



Office for Democratic Institutions and Human Rights

REPUBLIC OF BELARUS

EARLY PARLIAMENTARY ELECTIONS

17 November 2019

ODIHR NEEDS ASSESSMENT MISSION REPORT

26 – 30 August 2019



Warsaw
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ODIHR Needs Assessment Mission Report

I. INTRODUCTION

Following an official invitation to observe the forthcoming early parliamentary elections in Belarus, and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) from 26 to 30 August 2019. The ODIHR NAM included Richard Lappin, Deputy Head of the ODIHR Election Department, and Keara Castaldo, ODIHR Election Adviser. The ODIHR NAM was joined by Iryna Sabashuk, Head of Administration for Election Observation of the OSCE Parliamentary Assembly.

The purpose of the mission was to assess the pre-election environment and preparations for the early parliamentary elections. Based on this assessment, the NAM should recommend whether to deploy an ODIHR election-related activity for the forthcoming elections and, if so, what type of activity best meets the identified needs. Meetings were held with officials from state institutions as well as with representatives of political parties, media, civil society and the international community. A list of meetings is annexed to this report.

ODIHR would like to thank the Ministry of Foreign Affairs for its assistance and co-operation in organizing the NAM. ODIHR would also like to thank all of its interlocutors for taking the time to meet with the NAM and for sharing their views.

II. EXECUTIVE SUMMARY

On 5 August 2019, the president called for early elections to be held on 17 November, almost one year before the expiration of the mandates of the current parliament. Members of the House of Representatives are elected for four-year terms across 110 majoritarian districts. The candidate with the most votes is elected. All contests have a participation quota of 50 per cent of registered voters, or the election for the seat must be repeated.

The Constitution includes guarantees for direct and universal suffrage as well as freedoms of assembly and expression, but the legal framework imposes various restrictions on the exercise of these freedoms and on other civil and political rights. Certain changes since the last elections are in line with prior ODIHR recommendations, including the ratification of the UN Convention on the Rights of Persons with Disabilities and the expansion of the notification procedure for public assemblies. However, most previous ODIHR recommendations remain unaddressed in law, including a comprehensive review of electoral law, broader inclusion in the election commissions, and guarantees for access of observers to all stages of the electoral process. Many ODIHR NAM interlocutors expressed dissatisfaction with the regulatory framework for elections, citing the need for continued and inclusive reform of the Election Code and other pertinent legislation.

The elections will be administered by a four-tiered structure led by the Central Election Commission (CEC). The CEC has already established temporary lower commissions and passed several resolutions regulating key aspects of the upcoming elections, including the obligations and oversight of media in the election campaign and on the role of observers. Positively, the CEC has issued several instructions

to facilitate voting for persons with disabilities, including on the accessibility of voting booths. However, stakeholders generally reported a lack of confidence in the impartiality of the election administration at all levels and cited long-standing concerns related to the composition of election bodies and the integrity of early voting and election day procedures.

Citizens at least 18 years of age by election day have the right to vote. Persons whose legal capacity has been revoked by a court decision on the basis of mental disability are disenfranchised, as are persons serving a prison sentence or in pre-trial detention. In the absence of a centralized, permanent voter register, voter lists are compiled for each election at the precinct level based on data from local authorities. Voter lists are not published, nor does the CEC publish the number of registered voters on each list, although voters may verify their data and request corrections prior to election day. Several ODIHR NAM interlocutors opined that a lack of transparency of voter lists undermines public confidence.

Eligible voters at least 21 years of age by election day and with permanent residence may stand for election to the House of Representatives, except for persons with an unexpunged criminal record. Prospective candidates must declare incomes and property and independent candidates must collect 1,000 supporting signatures. No special measures are in place to promote women's participation as candidates. Several ODIHR NAM interlocutors expressed a lack of confidence in the impartiality of the candidate registration process and described a burdensome and formalistic application procedure.

Most ODIHR NAM interlocutors described a subdued political environment in advance of the parliamentary elections. Certain changes to the legal framework on public assembly addressed prior ODIHR recommendations, such as a more inclusive notification procedure for organizing public gatherings and the decriminalization of activities of unregistered organizations. However, other new and existing restrictions mitigate the impact of these changes. Some stakeholders raised concerns about the potential abuse of state resources, and certain groups have expressed their intention to boycott the elections.

Campaigns may be financed by candidates' own resources and by private donations by individuals and legal entities. There is no legal requirement for candidates' financial reports to be published or audited. A majority of ODIHR NAM interlocutors described insufficient resources to conduct an effective election campaign.

Although the Constitution guarantees the freedom of expression and prohibits censorship, the legal framework contains several restrictions. The Criminal Code broadly prohibits defamation and public insult, and the Election Code contains a ban on calls for an election boycott. Recent amendments introduced new regulations for online media outlets and journalists. A majority of ODIHR NAM interlocutors described systemic bias in state media, and described recent instances of arrests of independent journalists, contributing to an environment of self-censorship.

