

INTERIM REPORT 2
25 February – 7 March 2006

I. EXECUTIVE SUMMARY

- The legal provisions on campaigning, the manner in which they are being interpreted and applied, and actions of State bodies, have limited the scope for a vibrant election campaign.
- During the reporting period, voter access to diverse political information through the media has been limited. Of note, President Lukashenka has received in excess of 94 per cent of the coverage devoted to the four candidates on the news broadcasts of the main Belarusian TV channels, largely in his capacity as President of the Republic, between 17 February and 6 March.
- EOM observers have reported a number of problems facing the Milinkevich and Kazulin campaigns including: detention of campaign staff for holding unsanctioned campaign events, harassment of campaign workers by the police and limited space provided for campaign material and events.
- On 2 March 2006, while trying to attend the All-Belarus People's Assembly, Mr Kazulin was violently apprehended by plainclothes security and detained for some 10 hours. It was understood that he was charged with two criminal and one administrative offence. In the same incident, a number of journalists were also violently apprehended.
- Domestic non-partisan election observation in Belarus is unduly constrained. The four civic activists involved in domestic observation, who have been detained since 21 February, were formally charged on 3 March for managing an unregistered organisation, in violation of new provisions to the Criminal Code. On 3 March, in a special press release, the OSCE Chairman-in-Office, Belgian Foreign Minister Karel De Gucht, expressed his concern about the detention and called for their release.
- On 3 March, police seized the entire print run of non-state newspaper *Narodnaya Volya* (250,000 copies) during transportation from the printer, due to alleged violation of electoral regulations. However, the police failed to provide any legal documents supporting the seizure.
- Observers report that Territorial Election Commission (TEC) and Precinct Election Commission (PEC) premises are well-equipped and have a variety of general information, including candidate biographies and voter education materials. With few exceptions, commission members have shared information on their preparation for the elections.
- The Central Commission on Elections (CEC) has not convened a session to hear election-related appeals since 18 January. However CEC officials have responded to most of the written appeals.

II. THE CAMPAIGN

While some election campaign events are being held, notably by Mr Milinkevich and Mr Kazulin, to date the campaign of the opposition candidates has lacked visibility. The legal provisions on campaigning, the manner in which they are being interpreted and applied, and actions of State bodies have limited the scope for a vibrant election campaign.

EOM observers report that the Milinkevich and Kazulin campaigns have concentrated on holding meetings between the candidates and voters. Mr Gaydukevich informed that he was holding meetings

with voters, although EOM observers did not report the holding of many visible events by the candidate. Some leafleting is taking place, but very few election campaign posters are visible and door-to-door campaigning is not much in evidence. The EOM is aware of only a few campaign events held in support of Mr Lukashenka. In these cases, the candidate did not appear in person, rather, proxies spoke in support of his re-election campaign. EOM observers have faced difficulty in establishing contact with his campaign staff at regional or district level.¹

Candidates may only engage in certain forms of campaigning: using the free airtime and space in the State media, organising meetings with voters and distributing certain types of printed campaign material.² Among other things, by law the State authorities must provide candidates with:

- An allocation of 66,700,000 Belarusian roubles (approximately US\$31,000) for printed campaign materials.³
- Venues to hold campaign meetings; and,
- Designated areas for the display of campaign materials.

However, paid advertising is not permitted and candidates may not use the state funds to rent billboard space. Article 48 of the Code prohibits “material assistance in the course of preparation and conduct of elections.” According to the CEC this article applies to:

- The private print media⁴, which may not grant candidates free campaign space;⁵
- Candidates may not use their own private funds or direct donations to fund their election campaigns; and,
- Campaign spending should be limited to the amount provided to candidates by the State.

The campaign environment has been marred by events occurring during the reporting period. On 2 March 2006, while trying to attend the government-organized All-Belarus People’s Assembly⁶, Mr Kazulin was violently apprehended by plainclothes security and detained for some 10 hours at Oktyabrskaya Police Station (Minsk). He was charged with two offences punishable under the Criminal Code and one count under the Administrative Code. In the same incident, a number of journalists were also violently apprehended.

