Federation channel RT (TV channel Russia) and the State-owned radio station BR1 (First channel of Belarusian National Radio), four State-funded newspapers (*Narodnaya Gazeta, Respublika, Sovetskaya Belorussiya* and *Zvyazda*) and five non-State newspapers - *Bel Gazeta, Belarusy I Rynok, Komsomolskaya Pravda v Belorussii, Narodnaya Volya* and *Obozrevatel*.

<sup>38</sup> The CEC's Regulation on Campaigning in the Media grants a director of a mass media outlet the authority to deny a candidate airtime or space in instances where the presentation does not comply with provisions of the Election Code. According to the Code, campaign materials must not contain propaganda of war, appeals for forcible change of the constitutional system, violation of the territorial integrity of the Republic of Belarus, insults or slander in relation to official persons and other candidates. Further, propaganda of social, racial, national, religious or linguistic supremacy as well as spreading of information and materials arousing social, racial, national or religious enmity is prohibited.

National State Television and Radio Company censored the radio addresses of Mr Kozulin and Mr Milinkevich, without notifying the candidates. Approximately seven minutes of commentary critical to the President was cut from Mr Kozulin's presentation, and approximately one minute from Mr Milinkevich's presentation, in which he elaborated on factual errors made by the President in one of his speeches. Despite official complaints being filed with the CEC, the State broadcaster was not required to explain the reasons for censoring the presentations.

Candidates were not allocated free space in State newspapers on an equal basis. While Mr Lukashenko's election platform was published on the front pages, those of the other candidates were printed less visibly and were allocated less space. Mr Milinkevich's platform was not published because of his failure to submit it by the administrative deadline established by the CEC.<sup>39</sup>

Mr Lukashenko received considerable support in the news broadcasts of the three main television stations and the State radio. During the official campaign period, the four candidates (combined) received the following amount of time in prime-time newscasts: BT1 (5 hours, 22 minutes), ONT (5 hours, 7 minutes), STV (4 hours, 3 minutes), and BR1 (46 minutes). Of this time, Mr Lukashenko received 99 per cent on ONT, 93 per cent on BT1, 96 per cent on STV and 99 per cent on BR1.<sup>40</sup> In other programmes with political content, national TV channels featured Mr Lukashenko much more frequently than his rivals.<sup>41</sup> In general, he was portrayed positively.

Conversely, with the exception of the 17 February candidate registration ceremony and the free airtime, during the entire campaign period, none of the major broadcast media gave the three other candidates any opportunity to present their views or covered their campaigns as issues of political significance. Where the opposition candidates were mentioned, it was usually in a negative context. Instead, the media aired a series of analytical programs and documentaries that portrayed 'opposition', including opposition political parties and certain NGOs, in an extremely negative manner.<sup>42</sup>

On a number of occasions, Mr Lukashenko used his official position to defend his political record, and on occasions to criticize the opposition. On 2 and 3 March, the media covered live his lengthy address at the government organized Third All-Belarus People's Assembly, the most visible political event during the campaign period. The media also aired numerous statements supportive of the President made by other speakers at the Assembly. In addition, a number of the parallel "*za Belarus*" campaign events, aired by ONT, featured statements, including by State officials, urging people to vote for Mr Lukashenko.

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<sup>39</sup> In response to an appeal during the 2004 parliamentary elections, the CEC had stated, however, that the deadline serves only as a guideline, and a failure to meet it does not entail the loss of the right to publish a candidate's programme.

<sup>40</sup> The news programmes of the Russian TV channel RT gave the four candidates 20 minutes combined coverage, of which Mr Lukashenko received 80 per cent.

<sup>41</sup> For example, of the total time devoted to the four candidates in analytical programmes, Mr Lukashenko received 83 per cent of the time on BT1, 91 per cent of the time on ONT, and 99 per cent of the time on STV.

<sup>42</sup> Including programmes in which it was alleged that opposition candidates were instruments of foreign interests plotting a "revolution" in Belarus. The media frequently aired documentaries covering political developments in other former Soviet states which alleged the involvement of foreign countries in "revolutions", e.g. in Georgia, Ukraine and Kyrgyzstan.

On 9 March, ONT aired a discussion programme *Vybor* (Choice), which included a ‘phone poll’ where viewers could call in to ‘vote’ for their preferred candidate. However, as the programme was not a live broadcast, but had been pre-recorded several days before transmission, in fact it was impossible for viewers to participate. The station did not inform viewers about this fact. Shortly before the end of the programme, the moderator announced that according to its poll, Mr Lukashenko had received 78 per cent of viewers’ votes.