Certain decisions of election commissions may be appealed to higher commissions and respective judicial bodies. Not all decisions of commissions are subject to judicial appeal, including the validation of election results. Hearings on electoral complaints are public and court judgments are published online. Some ODIHR NAM interlocutors described a perceived lack of independence of the judiciary and a resultant lack of confidence in the resolution of election-related disputes.

All interlocutors generally emphasized a need for an ODIHR observation activity for the upcoming elections, with many underlining the need for a long-term presence to assess the pre-election environment as well as the conduct of early voting and election day procedures. Representatives of

state institutions stressed the intention to administer the elections in line with international standards and underlined the importance of recommendations to further enhance electoral law and practice. Several interlocutors identified specific areas that would benefit from an external review, including the new rules on public assembly and on the media, including online media, as well as the formation and work of election commissions, candidate registration, the conduct of early voting and election day procedures, and the resolution of election-related disputes.

On this basis, the ODIHR NAM recommends deploying an Election Observation Mission (EOM) for the upcoming parliamentary elections, subject to the availability of resources. In addition to a core team of experts, ODIHR will request the secondment by OSCE participating States of 30 long-term observers to follow the electoral process countrywide, as well as 400 short-term observers to follow election day procedures, including voting, counting, and tabulation of results.

III. FINDINGS

A. BACKGROUND

On 5 August 2019, the president called for early elections to be held on 17 November, approximately one year before the expiration of the mandates of the current parliament.¹ All 110 seats of the lower chamber of parliament, the House of Representatives are to be contested.²

The government is led by the president, who exercises wide authority relative to the parliament, including shared legislative power and the ability to appoint and dismiss judges. The current House of Representatives was elected in September 2016 and comprises mostly independent members nominated by groups of voters and affiliated with public associations or labour collectives, with political parties marginally represented.³ Some 80 independent members of parliament are also members of the public association “Belaya Rus”, which is closely connected with the presidential administration. Two parliamentary parties, each with one seat, and one independent member identify as opposition.

ODIHR NAM interlocutors generally described the current political climate as subdued. The early parliamentary elections will take place amidst long-term discussions of Constitutional and other political reforms and ahead of next year’s presidential election in which incumbent President Alexander Lukashenko will seek a sixth term.⁴ Several international organizations have raised concerns related to the exercise of civil and political rights in Belarus.⁵

¹ See [Presidential Decree No. 294](#) (in Russian language).

² Separately, 56 of the 64 members of the higher chamber, the Council of the Republic, will be elected by the legislative councils of the 6 oblasts and the city of Minsk on 7 November, with the remaining 8 members to be appointed by the president.

³ Of the 110 seats, 93 members are independent; the remaining members represent the Communist Party (8 seats); Liberal Democratic Party (1); Patriotic Party (3); Republican Party of Labour and Justice (3); and United Civic Party (1).

⁴ The president stated his intention to stand again in [widely reported remarks](#) in March 2019 (link in Belarusian language).

⁵ See for example the [2018 UN Human Rights Committee \(CCPR\) concluding observations](#), the [2016 UN Committee on the Elimination of Discrimination Against Women \(CEDAW\) concluding observations](#), and the 2019 Report of the UN Special Rapporteur on the human rights situation in Belarus, as well as [2018 statements](#) of the OSCE Representative on Freedom of the Media.

ODIHR has previously observed eight elections in Belarus. The Election Observation Mission to the 11 September 2016 parliamentary elections concluded that the elections were “efficiently organized, but, despite some first steps by the authorities, a number of long-standing systemic shortcomings remain. The legal framework restricts political rights and fundamental freedoms and was interpreted in an overly restrictive manner. There was an overall increase in the number of candidates, including from the opposition, but the campaign lacked visibility. Media coverage of the campaign did not enable voters to make an informed choice. Following a timely invitation, the authorities exhibited a welcoming approach towards international observers. The composition of election commissions was not pluralistic, which undermined confidence in their independence. Voting, counting and tabulation lack procedural safeguards and were marred by a significant number of irregularities and a lack of transparency”.

B. ELECTORAL SYSTEM AND LEGAL FRAMEWORK

Members of the House of Representatives are elected for four-year terms across 110 majoritarian districts. The candidate with the most votes is elected.⁶ All contests have a participation requirement of 50 per cent of registered voters, or the election for that seat must be repeated. Repeat elections must be announced by the CEC at least three months in advance, for which the same participation quota applies. District boundaries were re-drawn in 2019 in response to population shifts.