Later that morning, outside the police station, Mr Kazulin’s brother and lawyer were assaulted by unknown persons, and together with some journalists, were detained by the police.⁷ Shortly afterwards, three rounds of ammunition were fired by plainclothes men at a car containing passengers, in the vicinity of three well-identified EOM observers. The driver of the car was arrested and is detained, pending prosecution under two articles of the Criminal Code. Mr Kazulin was released on the evening of 2 March.

Since 17 February, Mr Milinkevich has held several campaign meetings under Article 45 of the Election Code without undue impediment. He had also planned to hold an event at Liberty Square in central Minsk in the early evening of 2 March. On 1 March, however, the Milinkevich campaign received information from the Prosecutor that under the provision of the Law on Mass Events, the event was not

¹ Of the 18 observer teams, only three (in Minsk, Baronovichy and Slutsk) have been able to arrange meetings with Mr Lukashenka’s local campaign teams.

² Inter alia, permitted printed material includes campaign posters, exhortations, leaflets, photo materials etc. The content of the material must respect the provisions of article 47 of the Code.

³ The funds are managed by the CEC. Candidates place the orders for printing and provide CEC with the bills, which are paid by the CEC.

⁴ The role, rights and responsibilities of private media in the elections is not regulated by the Election Code.

⁵ The CEC has stated publicly that this would be considered as violating Article 48.

⁶ Once every five years an “All-Belarus People’s Assembly” meets. During the two-day convention, delegates hear the report of the President on the preceding five years and advise him on matters of strategic importance.

⁷ EOM observers also witnessed police violence directed at Mr Kazulin’s sister. The journalists were released subsequently after the police conducted checks of journalists’ recordings.

sanctioned. The Milinkevich campaign responded to the Prosecutor on the afternoon of 2 March claiming that the event was legal under Article 45 of the Election Code. Mr Milinkevich and his supporters were unable to hold the event in Liberty Square, but the event took place in another nearby open space, flanked by several hundred riot police and uniformed police.

On 7 March 2006, a court in Mogilev passed sentence on two Milinkevich official campaign proxies for holding unauthorised meetings with voters. One, Vladimir Shantsev, was sentenced to 15 days detention under Article 167.1. of the Administrative Offence Code (violating the rules of conducting a mass event), for conducting a meeting with voters on 6 March. The other, Anatoly Lebedko, Chair of the United Civic Party, was sentenced to a fine amounting to some US\$ 700 for holding a meeting with voters on 7 March. They claimed that the meetings were legal under Article 45 of the Electoral Code, which allows proxies to hold meetings with voters in “any place convenient for the electors.” The EOM was informed that both intended to file legal appeals.

The Milinkevich campaign team and, to a lesser extent, the Kazulin campaign team report a number of other obstacles in promoting the candidates, many of which have been verified by EOM observers. Reported problems include:

- Visits to campaign offices by State security forces to check if campaign material has been produced in accordance with Belarusian legislation;⁸
- Harassment of campaign workers by the authorities using ‘stop and search’ provisions. This has also restricted to a degree the freedom of movement of some opposition supporters;⁹
- Decisions by many local authorities to designate only a few spaces for displaying election campaign material;¹⁰
- Some local authorities have designated meeting places that are either too small, or were located on the outskirts of cities and towns, or otherwise difficult to reach;¹¹ and,
- Detention of campaign staff for holding unsanctioned campaign events.

Campaign teams in some regions reported to EOM observers that it is becoming increasingly difficult to recruit volunteers and to conduct street campaigning. EOM observers in a few towns report that their interlocutors have been questioned by the police following their meetings with campaign teams.