Of the total space given to the four contestants in four State-funded newspapers (*Narodnaya Gazeta*, *Respublika*, *Sovetskaya Belorussiya* and *Zvyazda*), Mr Lukashenko received over 90 per cent. The coverage was either ‘neutral’ or had ‘positive’ connotations. At the same time, non-State newspaper *Belarusy I Rynok* gave Mr Milinkevich the most coverage (46 per cent), followed by Mr Lukashenko (33 per cent), Mr Kozulin (14 per cent) and Mr Gaidukevich (7 per cent). Two non-state newspapers *Bel Gazeta* and *Komsomolskaya Pravda v Belarusii* provided information on a wider range of candidates. In these titles, no one candidate received in excess of 33 per cent of coverage. The coverage of the four contestants in the newspaper *Obozrevatel* was limited. Due to seizure of issues of *Narodnaya Volya*, the OSCE/ODIHR EOM was unable to complete its content analysis.

During the pre-election period, the media carried many negative articles on “international observers” in which Belarusian officials and, on occasions, citizens of the Russian Federation, accused the OSCE/ODIHR EOM of having preconceived conclusions about the election, of political bias, and applying double standards in its election assessments. International election observers were even accused of being “mercenaries”. On a number of occasions, State-controlled media outlets presented information about OSCE/ODIHR EOM observers in a fully distorted manner.<sup>43</sup> The State media devoted little attention to the IEOM’s statement of findings and conclusions. Where the statement was covered, its content was reported on selectively and its meaning frequently distorted.

## **XII. ELECTION COMPLAINTS AND APPEALS**

The applicable legislation provides that individuals may, to a limited extent, file complaints with electoral bodies. However, not all types of complaints may be filed or appealed to a court of law. The Election Code does not explicitly provide the possibility to challenge inaction by election commissions. While the Code provides that CEC decisions on specific issues may be appealed to the Supreme Court<sup>44</sup>, no practical mechanism exists to file a legal challenge against CEC decisions on other electoral issues.

Shortcomings in the legal framework were compounded by the approach taken by the CEC towards resolving election disputes. By 17 March, the CEC had received 231 written

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<sup>43</sup> For example, in an Article entitled “Executing Political Decisions... or Do We Need such ‘Observers?’” published on 22 March, in *Respublika*.

<sup>44</sup> Denial of registration to initiative groups (Article 61); denial of registration to a person nominated as candidate for Presidency (Article 68); and declaration of elections as invalid (Article 79). Courts can also review complaints about: decisions of precinct commissions about a mistake in lists of citizens entitled to vote (Article 21); decisions of a commission-appointing body to terminate powers of an election commission member (Article 36); decisions of an election commission to approve withdrawal of a candidate for President without valid reasons (Article 69).

addresses, complaints and appeals on election-related issues. The CEC Chair decides on whether an appeal should be heard in a formal CEC session and decided upon collegially. However, while CEC officials responded to most of the complaints they had received, between 18 January and election day, the CEC did not hold a single formal session to discuss election appeals.

The role of the judiciary, including the Supreme Court, in the provision of legal redress remained minimal throughout the process. During the campaign, the local judiciary summarily sentenced a significant number of opposition campaign activists for holding unsanctioned meetings with voters and infractions of the campaign provisions. Representatives of the opposition frequently informed OSCE/ODIHR EOM observers of their lack of confidence in the independence and impartiality of the election administration and the judiciary.

Some election-related complaints were submitted to local prosecutor's offices. Despite assurances from the Prosecutor General's office, the OSCE/ODIHR EOM did not receive details of all these complaints and the manner in which they were resolved. On occasion, EOM observers working in the regions found it difficult to receive information on the number of complaints submitted to local prosecutors.<sup>45</sup>

### **XIII. DOMESTIC ELECTION OBSERVERS**

The CEC announced that some 32,000 domestic observers had been registered by TECs and PECs. The majority were fielded by labour collectives and other 'social organizations', most of which were sympathetic to the incumbent regime. In a number of cases, local government executive committee staff acted as domestic observers.

Observation by independent non-partisan domestic observer groups was at a significantly lower level than in past elections. In previous elections, the unregistered civic association 'Partnership' coordinated the election observation activities of some 3,000 observers on election day. However, on 21 February, security forces searched the offices and homes of a number of civic activists,<sup>46</sup> including "Partnership", and four leaders were arrested by the KGB. The arrest of its leadership prevented a similar large-scale coordinated effort for the 2006 presidential election. The KGB issued a statement on 23 February that those arrested had been charged with 'managing an unregistered organization infringing on the legal rights and interests of citizens'. After their arrest, the KGB publicly accused the group of preparing a violent seizure of power. As of the completion of this report, they were still in KGB detention.