Parliamentary elections are primarily regulated by the 1994 Constitution (last amended in 2004) and 2000 Election Code (last amended in 2015). Other relevant legislation includes the Laws on Mass Media, on Mass Events, on Political Parties, on the Applications of Citizens, and the Administrative and Criminal Codes. These laws are supplemented by resolutions of the Central Election Commission (CEC), which regulate key aspects of the electoral process but do not have legally binding status.⁷ Belarus is party to international treaties and instruments related to the holding of democratic elections, and in November 2016 ratified the UN Convention on the Rights of Persons with Disabilities (CRPD), in line with a prior ODIHR recommendation.⁸

The Constitution prescribes a parliamentary term of four years, as well as timelines for calling parliamentary elections.⁹ The authorities informed the ODIHR NAM that the elections are not early and were scheduled within the competency of the president. However, several ODIHR NAM interlocutors questioned the legal grounds for calling early elections, with complaints submitted to the

⁶ Candidates standing unopposed must receive at least 50 per cent of the votes cast.

⁷ The CEC has issued a number of resolutions since the call of elections, regulating such matters as observer rights, measures for participation of persons with disabilities, and media obligations during the campaign.

⁸ Belarus is also signatory to the 1966 International Covenant on Civil and Political Rights (ICCPR), 1965 Convention on the Elimination of All Forms of Racial Discrimination, 1979 Convention for the Elimination of All Forms of Discrimination against Women (CEDAW), and the 2003 Convention Against Corruption. Belarus is also an associate member of the Council of Europe’s European Commission for Democracy through Law (Venice Commission) and a member of the Group of States against Corruption (GRECO).

⁹ Article 49 of the Constitution states that parliamentary elections “shall be set no later than four months and held no later than 30 days prior to the expiration of the powers of the current parliament”, and does not stipulate an earliest possible date. Article 93 states that the “term of the Parliament shall be four years” and that the president may prematurely terminate this term “to the order as determined by the Constitution”. Article 94 states that the parliament may be terminated prematurely in case of a no-confidence vote or a Constitutional Court finding of “systematic and gross violation of the Constitution”.

presidential administration and Constitutional Court.¹⁰ The presidential decree announcing the elections provides no reason for the early date.

The Constitution includes guarantees for direct and universal suffrage as well as freedoms of assembly and expression, but the legal framework imposes various restrictions on the exercise of these freedoms and other civil and political rights. Most previous ODIHR recommendations remain unaddressed in law, including a comprehensive review and revision of electoral legislation, more inclusive formation of election commissions, as well as guarantees for access of observers to all stages of the electoral process. Many ODIHR NAM interlocutors expressed dissatisfaction with the regulatory framework for elections, citing the need for continued and inclusive reform of the Election Code and other pertinent legislation.

Although the Election Code has not been amended since the previous elections, the parliament introduced relevant changes in 2018 to the Law on Mass Media, the Law on Mass Events and the Administrative Code.¹¹ An interagency working group was established in 2016 to discuss potential reforms of the Election Code and, according to ODIHR NAM interlocutors, resulted in proposed amendments that were submitted to the presidential administration in February 2017. However, no changes have been introduced in the parliament.

The Ministry of Justice recently organized an additional working group to discuss possible amendments to the Laws on Political Parties and on Public Associations. Several ODIHR NAM interlocutors remarked that this working group incorporated suggestions from various political parties and associations, including the opposition, and parties and associations met with by the ODIHR NAM approved of several of the proposed amendments, including the reinstatement of public funding for election campaigns, a decrease in the number of requisite signatures for registration of a party or association, as well as an obligation to publish campaign finance information online. According to the authorities, any possible amendments would not be introduced prior to these elections.

C. ELECTION ADMINISTRATION

The elections will be administered by a four-tiered structure comprising the Central Election Commission (CEC), 6 Oblast Election Commissions and the Minsk City Election Commission (OECs), 110 District Election Commissions (DECs), and some 5,900 Precinct Election Commissions (PECs).¹² Additional PECs will be established in diplomatic representations abroad for out-of-country voting.¹³ Many ODIHR NAM interlocutors cited a long-standing lack of trust in the election administration, especially in the conduct of early voting and election day procedures, including the integrity of the count and the election results.

¹⁰ According to ODIHR NAM interlocutors, applications submitted by the UCP and the Belarusian Helsinki Committee were dismissed by the Constitutional Court and the Central Election Commission (as forwarded by the presidential administration and Council of Ministers), respectively, as inadmissible. Copies of the complaints or decisions were not published. Additionally, in August 2019, the Leninsky District Court dismissed a complaint, found inadmissible due to lack of jurisdiction, filed by a 20-year old citizen which alleged that the presidential decree to hold early elections infringed her right to stand, given the 21-year age minimum for candidacy.

¹¹ Amendments to the Administrative Code and to the Law on Mass Media introduced additional regulations on online media, while amendments to the Law on Mass Events expanded the notification procedure and introduced a fee structure for public assemblies. See also *Election Campaign* and *Media* sections.

¹² According to the CEC, the number of polling stations, which will be established in September 2019, is expected to decrease owing to a decrease in the national population.