Other campaigns are taking place during the official election campaign period, which are not directly related to the candidates’ official campaigns and may not be covered by campaign provisions contained in the Election Code. The “za Belarus” campaign promotes the country’s achievements and is highly visible,¹² featuring concerts and events across Belarus that are televised by Belarusian nationwide channel ONT. On three occasions noted by the EOM, speakers at ‘za Belarus’ campaign events, including a State official, made direct appeals to citizens to vote for Mr Lukashenka. EOM observers have noted a very large number of billboards apparently connected to this campaign. The EOM has been unable to meet with ONT to discuss the campaign, despite requests.

⁸ In Zhlobin, Milinkevich’s campaign material which contained the text “the new President” was confiscated with the police claiming that it was illegal. On 27 February, the City Executive Committee in Gomel prohibited the handing out of campaign leaflets in areas where there was a “mass gathering of people”. This order was rescinded on 2 March.

⁹ 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 police for 3 hours or more. A complaint was filed to the local Prosecutor.

¹⁰ Observers reported a few cases where local authorities attempted to apply the provision regarding the display of campaign material to restrict the locations in which campaign leaflets were handed out to citizens. In Grodno, with an estimated population of 280,000, the local authorities designated only 23 places to post campaign posters.

¹¹ For example in Orsha, where only two indoor venues were designated; one too small for a public meeting and the other (capacity approximately 300) far from the town centre. In this town, the Milinkevich campaign held an outdoor meeting which was deemed illegal by the local police.

¹² The name of the campaign mirrors the campaign of 2004 in favour of abolishing the two-term presidential limit and allowing President Lukashenka to seek a third term.

Increasingly, EOM observers are receiving reports that campaigning in favour of the incumbent is taking place in factories, schools and universities.

III. ROLE OF CIVIC SOCIETY IN MONITORING THE ELECTION

Several civil society organizations told the EOM that increasing state pressure has meant that domestic observation activities are currently at a lower level compared to previous elections. In previous elections, the civil initiative ‘Partnership’, which was unsuccessful in its attempt to be registered, coordinated the election observation activities of up to 200 NGOs. The four civic activists involved in domestic observation, who have been detained since 21 February, were formally charged on 3 March for “managing an unregistered organisation that infringes on the rights, freedoms and legal interests of citizens,” prohibited by the new provisions of the Criminal Code (Article 193.2). After their arrest, the KGB (Committee of State Security) accused the group of preparing a violent seizure of power. A number of NGOs informed the EOM that this event has unsettled them for fear that persons may be dissuaded from participating as domestic election observers. On 3 March, in a special press release, the OSCE Chairman-in-Office, Belgian Foreign Minister Karel De Gucht, expressed his concern about the detention and called for their release.

Some NGOs, including the Belarusian Helsinki Committee, still plan to field election day observers.¹³ However, while the organisation is still registered, following a long-running court case, it faces difficulties as a result of a decision by the newly established Presidium of the Supreme Economic Court that the organisation is liable for back taxes amounting to \$75,000 in connection with a TACIS (EU) grant received by the NGO. The de-registered ‘Viasna’ (Spring) Association, unlike previous elections is not planning to observe the election although some of its former members may observe as private citizens backed by civic initiatives.¹⁴

EOM observers report that some regional-level civic organizations are preparing to observe on election day. However, to date, observers report that the large majority of domestic observers registered at local level commissions are not from civic groups, but from local labour collectives, veterans’ organizations, the government-supported youth organization (Belarusian Republic Union of Youth) and local administration structures. The 30 candidate proxies may also serve as observers. Political parties, organizations and groups backing the candidates are also entitled to register election observers. Mr Milinkevich and Mr Kazulin have expressed the hope that, in this way, they would be able to deploy observers in most of the larger cities. Mr Gaydukevich reported to the EOM that his campaign has recruited and trained over 22,000 observers.

IV. THE MEDIA

So far, the media have not presented the election as an event of national significance, in which voters will exercise their right to choose the next president. Significantly, opposition have not been presented in equal terms during the reporting period.