Some NGOs, including the Belarusian Helsinki Committee, did field election day observers, albeit in substantially smaller numbers than originally intended. Unlike previous elections, the 'Vyasna' (Spring) Association, de-registered in 2003, did not observe the election,

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<sup>45</sup> For example, in Slonim, the local prosecutor denied having received any election-related complaints. Previously the observers had received copies of election-related complaints from the plaintiff. The prosecutor changed his response when presented with copies of the complaints.

<sup>46</sup> The searches took place in various towns across Belarus, including Minsk, Vitebsk, Gomel, Mogilev, Polotsk, Novopolotsk and Bykhov.

although some of its former members observed as private citizens backed by civic initiatives.<sup>47</sup>

Candidates fielded observers mainly via the political parties supporting them and through civic initiatives. The Gaidukevich and Lukashenko campaigns reported fielding in excess of 20,000 observers each. The other two candidates concentrated on a limited number of polling stations, with the express intention of gathering results data.

#### **XIV. VOTING AND COUNTING**

##### **A. EARLY VOTING, 14-18 MARCH**

Observers received reports that managers of companies and directors of educational institutions instructed employees to vote early.<sup>48</sup> According to these reports, in some cases, personnel were threatened with cancellation of labour contracts and students with penalties. *De facto*, these actions impinged upon the 'equality' of the suffrage as provided for in paragraph 7.3 of the OSCE Copenhagen Document. Turnout figures for the early voting period were reported as 31 per cent, far exceeding the figure for the 2004 elections of 17 per cent.

From 14-18 March, long-term observers monitored early voting and short-term observers monitored early voting on 18 March. A total of 2,022 observer reports were submitted and some 11 per cent characterized the early voting process negatively. Many PECs were unwilling to provide observers with basic data, e.g. the number of ballots received<sup>49</sup>, the number of registered voters and the number of persons having voted. Some PECs informed observers that they had been instructed by TECs or local executive branches not to provide observers with this information.

In general, observers reported that early voting was conducted in a calm atmosphere. While the process was orderly, observers often noted potentially serious anomalies such as seemingly identical signatures on the voter list. Other irregularities included: poor quality ballot box seals; unsealed ballot box slots at the close of polling on 18 March, contrary to the law;<sup>50</sup> and the presence of unauthorized persons in 5 per cent of polling stations visited, many of whom were directing the work of the PEC. When questioned on 19 March, many PECs knew the percentage of voters that had voted early, but not the number.

##### **B. VOTING DAY, 19 MARCH**

In general, voting was conducted in a calm and peaceful atmosphere and was well organized.

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<sup>47</sup> Individuals can also register as observers by submitting ten signatures from voters in the respective election unit.

<sup>48</sup> For example: Borisov, Grodno, Slutsk, Soligorsk. In Brest, local trolleybuses were used to broadcast exhortations for voters to vote early. A bus driver reported that if he did not make such announcements, he would have his salary reduced.

<sup>49</sup> In those cases where the information was supplied, some observers reported that the distribution was not consistent; some polling stations reported receiving a number of ballots equal to the number of registered voters, while others received an additional 10 per cent.

<sup>50</sup> This was noted in 12 per cent of polling stations visited at the closure of the polling station.

In the large majority of cases, PECs had the legally required number of members and sufficient voting material. Observers reported that with a few exceptions, PECs followed correct ballot issuing procedures. Voters' access to polling stations was good and very few potential voters were turned away from polling stations. Most often, voters and PECs appeared to have a good understanding of voting procedures. At the same time, observers commented on the poor quality and improper sealing of many ballot boxes.

However, observers reported that PECs often withheld basic information on voting.<sup>51</sup> In 10 per cent of reports, observers were impeded in their activity and occasionally they were intimidated. Frequently, observers' access to see the voter list was restricted. This meant that many were unable to estimate turnout, see how many voters had voted "early", and check that voters had signed the voter list when receiving ballots. Unlike the 2004 election, most observers had access to zones bordering neighbouring countries.<sup>52</sup>

Domestic observers were present in 90 per cent of polling stations observed, but many had a passive approach to their work. However, in Mogilev, observers reported that on several occasions domestic observers were prevented from filing complaints and on one occasion an observer was expelled from a polling station when attempting to register a complaint.