¹³ According to CEC Resolution No. 28 of 6 August 2019, PECs will be established abroad no later than 15 September, for a minimum of 20 and a maximum of 3,000 voters.

The CEC is a permanent body with a five-year mandate and comprises 12 members of whom 6 are women, including the chair. The current CEC was appointed in December 2016 and includes six members appointed by the president and six by the Council of the Republic. ODIHR has previously recommended that the composition be reconsidered to more broadly reflect political stakeholders.

The lower-level commissions are temporary bodies and were established on 2 September 2019. OECs supervise the activities of DEC and PECs, and review complaints against DEC decisions. DEC is responsible for aggregating election results, registering candidates, and compiling and distributing voter lists, and both OECs and DEC play supervisory roles in campaign finance. PECs administer voting and counting procedures on election day and during early voting.

Members of OECs, DEC and PECs may be nominated by political parties, public associations, labour collectives and initiative groups of citizens.¹⁴ Nominees must be members of the nominating entity, and no entity may nominate more than one member for each commission. For these elections, the CEC stipulated professional qualifications for commission members, but did not include a previous criterion of “political qualification”. Most ODIHR NAM interlocutors voiced concern about the under-representation of opposition groups on election commissions. ODIHR has previously recommended that the authorities consider ways to include members nominated from all contestants.

A recent CEC resolution contains several instructions related to the facilitation of election day procedures for voters with disabilities.¹⁵ Polling stations must be situated on the ground floor and include special voting booths that facilitate access for persons with physical disabilities, including wheelchair users. PECs are also obliged to equip polling stations with voting booths accessible for voters with physical disabilities and with ballot templates for voters with visual impairments. The law provides voters with disabilities the right to request assistance from a person of their choice, and OECs will appoint volunteers from the local administration to assist in polling stations. Some ODIHR NAM interlocutors acknowledged progress in the government’s efforts to facilitate the participation of persons with disabilities in elections, but cited a need for further measures.¹⁶

The CEC does not produce voter education campaigns but publishes information related to the electoral process on its website, including content in the Belarusian, Russian and English languages with display options in high-contrast and large print for users with visual impairments. For these elections, the CEC plans to introduce a mobile application to help voters locate their registered polling station. DEC publishes voter information related to candidate biographies and programmes, though several ODIHR NAM interlocutors described these materials as subjectively formulated, with no possibility for contestants to request changes.

Special polling stations may be established at healthcare facilities and military units, and mobile voting is organized upon request for homebound voters. Early voting is administered in the five days prior to election day. The Election Code stipulates that the PEC chair is responsible for the storage and security of early voting materials and ballots. Several ODIHR NAM interlocutors described a lack of safeguards in the administration of early voting and the integrity of stored materials.¹⁷ Some also

¹⁴ By law, public employees may comprise no more than one-third of members of each commission, and nominees of political parties and associations should comprise at least one-third. Oblast Election Commissions and DEC may comprise between 9 and 13 members, while PECs may comprise between 5 and 19.

¹⁵ Resolution No. 29 of 6 August 2019.

¹⁶ Paragraph 21 of the [2018 CCPR concluding observations](#) raises concern related to “slow progress in ensuring the physical accessibility of public spaces”.

¹⁷ Paragraph 56 of the [2018 CCPR concluding observations](#) notes concerns related to “the lack of transparency in vote counting”.

expressed concern about potential pressure on voters to participate in early voting, so as to help meet the required turnout threshold.

D. VOTER REGISTRATION

Citizens at least 18 years of age by election day have the right to vote. Persons whose legal capacity has been revoked by a court decision on the basis of mental disability are disenfranchised. In addition, citizens serving a prison sentence, under police custody or in pre-trial detention are ineligible to vote, regardless of the gravity of the crime or duration of sentence. The CEC informed the ODIHR NAM that, as in the previous elections, persons in detention or serving shorter prison terms will be permitted to vote. ODIHR has previously recommended that the blanket restriction on voting rights for persons serving a prison sentence be reconsidered, and that restrictions on those in police custody or pre-trial detention be removed.

Voter registration is passive and lists are compiled by PECs on the basis of data on eligible residents submitted by local authorities. There is no permanent or centralized voter list, and no system is in place to identify potential duplicate registrations across localities.¹⁸ Voter lists are not published in full, but voters may review lists at polling stations for 15 days prior to and on election day to verify their records or to request changes. Upon presenting identification and proof of residency, eligible voters may be added to the precinct voter list by the PEC, including on election day, without verification by the CEC or a court, which is contrary to prior ODIHR recommendations.¹⁹ The CEC does not publish data on the number of registered voters at the precinct level. Several ODIHR NAM interlocutors raised concern about a lack of transparency of voter lists and opined that these lists could be abused to inflate turnout. Some stakeholders raised concerns about the exclusion of Roma, who often face obstacles in registering, as well as of persons residing in psychiatric institutions.