Regarding the free airtime available to candidates, between 21 February and 6 March the National State Television and Radio Company which includes BT1 (TV) and BR1 (radio) aired the formal campaign presentations of three of the candidates. Mr Lukashenka has not used the free election campaign airtime¹⁵ available to him in the electronic media. On 2 March, BT1 cut part of Mr Kazulin’s address, as it

¹³ The BHC hopes to deploy some 500 observers on election day.

¹⁴ Individuals can also register as observers, as long as they collect 10 signatures from voters in the constituency in which elections are to be observed.

¹⁵ Each candidate was given the right of two pre-recorded campaign presentations on television and two presentations on radio, each lasting no longer than 30 minutes as well as to publish five typewritten pages of campaign materials in seven state newspapers, defined by the CEC.

considered that Mr Kazulin had made ‘uncorroborated accusations’ against Mr Lukashenka and his two sons. On 6 March, Mr Kazulin’s and Mr Milinkevich’s campaign addresses on BR1 were censored. Neither candidate was informed about the changes to the content of their radio presentations, prior to their being broadcast.¹⁶

Three candidates (Mr Gaydukevich, Mr Kazulin and Mr Lukashenka) have used the free space in the state printed media. Mr Milinkevich did not submit his campaign platform to the state newspapers by the submission deadline provided by the campaign regulation (26 February). As a result it was not accepted for printing. On 2 March, Mr Milinkevich’s campaign sent an appeal to the CEC requesting the publication of his platform, arguing that failing to respect an administrative deadline set by the CEC should not limit rights established by the Election Code.

Procedural and technical aspects of the elections were reported in the state media. However, according to the EOM’s preliminary media monitoring results,¹⁷ covering the period 17 February and 6 March, with the exception of the official registration ceremony on 17 February and the free airtime the coverage of Mr. Gaydukevich, Mr. Kazulin and Mr. Milinkevich in the state media was extremely limited and the candidates were not given any significant opportunity to directly present their views.

According to the EOM monitoring of new programmes for the period 17 February to 6 March, ONT, BT1, and STV devoted 4 hrs and 17 minutes, 3 hrs 43 minutes and 3 hrs 20 minutes, respectively, of total coverage to the four candidates combined. Of this coverage, Mr Lukashenka received 99 per cent on ONT, 95 percent on BT1, and 94 per cent on STV. Mostly he was covered in his role as President and in general the coverage was positive in tone.

In other state TV programmes with a political content, journalists portrayed Mr Lukashenka much more frequently and also more positively than the other candidates. Mr. Kazulin and Mr. Milinkevich received little coverage which was largely negative in tone. The opposition’s election campaign events and incidents¹⁸ received almost no coverage. Conversely, all the Belarusian TV stations monitored by the EOM granted the President many hours of live and news coverage of his lengthy addresses to delegates at the third all-Belarusian People’s Assembly (2-3 March). The content of the Assembly also received extensive reporting in the state-funded print media. The media also covered numerous statements of the participants of the event, many of who endorsed the President’s political programme. In his speeches to the Assembly, the President defended his record in office, outlined the next five-year plan and disparaged his election opponents.

During the reporting period, on several occasions, police confiscated the newspapers *Narodnaya Volya* and *Tovarisch* from individual vendors.¹⁹ These national newspapers are no longer distributed through the state network. On 3 March, police seized the entire print run of *Narodnaya Volya* (250 000 copies) during transportation from the printer. According to a representative of the newspaper, the police had informed those transporting the print run that the print had been seized for violating the electoral regulations. However, the police failed to provide any legal documents supporting the seizure.

V. ELECTION ADMINISTRATION

During the reporting period, the CEC has not held a formal session. Because the elections are a countrywide event, the CEC is organising the printing of ballot papers. The printing of ballots is

¹⁶ Mr Kazulin’s address was shortened by some seven minutes, while Mr Milinkevich’s was shortened by approximately one minute.