Unauthorized persons were seen at 8 per cent of polling stations visited, and in 3 per cent of stations they were directing the PEC in its work. Often these persons were members of the local executive committees.<sup>53</sup> Frequently, police, emergency-situations ministry staff and firefighters were visible inside polling stations. Some observers reported that police appeared to be in control of the voting process and often instructed the PEC.<sup>54</sup>

While overall the conduct of election day polling station procedures was assessed positively by 90 per cent of observation reports, 10 per cent of reports assessed the process negatively. This varied from 7 per cent in Minsk oblast to 16 per cent in Gomel region. While major irregularities were rarely witnessed, significant shortcomings included:

- At the opening of polling stations the "early voting ballot box" was not in plain view as required by law (36 per cent of observations). In some instances the ballot boxes were not fastened securely (7 per cent of observations);
- Campaign material or activity was reported in some polling stations, usually in favour of Mr. Lukashenko or the "za Belarus" campaign (6 per cent of observations);
- Official information on candidates was not posted in some stations visited (7 per cent of observations);
- A series of seemingly identical signatures on the voter list (13 per cent of observations);<sup>55</sup>

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<sup>51</sup> This was reported in 22 per cent of reports covering the voting phase.

<sup>52</sup> Nevertheless, observers were denied access to a polling station located in a military base (PEC 29 in Orshanskaya District) and to a KGB hospital (PEC 32 in Pervomaiskii District).

<sup>53</sup> For example at PEC 68 in Rechitskaya District, PEC 3 in Mogilevskaya District, PEC 10 in Kobrinskaya District, PEC 63 in Pinskaya District and PEC 11 in Liubanskaya District. In a few cases persons identified as observers were supervising the work of the PEC, for example PEC 39 in Grodneskaya District.

<sup>54</sup> In Mozyr, one observer team reported that police present at a polling station had intimidated their local assistants. In Glubokoe, police hindered observers' access to some polling stations.

<sup>55</sup> In some reports up to 10 seemingly identical signatures were noted on the same page, for example at PEC 19 in Mozyr Town.



- Voters did not always mark their ballot paper in secrecy (8 per cent of observations);
- Observers reported persons were showing their marked ballot paper to another person before depositing it in the ballot box (5 per cent of observations);
- “Group voting”, where more than one person is present in a voting booth at the same time, was reported at 16 per cent of polling stations. This was noted more frequently in rural areas (22 per cent) than in urban areas (10 per cent);
- Ballot boxes were not properly sealed (7 per cent of observations);
- In a few cases, people were given and voted with more than one ballot<sup>56</sup> or returned to vote on multiple occasions<sup>57</sup>; and,
- In some cases voters were pressured in their electoral choices.<sup>58</sup>

Large numbers of voters voted outside polling stations using mobile ballot boxes. According to data provided by PECs to observers, in 29 per cent of polling stations, over 10 per cent of voters had voted through the “mobile ballot box”.

Unusually, starting at 11.00 a.m., results of two exit polls were announced repeatedly throughout the day by two State-accredited agencies. These consistently gave Mr Lukashenko over 80 per cent of the vote. According to the CEC, by the close of polls, some 92.6 per cent of citizens had voted. The turnout varied from 85 per cent in Minsk to over 95 per cent in three of Belarus’ seven regions.

### C. COUNTING

The process deteriorated during the vote count, which was observed to be highly problematic. Many PECs organized the count poorly and did not handle complaints effectively. Observers assessed the count negatively in 50 per cent of reports, and half of observer teams concluded that the transparency of the vote count was “bad” or “very bad”. During the count, the majority of observers were prevented from standing close enough to verify the transparent implementation of vote count procedures. Some 5 per cent of observers reported that the counting of votes lacked basic integrity, while 47 per cent were unable to answer the question, mostly because they were prevented from following the process.

Often, counting procedures were disregarded, e.g. ballots from the different boxes (early voting, mobile and stationary) were not counted separately as required by law. In many cases, the count was carried out in complete silence. In 70 per cent of PECs visited, officials did not announce the number of votes for each candidate before completing the protocols. Unauthorized persons were present in 8 per cent of polling stations observed, and on occasions were directing the work of the PEC.

In 17 per cent of polling stations observed, PECs had difficulty completing the protocol of results and in 8 per cent a formal complaint was submitted to the PEC regarding the counting of votes. Observers reported a number of instances where the results were altered or were

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<sup>56</sup> For example, PEC 20 in Soligorsk Town.

<sup>57</sup> For example, PEC 105 in Frunzenskii District.

<sup>58</sup> For example, at PEC 29 in Zhlobinskaya District an administrator at a local factory was outside the polling station checking if employees turned up to vote.

completed in pencil.<sup>59</sup> At PEC 40 in Sovietskii District, a PEC chair threatened PEC members with loss of permanent employment for refusing to sign a protocol that he had altered.