Voter lists for out-of-country voters are compiled by PECs based on data provided by the respective diplomatic representation. Voters can request inclusion on the lists by submitting documents confirming that they will be abroad on election day. As with in-country voter lists, these lists will be made available by PECs 15 days prior to the election.

E. CANDIDATE REGISTRATION

Eligible voters at least 21 years of age by election day and with permanent residence may stand for election to the House of Representatives, except for persons with an unexpunged criminal record.

A candidate may be nominated by a political party, labour collective, or an initiative group of at least ten voters, or a combination of these. Prospective candidates must declare income and assets to DEC, and those nominated by initiative groups must also collect at least 1,000 supporting signatures in the period from 8 September to 7 October.²⁰ In an established practice, citizens will be allowed to sign in support of more than one candidate in their district. The collection of signatures at public institutions from among public employees is not prohibited by law, with several ODIHR NAM interlocutors raising concerns that this could lead to pressure on voters to sign or not sign in support of a candidate.

¹⁸ The CEC informed the ODIHR NAM that the Ministry of Interior stands ready to implement a permanent, centralized voter register, should one be legislated, as previously recommended by ODIHR.

¹⁹ ODIHR previously recommended that a pre-election day deadline for voter registration be considered, and that additional entries be subject to judicial control.

²⁰ According to a CEC resolution of 29 August 2019, the average number of voters per district in the upcoming elections is 62,934, which equates to approximately 1.6 per cent of the voters in a constituency. Section 1.3.ii of the [2002 Venice Commission Code of Good Practice in Electoral Matters](#) recommends that “[t]he law should not require collection of the signatures of more than 1% of voters in the constituency concerned”.

The CEC chair has publicly stated that only one-third of current members of parliament should extend their mandate, “at the request of the Head of State,” although the legal framework contains no term limits.²¹ No new political parties have been registered since 2000, despite repeated attempts.²²

DECs are required to verify a sample of the submitted supporting signatures before approving or rejecting an application. The law provides for prospective candidates to correct mistakes in their applications before they are forwarded to appropriate authorities for verification, and rejected applicants may appeal to the respective OEC and subsequently to the district court, which is the final instance. Several ODIHR NAM interlocutors expressed a lack of confidence in the impartiality of the candidate registration process and described a burdensome and formalistic application procedure.

Women comprise roughly one-third of the current parliament but only one of 12 government ministers. No special measures are in place to promote women’s participation as candidates, and nominating bodies are under no obligation to nominate women. Parties and political associations met by the ODIHR NAM indicated their intention to nominate or support women candidates, but several stakeholders described systemic patriarchal attitudes that impact women’s role in politics, despite their active participation in public life.²³

F. ELECTION CAMPAIGN

The campaign period will begin with the registration of candidates and end at midnight on the eve of the elections. Local authorities are responsible for ensuring contestants’ equal access to public space for campaigning. Several prospective contestants informed the ODIHR NAM that they expect to freely campaign, including door-to-door canvassing, meetings with voters, rallies, and other traditional means, as well as some online campaigning in social media. However, many described an overall environment of suppressed public dissent,²⁴ and raised concerns about restrictions on public assembly and the potential abuse of state resources.²⁵ Stakeholders informed the ODIHR NAM that some groups have expressed their intention to boycott the elections.

Positively, certain changes to the legal framework on public assembly address prior ODIHR recommendations, such as a more inclusive notification procedure for organizing public gatherings, as well as the decriminalization of activities of unregistered organizations. However, ODIHR NAM interlocutors noted how other restrictions may mitigate the impact of these changes. For example, although the activities of unregistered organizations are no longer prohibited in the criminal code, the administrative code retains financial penalties for such activities. Additionally, stakeholders noted that

²¹ As [quoted in the state newspaper *Belarus Segodnya*](#) on 18 August 2019.

²² For example, the organization Belarusian Christian Democrats (BCD) has submitted multiple applications for registration as a political party, most recently in 2017. The government informed the ODIHR NAM that the application included founding members who were phoned and claimed to be unaware of the group’s existence. The BCD states that the individuals in question faced intimidation from the authorities.

²³ Paragraph 20 of the [2016 CEDAW concluding observations](#) notes concern with “the prevalence of discriminatory stereotypes and patriarchal attitudes”. See also paragraphs 28 and 29.

²⁴ See also paragraph 56 of the [2018 CCPR concluding observations](#): “the Committee remains concerned about reports of the persecution, intimidation, harassment and detention of opposition political candidates, including in connection with the 2010 elections; [as well as] the respect for electoral rights, including the expansive interpretation of criminal sanctions for such acts as demonstrations and protests related to the electoral process”. See also paragraph 57.