¹⁷ The OSCE/ODIHR EOM commenced its media monitoring on 12 February. Monitored media outlets are as follows: Belarusian TV channels BT1, ONT and STV, the Russian Federation channel RT and Belarusian state radio BR1. Further four state-owned 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*.

¹⁸ For example, state media devoted negligible time to the events of 2 March when Mr Kazulin was detained.

¹⁹ In some instances, the seized copies of newspapers were returned.

considered an administrative issue and the printing arrangements were not discussed during a session of the commission. However, the CEC had previously adopted a form to record the transfer of ballots in the distribution chain from higher to lower commissions. The CEC has not announced publicly the number of ballots to be printed. However, the EOM was informed by the CEC that it will order 10 per cent more ballots than the estimated number of registered voters.

Observers report that TEC and PEC premises are well-equipped and have a variety of general information, including candidate biographies and voter education materials. With few exceptions, commission members have shared information on their preparation for the elections.

The Precinct Election Commissions (PECs) have concluded the process of updating and correcting voter lists. Since 4 March, citizens may visit PEC premises to verify his or her own entry in the voter list. Where an error is found, a citizen may request its rectification. Citizens may register to vote on election day provided that they are able to present the required valid identification documents. No data on the number of registered voters countrywide is publicly available, although it is available for each PEC at precinct level.

In most constituencies, the sending of notifications to citizens on the dates and hours of voting and the address of the precinct where they are registered has begun. During the door-to-door verification phase, most PECs compiled an 'additional' list of voters who wish to vote at home due to ill-health or "other valid causes" (Election Code, Article 54). On election day these voters will be visited at home (or their physical location) and will cast ballots into a mobile ballot box. At any time prior to 18.00 on election day, a "neighbour, relative or other person" may inform the PEC of a request by another citizen to vote using the mobile box.

The Election Code provides that voters may vote early from Tuesday 14 March until Saturday 18 March. During the early voting period, polling stations should be open every day from 10:00 to 14:00 hrs and from 16:00 to 19:00 hrs. The process will be organised by two or more PEC members. During the early voting phase, the voting premises are guarded by police throughout the day and overnight, when unused ballots should be locked in a safe. However, ballot boxes used for early voting are not sealed during breaks in voting during the day or at the end of voting sessions, except for the final session on 18 March, when a piece of paper is glued over the ballot box slot and stamped with the PEC stamp. Votes will be counted only after the close of polls on 19 March. Some candidate representatives have criticised the early voting process and called on their supporters to vote only on 19 March.

VI. RESOLUTION OF ELECTORAL COMPLAINTS

Between 25 February and 03 March, the CEC received 40 election-related written appeals. Of these, 22 relate to the conduct of the election campaign, some of which are 'complaints'. The CEC Chair decides on whether or not it is necessary to convene a meeting of the CEC to hear and decide on an election-related written appeal. The CEC has not convened a session to hear election-related addresses since 18 January. However, CEC officials have responded to most of the written appeals.

Many formal complaints related to the campaign and other election-related matters are addressed not to the CEC but to the prosecutors (local and national).²⁰ The EOM has requested a meeting with the Prosecutor of the Republic, but such a meeting has yet to take place.

CEC decisions on some specific aspects of the election process can be appealed to the Supreme Court; e.g., on a decision to reject a candidate registration. However, for CEC decisions on issues not specifically appealable under the Election Code, no practical mechanism exists to file a legal challenge. The Chairman of the Supreme Court of Belarus informed the EOM that the Court does not expect to hear many election-related cases as its jurisdiction is limited, particularly at this stage of the process.

²⁰ Some criminal cases directly or indirectly linked to the election campaign and political environment are also in the competence of the prosecutors.

While individuals may, to a limited extent, file complaints with electoral bodies, 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. Article 49 of the Election Code provides for the right of an observer to complain regarding violation of law to the election commission, superior commission or prosecutors. This provision is silent about the availability of such redress to a regular voter or others who do not possess the status of an observer.