#### **D. TABULATION OF ELECTION RESULTS**

The Election Code provides that polling results be publicly posted at polling stations. However in itself, this provision is insufficient to guarantee the necessary level of transparency during and after tabulation of results. No legal provision exists that ensures that election stakeholders can follow the processing of results from polling station to central level, thus further diminishing transparency in the process. The legislation does not entitle observers to receive official copies of election results protocols. The Code does not provide that the calculation of the election results from all levels of the election administration is made publicly available. While observers are entitled to attend sessions of election commissions, significantly, observers' presence in TECs during the tabulation of results is not guaranteed, as according to the CEC, TECs are not in session when they receive election materials and results protocols from PECs.<sup>60</sup>

Despite assurances from many TECs prior to the election that observers would be able to follow the tabulation of PEC results by TECs, 39 per cent of observers were restricted, or even obstructed, in their efforts to gather information on this phase of the process, including being denied access to TEC premises. This limited observers' opportunity to assess whether election results were calculated and reported honestly by TECs. These and other shortcomings of the Election Code seriously undermined the transparency of the process. Observers who followed this stage of the process assessed the transparency of the results tabulation as "bad" or "very bad" (43 per cent).

### **XV. POST-ELECTION COMPLAINTS AND APPEALS**

The legal framework for the conduct of presidential elections in the Republic of Belarus does not provide an effective mechanism for legal redress against election malpractice. According to the Election Code (Article 79), requests to invalidate election results must be filed with the CEC "no later than on the day following the elections".<sup>61</sup> Only the CEC may hear a request to invalidate the result of the presidential election. The timeframe for making

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<sup>59</sup> For example, at PEC 55 in Pervomaiskii District and PEC 64 in Pinskaya District, observers reported that protocols were tampered with by the PEC. At PEC 26 in Vitebskaya District, PEC members signed protocols before the votes were counted.

<sup>60</sup> According to the CEC, a decision on whether to allow observers to follow the tabulation of results at TECs is taken at the discretion of the Chair of each TEC.

<sup>61</sup> Article 79 provides that "Elections of the President of the Republic of Belarus on the whole of the Republic or for separate polling stations, regions, towns, town districts, Oblasts or the City of Minsk may be recognised as invalid because of violations of the requirements of this Code made in the course of elections or during the count of votes if they affected the results of the elections for the whole of the Republic. Decisions on recognising the elections as invalid shall be taken by the Central Commission. The appeal against such violations shall be lodged with the Central Commission not later than on the day following the elections. The decision of the Central Commission may be appealed to the Supreme Court of the Republic of Belarus within ten days. The right of appeal against the decision on recognition of elections as invalid shall belong to candidates for the position of the President of the Republic of Belarus."

a request to the CEC to invalidate the election result is unreasonably short, and subsequently this right of appeal is ineffectual.<sup>62</sup>

No appeal to the Supreme Court is possible against a CEC decision to declare the election 'valid'. The lack of provision for enabling a judicial review of the CEC's decision on election results is a significant flaw in the election process, as it means that there is no mechanism to bring a legal challenge contesting the validity of the election results.

On 23 March, the CEC held a session to hear complaints and appeals. In this session the CEC heard complaints by Mr Kozulin and Mr Milinkevich and their requests to invalidate the election.<sup>63</sup> Both requests were rejected. The CEC denied OSCE/ODIHR EOM observers entry to attend the session.

Mr Milinkevich and Mr Kozulin attempted to challenge the results of the elections at the Supreme Court. On 5 April the Court ruled the challenges inadmissible.

## XVI. POST ELECTION DEVELOPMENTS

On election night, an estimated 10,000 people gathered in October Square in central Minsk. Mr Kozulin and Mr Milinkevich, who addressed the crowd, claimed that the election had been falsified and did not express the will of the people. They demanded that democratic elections be held on 16 July 2006. While authorities initially allowed the protests to continue for five days, police routinely detained protesters when they left or returned to the square, and prevented people from bringing food, clothes or blankets to the protesters. Despite this, many persons continued their protest until police broke up the demonstration and arrested remaining protesters on the early morning of 24 March.

In response to the protests and to the opposition's call for fresh elections to be held, the abuse of state power intensified and fundamental freedoms and civil and political rights were violated as a matter of routine. Between 500 and 1,000 individuals were arrested in connection with mass protests, including Mr Kozulin and a member of Mr Milinkevich's immediate family. On 30 March, Mr Kozulin was charged on two criminal counts, carrying sentences of up to six years. According to his lawyer, Mr Kozulin was in a poor state of health because of police beatings. As of the completion of this report, Mr. Kozulin was still in detention.