²⁵ See also the [2019 GRECO Joint First and Second Rounds public declaration of non-compliance](#) which finds Belarus to be noncompliant with Council of Europe anti-corruption standards, pointing to unfulfilled recommendations related to “strengthening the independence of the judiciary and of the prosecution office, as well as increasing the operational autonomy of the law enforcement and limiting immunity protection of certain categories of persons”.

permitted sites for campaign events, while no longer requiring advance authorization, are limited and inconveniently located, and events held in other locations still require permission of authorities.²⁶

Several ODIHR NAM interlocutors further pointed to restrictions on political activity outside of the official campaign. In 2019, the Council of Ministers established a fixed fee structure for organizing public events outside of the campaign period, with fees ranging from 3 basic units (roughly BYN 76.50) for up to 10 participants, to 250 basic units (roughly BYN 6,375) for over 1,000 participants, for the described purpose of defraying the costs of maintenance of public order.²⁷ Although some ODIHR NAM interlocutors suggested that established parties could afford the fee, most described the fee as an undue restriction on freedom of assembly that negatively impacts the ability of smaller groups and private citizens to organize.

The Election Code prohibits the incitement of hatred on social, racial, national, linguistic or religious grounds. Election commissions are responsible for reacting to violations, and hate speech promulgated by a candidate may result in deregistration. ODIHR NAM interlocutors did not raise major concerns related to hate speech or intolerant rhetoric, though some noted cases against the Roma community and other marginalized groups.²⁸

G. CAMPAIGN FINANCE

Campaign finance is regulated by the Election Code. Campaigns may be financed by candidates' own resources and by private donations by individuals (5 basic units or roughly BYN 127.5) and legal entities (10 basic units or roughly BYN 255).²⁹ Donations from anonymous or state sources, religious or state-funded organizations, and charities, as well as from foreign individuals or entities, are prohibited. There is no direct public funding of election campaigns and a majority of ODIHR NAM interlocutors described insufficient resources to conduct an effective election campaign.³⁰ Several stakeholders raised concerns that voters and businesses may be intimidated to not contribute to campaigns.

Expenditures of each candidate are limited to 1,000 basic units (roughly BYN 25,500) and must be made via designated bank accounts. No fundraising or spending by candidates is permitted prior to registration, including for purposes of signature collection.³¹ Candidates that exceed the expenditure limit by more than 20 per cent, use illegal sources of income, or manage campaign funds outside the dedicated bank account, are to be deregistered.

Oversight of campaign finance is within the competency of DEC, to which candidates must submit interim financial reports ten days prior to election day and final reports within five days after election day. There is no legal requirement for candidates' financial reports to be published or to be audited.

²⁶ Paragraph 5 of the [2019 Report of UN Special Rapporteur on the human rights situation in Belarus](#) notes, "Non-registered organizations are still subject to administrative liability and the notification procedure for assemblies is valid only for those taking place in areas designated by authorities, and is often denied in practice". See also paragraph 30.

²⁷ See [Resolution No. 49 of 24 January 2019](#). Previously, local authorities had discretion to set these fees.

²⁸ See also paragraph 19 of the [2018 CCPR concluding observations](#), which notes "reports of discrimination based on sexual orientation and gender identity, including harassment, homophobic discourse, hate speech and violence against lesbian, gay, bisexual and transgender individuals, and about the lack of adequate protection against such discrimination, both in law and in practice".

²⁹ EUR 1 is equivalent to approximately 2.26 Belarusian Rubles (BYN).

³⁰ Draft amendments to the laws on political parties and on public associations, introduced in early 2019, include provisions which would re-introduce public funding of election campaigns.

³¹ Prospective candidates may organize picketing during the period of signature collection but may not distribute materials such as leaflets, as this would qualify as a campaign expenditure.

However, banks must report weekly to DECAs on contestants' account activities, and the law requires these bank reports to be published.

H. MEDIA

Although the Constitution guarantees the freedom of expression and prohibits censorship, the legal framework contains several restrictions. The Criminal Code broadly prohibits defamation and public insult, and the Election Code contains a ban on calls for an election boycott or reporting on such calls. Journalists must register with the Ministry of Information for accreditation to cover state activities and public events, and with the Ministry of Foreign Affairs to contribute to foreign press. ODIHR NAM interlocutors reported that several journalists were detained or arrested covering public protests in 2017, and described other recent instances of detention or indictment of journalists, resulting in an environment of self-censorship.³²

Though television remains the primary source of political information, online media provide an increasingly prominent source of news and are subject to the same obligations as traditional media when covering elections. Amendments in June 2018 to the Law on Mass Media require online media to register with the Ministry of Information, authorize the Ministry to request information about individuals commenting on online media articles, and permit the Ministry to block online content without a court decision. The amendments also prohibit foreign individuals and entities from establishing media organizations in Belarus.³³

Additionally, 2018 amendments to the Administrative Code introduced a fine of up to 200 basic units (roughly BYN 4,900) for the distribution of "prohibited" information, including online.³⁴ The authorities informed the ODIHR NAM that the provision is intended to target prohibited information as described in the Law on Media, such as extremism and the sale of narcotics. Many ODIHR NAM interlocutors described the new provision as overly broad.³⁵

State media are obliged to treat contestants equally, and state-operated or funded newspapers must publish contestants' programmes free-of-charge. By law, each contestant is guaranteed five minutes of free airtime on both state TV and radio to present pre-recorded campaign messages. The State Television and Radio Company informed the ODIHR NAM that contestants may use its facilities and equipment to record their spots. For the first time in these elections, contestants' spots will be accompanied by subtitles for persons with hearing impairments. The publication of opinion polls is prohibited in the five days prior to election day. A majority of ODIHR NAM interlocutors described systemic bias in state media and neglect of critical or opposition viewpoints.