On a single day, 27 March, the Minsk courts sentenced over 200 individuals. In many cases, defendants were not allowed legal counsel and court decisions were mainly based on arguments of arresting officers invited as witnesses. The Public Prosecutor's Office admitted that over 500 persons had been arrested or detained, including 21 foreign nationals, of whom 392 were sentenced.

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<sup>62</sup> It is practically impossible to gather sufficient evidence within one day to prove violations that "*affected the results of the elections for the whole of the Republic*" had taken place. In contrast, TECs have 3 days to adopt a protocol of election results and Oblast-level TECs have until 4 days after the election to pass these to the CEC. The CEC must complete its protocol of results no later than 10 days after the election and has a further three days for their publication.

<sup>63</sup> A similar appeal filed by the Belarusian Helsinki Committee was also rejected.

The police, courts and hospitals persistently refused to report the names of detainees, defendants and victims of violence. This created near panic among the relatives of missing persons as they went from police station to police station, and later, as the Minsk detention centres filled, from city to city seeking information. One prominent NGO activist, upon his release from prison, alleged that he had undergone severe beatings and other forms of cruelty during detention.

The authorities appeared to target journalists for arrest. On 30 March, the Belarus Association of Journalists reported that during the crackdown 44 journalists had been detained, arrested or sentenced, including 13 foreign nationals.

## **XVII. ELECTION RESULTS**

According to the official CEC announcement of final results, a total of 6,630,653 people out of 7,153,978 eligible voters participated in the election.

Election results by Oblast (from CEC Website)<sup>64</sup>:

	Brest	Vitebsk	Gomel	Grodno	Minsk oblast	Mogilev	Minsk City	Total:
Gaidukevich	1,9	5,3	3,2	2,1	2,0	4,9	5,1	3.5
Kozulin	2,1	2,2	1,9	1,9	2,5	1,6	3,9	2.3
Lukashenko	82.6	82.9	90.3	83.8	81.0	88.5	70.7	82.6
Milinkevich	5,8	4,5	3,1	6,3	7,3	4,0	10,1	6.0

## **XVIII. RECOMMENDATIONS**

The following recommendations are offered to the Belarusian authorities to assist in improving the electoral process and in meeting election-related OSCE commitments. However, in order for these recommendations to have any meaningful effect in bringing elections in the Republic of Belarus in line with OSCE commitments, a commensurate level of political will would need to be evident.

Notably, this would require an unequivocal commitment to political pluralism, including respect for fundamental civil and political rights of individuals, such as freedom of expression, association and assembly, in order to fully respect paragraph 6 of the 1990 OSCE Copenhagen Document.

### **A. THE LEGAL FRAMEWORK**

- A wide-ranging review of the Election Code should be undertaken, with a view to ensuring greater clarity, transparency and uniformity of procedure.

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<sup>64</sup> As of 6 June 2006 the CEC website contained only preliminary information about the outcome of the vote without specifying numbers of invalid votes and votes “against all”.

- All legislation related to elections, including the Election Code and all relevant public order legislation should be amended in line with OSCE commitments and harmonized accordingly.
- The applicable legislation should not be applied in a politically selective or arbitrary manner. It should prohibit state authorities from discriminating against the political opposition, and guarantee to all persons an effective means of protection against discrimination.
- The applicable legislation should be amended to ensure that election stakeholders, in particular candidates and voters, are provided with an effective means of redress against all election-related administrative decisions taken by the CEC, TECs, PECs and other national and local authorities.
- Offences of libel, slander or insults should be decriminalised, or at a minimum, should not be abused to intimidate voters and candidates.

## **B. VOTING REGULATIONS**

- Consideration should be given to abolishing the 50 per cent turnout requirement, particularly in a second round election (Election Code, Article 80), as it can result in a cycle of failed elections and could invite electoral malfeasance.
- Consideration should be given to removing provisions allowing a vote “against all”, as elections are about representation, and the “against all” option is therefore difficult to reconcile with a standard definition of representative democracy.

## **C. ELECTION ADMINISTRATION**

- The Electoral Code should be amended to ensure confidence in the overall election administration, for example, through inclusive pluralistic representation on election commissions at all levels. This should go further than the right to nomination, and should guarantee effective representation, with preference given to party and candidate nominees. State sponsored labour collectives should have no role in administering elections.
- Revision of the electoral legislation should ensure independence of the election administration from the executive authorities, including ending the exclusive role of the administration in appointing the respective election commissions.
- All decisions of the election commissions should be taken in formal sessions and decisions should be published immediately. Making decisions in unofficial meetings is not representative of transparent and accountable election administration and should not be permitted.
- All commission sessions should be announced in advance, thereby enabling commission members to be fully informed of the agenda items, and in order to notify authorised observers in order that they may attend.
- The Election Code should clearly state that all electoral documents, including commission decisions, must be made immediately available to the public, and in particular to candidate and party representatives and election observers.
- The Election Code should clearly determine the number of ballots to be printed for each election. Candidate representatives and all accredited observers should have the right to observe and receive information on the printing of ballots.
- PEC stamps should be redesigned to be unique.

- Complaints of deliberate violation of the Electoral Code by election officials should be thoroughly investigated, and should be prosecuted as criminal offences.

#### **D. CANDIDATE REGISTRATION**

- Prospective presidential candidates should be granted the right to appoint representatives to observe the TECs in their verification of the supporting signatures submitted by the initiative groups of all prospective candidates.
- Submission of income and property declarations should be primarily focused on the candidate himself or herself, and should not be excessive in terms of its focus beyond the candidate. Provision should be made to permit correction of errors in such documents.
- Once registered, candidates should be expected to operate in a predictable environment, free from ambiguous regulations and possible disproportionate sanctions.
- The number of supporting signatures for registration of presidential candidates should be diminished. According to international best practice<sup>65</sup>, the number of such signatures should not exceed one percent of the number of registered voters.

#### **E. VOTER REGISTRATION**

- A statewide centralized voter register should be developed, with sufficient means to identify the voter in a unique manner. The register should be maintained on a continuing basis, and not only updated at election time.
- The legislation should clarify the responsibilities of all agencies that contribute data to the voter register and provide guarantees that data on citizens' permanent residence is collected and maintained.
- Once compiled, the voter register should allow for cross reference of data, limiting the possibility of multiple entries. It is recommended that the PEC protocol records the number of citizens registering to vote on election day(s).
- Authorized representatives of the candidates should have the right to scrutinize the voter register and to ask for and receive information, without violating the confidentiality of the data.
- Voter lists should be opened for full public scrutiny at PECs, as a means of verifying accuracy and as a confidence building measure.
- The number of voters in preliminary voter lists should be made publicly available at least for aggregate totals for each TEC. A deadline to close voter lists should be established in law prior to election day and the revised data on the number of registered voters made publicly available.

#### **F. THE CAMPAIGN AND CAMPAIGN FINANCE**

- Campaign provisions should be amended to guarantee unimpeded access of candidates to voters. Campaign meetings should not be restricted by the Law on Mass Events and should be entirely regulated by the Election Code.
- Citizens should be permitted to meet in residential premises to discuss political issues without hindrance from State authorities.

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<sup>65</sup> See the Council of Europe Venice Commission "Code of Good Electoral Practices".

- Provisions in the law that impose liability on candidates for violations committed by supporters, should be removed.
- The provisions on campaign funding should be revised. Candidates should be entitled to spend a much more realistic amount on their campaign. Article 48 of the Code should be amended to enable private persons, including the candidate him/herself to support the election campaign(s) of specific candidates. However, full transparency on donations and expenditures should be ensured throughout the election period.
- Candidates should be free to engage in various types of campaigning, e.g. placing paid advertisements in the media and using billboards on equal terms for all candidates/parties.
- The content of campaign material should not be censored. In addition, police should not seize material they suspect of not conforming to the election legislation, unless ordered to do so by a court of law.
- Political campaigning should not be selectively restricted to official election campaign period, as this unduly restricts citizens' rights to free expression, association, and peaceful assembly.
- Campaigning should not be selectively permitted at State enterprises, institutions or universities.

#### **G. THE MEDIA**

- The content of candidates' presentations in the state media should not be censored. Candidates should be provided with the possibility of choosing, within the framework provided by the law, the modality of their free airtime and space.
- The Electoral Code should include provisions for equitable access of candidates or political parties to all campaign-related broadcasts, including news and other information programs.
- The State media should refrain from campaigning for or against any political alternatives and demonstrate impartiality in their coverage of the campaign and political developments. They should ensure unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals participating in the electoral process.
- The right of all media to cover election events such as campaign meetings, to interview candidates and politicians, organize political debates and air political affairs programmes, etc. should be respected.
- The media should be consistent in separating the activities of incumbents from their activities as candidates. Any additional coverage of incumbents, who are acting in their official capacity during a campaign period, should not present undue inequities between the contestants.
- The media should facilitate televised debates among candidates, or if they do not wish to participate, among their representatives or supporters.