³² In August 2018, five journalists from media groups *Tut.by* and *BelaPAN* were arrested for allegedly using a shared user account and password to access online content of a state news agency, and the offices of their respective media organizations were searched by police. See the [8 August 2018 statement of the OSCE Representative on Freedom of the Media](#) in response to the detentions: "The highly disproportionate measures taken by law enforcement against two independent news agencies raises serious concern about the respect for the independent media in Belarus". See also the [7 August 2018 statement of the Council of Europe](#).

³³ See the [18 June 2018 statement](#) of the OSCE Representative on Freedom of the Media: "Many of the provisions are excessive and disproportionate and could result in the curtailing of freedom of expression". See also paragraph 36 of the [2019 Report of the UN Special Rapporteur](#).

³⁴ Article 22.9 of the Administrative Code.

³⁵ Article 38 of the Law on Media defines prohibited information to include "information that in its distribution can undermine national interests of Belarus", and that which is "prohibited by other legal acts".

In an established practice, the CEC plans to form a Media Supervisory Board (MSB) for the elections, comprised of members nominated by the Ministry of Information.³⁶ This body is tasked with overseeing media coverage of the campaign and resolving media-related disputes.³⁷ The authorities informed the ODIHR NAM that the MSB will not conduct comprehensive monitoring of the media during the campaign period, contrary to a prior ODIHR recommendation. Positively, representatives of civil society, including both the Belarusian Association of Journalists and Belarusian Union of Journalists, have been invited to participate in the MSB.

I. COMPLAINTS AND APPEALS

Decisions of election commissions may be appealed, with exceptions, to higher commissions and respective judicial bodies. Decisions of OECs may be appealed to the respective oblast court, and CEC resolutions on DEC decisions or on the invalidation of election results may be appealed to the Supreme Court. The law generally provides for expedited timeframes to submit and review election-related complaints. Not all decisions of election commissions are subject to judicial appeal, including the validation of election results. Positively, hearings on election-related complaints are open to the public, and court judgments are published online within one day in a complaint tracking system. Some ODIHR NAM interlocutors described a perceived lack of independence of the judiciary and a resultant lack of confidence in the effective resolution of election-related disputes.³⁸

J. CITIZEN AND INTERNATIONAL OBSERVERS

Citizen observers may be nominated by political parties, public associations, labour collectives and initiative groups. Candidates may not nominate observers, but may appoint proxies to sessions of election commissions and to polling stations. International observers may be accredited at the invitation of the authorities. Positively, for these elections, observers may pre-register to attend all CEC sessions without prior notice.

The Election Code contains several restrictions on the rights of observers, who may not closely observe the voter lists, the issuance of ballots, and the ballot box, and may not receive certified copies of PEC and DEC result protocols. Several civil society organizations and political parties and associations informed the ODIHR NAM of plans to observe the early voting and election day procedures; however, many expressed concern related to the restricted observation of counting procedures and potential removal of observers from polling stations.³⁹ The CEC issued a resolution permitting the use of cameras in polling stations, in response to a request from civil society organizations.

IV. CONCLUSIONS AND RECOMMENDATIONS

All interlocutors generally emphasized a need for an ODIHR observation activity for the upcoming elections, with many underlining the need for a long-term presence to assess the pre-election

³⁶ The deputy minister of information serves as chair.

³⁷ The body's formation and its handling of media-related complaints is established by CEC.

³⁸ The Constitution grants the president wide authority to appoint and terminate judges. See paragraph 39 of the [2018 CCPR concluding observations](#): "[T]he Committee remains concerned that the independence of the judiciary continues to be undermined by the President's role in, and control over, the selection, appointment, reappointment, promotion and dismissal of judges and prosecutors and by the lack of security of tenure of judges... It is also concerned that the salaries of judges are determined by presidential decree rather than by law".

³⁹ The authorities informed the ODIHR NAM that observers will be allowed to observe at the counting table, although no such legal amendment nor resolution has yet been introduced.

environment as well as the conduct of early voting and election day procedures. Representatives of state institutions stressed the intention to administer the elections in line with international standards and underlined the importance of recommendations to further enhance electoral law and practice. Several interlocutors identified specific areas that would benefit from an external review, including the new rules on public assembly and on the media, including online media, as well as the formation and work of election commissions, candidate registration, the conduct of early voting and election day procedures, and the resolution of election-related disputes.