#### **H. COMPLAINTS AND APPEALS**

- The Election Code should be amended to (1) state a clear, understandable, *singular* hierarchical complaint process that defines the roles of each level of election commission for deciding election disputes, (2) require that all complaints filed with election commissions at all levels be heard in an open and public forum and decided upon by the commissions collegially, and (3) establish a uniform appeals process so

that all decisions, actions and inactions of the CEC can be appealed to the Supreme Court for review.<sup>66</sup>

- Article 79 should be amended to enable candidates to challenge all decisions of the CEC regarding election results in the Supreme Court. In addition it should provide a more reasonable timeframe to file requests to the CEC to file appeals requesting the invalidation of election results.

## **I. VOTING**

- Article 53 of the Electoral Code should be amended to limit the potential for early voting to a prior request based on justified reasons and to ensure that the early voting process is fully secure, transparent and accountable.
- Ballot boxes and ballot box seals should conform to a minimum quality specification that ensures that the contents cannot be tampered with at any stage of the process.
- The turnout figures for early voting (including a day by day record of the number of votes cast), mobile voting and regular voting should be separately established and reflected in the final results protocol at all levels of the election administration. Once this has been done during the vote count in the polling station, the ballots from the three boxes should be mixed and then counted.
- The CEC should strengthen the safeguards for secrecy of the vote and against possible fraud during mobile voting. Mobile ballot boxes should only be dispatched to voters who have requested the service, with a corresponding number of ballot papers.
- The CEC should take appropriate measures to prevent open voting and group voting. The CEC should also provide voter education on the obligation to vote in secret.
- The Electoral Code should explicitly restrict, through detailed regulation, access of unauthorized persons, especially representatives of the State administration, to the PECs and higher-level commissions throughout the voting and counting. The Electoral Code should specify in an exhaustive manner who is authorised to be present.
- Relevant legislation should be amended to establish that police officers should only be present in a polling station following an invitation of the PEC, if there is a breach of the public order.
- The announcement of exit poll results should be prohibited until after the close of polls.

## **J. COUNTING AND TABULATION OF ELECTION RESULTS**

- The number of ballots received by the PEC and the number of voters who voted (according to the number of signatures on the voter list) should be entered in the protocol of results before the ballot boxes are opened.
- Additional regulations are needed to make the counting more transparent and secure. At a minimum, the voter's choice on each ballot paper, and the total number of votes cast for each candidate, should be announced out loud, and ballots should be stacked so that observers may view the voter's mark.
- Aggregated election results at the regional and national levels should be supported by worksheets detailing the results at the polling station level, thus permitting any citizen or observer to audit the results of an election from polling station level upwards.

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<sup>66</sup> The relevant articles in the Constitution and other legislation regulating the competence of the Supreme Court may require amendment as well in order to achieve this recommendation.



- Detailed polling station results should be posted on the CEC website as soon as they are confirmed at TEC level.

#### **K. ELECTION OBSERVATION**

- The Electoral Code should be amended or regulations should be introduced: (1) to include remedies for domestic 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, counting and tabulation in a manner that permits observers to fully assess the correctness of the process; (3) to require that all observers be provided with a certified copy of official results at all levels upon request.
- Observers should be granted the legal right to observe the tabulation of PEC results by TECs as well as to seek and receive information on PEC-level election results at the point they are deposited with the TEC.
- Non-partisan domestic observation groups should be able to attain registration and to function in conditions that meet international standards for freedom of association. Accreditation of non-partisan domestic observation groups at the CEC, in a non-discriminatory manner, should permit full access to the work of electoral commissions at all levels.

## ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is the OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Document).

The ODIHR, based in Warsaw, Poland, was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 100 staff.

The ODIHR is the lead agency in Europe in the field of **election observation**. It co-ordinates and organizes the deployment of thousands of observers every year to assess whether elections in the OSCE area are in line with national legislation and international standards. Its unique methodology provides an in-depth insight into all elements of an electoral process. Through assistance projects, the ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include the following thematic areas: rule of law, civil society, freedom of movement, and gender equality. The ODIHR implements a number of targeted assistance programmes annually, seeking both to facilitate and enhance State compliance with OSCE commitments and to develop democratic structures.

The ODIHR monitors participating States' compliance with OSCE human dimension commitments, and assists with improving the protection of **human rights**. It also organizes several meetings every year to review the implementation of OSCE human dimension commitments by participating States.

Within the field of **tolerance** and **non-discrimination**, the ODIHR provides support to the participating States in implementing their OSCE commitments and in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

The ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies. The Office also acts as a clearing-house for the exchange of information on Roma and Sinti issues among national and international actors.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website ([www.osce.org/odihr](http://www.osce.org/odihr)). Excerpts from the 1990 Copenhagen Document related to elections is available at <http://www.osce.org/item/19392.html>