On this basis, the ODIHR NAM recommends deploying an Election Observation Mission (EOM) for the upcoming parliamentary elections, subject to the availability of resources. In addition to a core team of experts, ODIHR will request the secondment by OSCE participating States of 30 long-term observers to follow the electoral process countrywide, as well as 400 short-term observers to follow election day procedures, including voting, counting, and tabulation of results.

ANNEX: LIST OF MEETINGS

Ministry of Foreign Affairs

Andrei Bushilo, Director-General for Europe and North America
Roman Romanovsky, Deputy Director for Europe and North America, Head of European Cooperation Department
Maksim Sapsai, First Secretary, European Cooperation Department
Anastasia Borushko, Third Secretary, European Cooperation Department

Ministry of Information

Alexander Karlukevich, Minister
Pavel Legkii, First Deputy Minister
Olga Prokhorova, Deputy Director, Information-Analytical Department
Yuri Bebesko, Deputy Director, Legislation and Legal Compliance Department
Andrei Chernikov, Counsellor, Information-Analytical Department

Ministry of Justice

Sergey Zadiran, First Deputy Minister
Svetlana Rogova, Chief, Department of Legal Regulation, Constitutional Development, Law Enforcement
Elena Kirichenko, Chief, Department for Non-Commercial Organizations
Alexander Basalyga, Deputy Chief, Department for International Co-operation

Standing Committees of House of Representatives of the National Assembly

Galina Filippovich, Deputy Chair, Standing Committee on State Building, Local Government and Regulations
Dmitry Shevtsov, Deputy Chair, Standing Committee on International Affairs
Pavel Zhdanovich, Standing Committee on State Building, Local Government and Regulations
Tatiana Marochkova, Standing Committee on State Building, Local Government and Regulations
Leonid Pisanik, Standing Committee on State Building, Local Government and Regulations
Oleg Maryskin, Senior Counsellor of Legislation Division
Timofei Diomin, Counsellor, Department of International Cooperation

Central Election Commission

Lidia Ermoshina, Chair
Elena Dmuhailo, Secretary

Supreme Court

Andrey Zabara, Deputy Chief Justice
Valentina Kulik, Judge
Dmitry Chikatovsky, Assistant to the Chief Justice
Anastasia Tsimanovich, Chief Specialist, Unit of International Legal Co-operation

Political Parties, Public Associations and other Organizations

Alena Anisim, Independent Representative, Association of the Belarusian Language
Volha Kavalkova, Observation Campaign Coordinator, Belarusian Christian Democrats
Grigoriy Kostusev, Chairperson, Belarusian Popular Front
Ihar Barysau, Chairperson, Belarusian Social Democratic Party (Gramada)
Aliaksei Sihayeu, First Vice-Chairperson, Belarusian Social Democratic Party (Gramada)
Genadi Davidko, Chairperson, Public Association "Belaya Rus"

Sergey Pigarev, Deputy Chairperson, Public Association “Belaya Rus”
Aleksander Chernous, Public Association “Belaya Rus”
Alyaksey Sokal, Chairperson, Communist Party
Sergey Gaidukievich, Leader, Liberal Democratic Party
Oleg Gaidukevich, First Deputy/Head of Campaign, Liberal Democratic Party
Yury Gubarevich, Chairperson, Movement “For Freedom”
Vasiliy Zadnepriany, Chairperson, Republican Party of Labour and Justice
Andrey Dimitriev, Public Association “Tell the Truth”
Nikolai Kozlov, Leader, United Civic Party
Antanina Kavaliova, United Civic Party
Lev Margolin, United Civic Party

Media Representatives

Andrei Bastunets, Chair, Belarusian Association of Journalists
Sergey Sverkunov, Deputy Chair, Belarusian Union of Journalists
Dmitry Zhuk, Editor-in-Chief, State Newspaper *Belarus Segodnya*
Mihail Lebedik, State Newspaper *Belarus Segodnya*
Ivan Eismont, Chairman, National State Television and Radio Company

Civil Society

Alexander Shpakovskiy, Chairperson, Actual Concepts
Oleg Gulak, Chairperson, Belarusian Helsinki Committee
Oleg Makarov, Director, Belarusian Institute for Strategic Research
Tatyana Shendik, Deputy Director, Belarusian Institute for Strategic Research
Ivan Zharkov, Head, Foreign Policy Department, Belarusian Institute for Strategic Research
Vitaly Punchenco, Deputy Head, Internal Policy, Belarusian Institute for Strategic Research
Valery Karbalevich, Independent Political Expert
Valiantsin Stefanovich, Deputy Chair, Viasna

Diplomatic Community

Representatives of diplomatic missions of OSCE participating States in Minsk