



Office for Democratic Institutions and Human Rights

# REPUBLIC OF BELARUS

PRESIDENTIAL ELECTION

19 December 2010

OSCE/ODIHR Election Observation Mission Final Report



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**REPUBLIC OF BELARUS  
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**OSCE/ODIHR Election Observation Mission Final Report<sup>1</sup>**

**I. EXECUTIVE SUMMARY**

Following an invitation from the Ministry of Foreign Affairs of the Republic of Belarus to observe the 19 December 2010 presidential election, and based on the recommendation of a Needs Assessment Mission (NAM), the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Observation Mission (EOM) on 15 November. The OSCE/ODIHR assessed the election process for its compliance with OSCE commitments and other international standards for democratic elections as well as with national legislation. For election day observation, the OSCE/ODIHR joined efforts with a delegation from the OSCE Parliamentary Assembly (OSCE PA).

The presidential election indicated that Belarus has a considerable way to go in meeting its OSCE commitments for democratic elections. There was a lack of independence and impartiality of the election administration, an uneven playing field and a restrictive media environment, as well as a continuous lack of transparency at key stages of the electoral process. Election night was marred by detentions of most presidential candidates, and hundreds of citizens, among them journalists, human rights activists and other civil society representatives. Belarusian authorities explained at the time that a number of participants in “unsanctioned activities” have been sentenced by the courts to administrative arrests and fines, in addition to which criminal proceedings have been instituted under the title of “mass disturbances”. Meanwhile, most detainees were released, yet dozens of them, including three former presidential candidates continue to be detained at the time of writing this report. One former presidential candidate has been placed under house arrest. Overall, these circumstances undermined confidence in the election.

The January 2010 amendments to the Electoral Code addressed a number of long-standing OSCE/ODIHR recommendations: the replacement of a permission-based system to hold public meetings with an advance notification procedure, a provision for debates between candidates in the state media, the possibility for candidates to establish individual campaign funds, and new regulations governing some aspects of early voting. Despite these significant improvements, the legal framework still does not fully comply with OSCE commitments and other international standards, and continues to contain serious shortcomings.

The new legal provision that at least one-third of Territorial and Precinct Election Commissions (TECs and PECs) be drawn from representatives of political parties and public associations could have been a positive step. However, the absence of formal criteria in selecting commission members and the lack of detailed implementing procedures reduced the effectiveness of this provision. While almost all nominees from organizations considered to be in support of the president were appointed (93 per cent for TECs and PECs), the nominees from organizations considered in opposition to the president were far less successful (20 per cent for TECs and 17 per cent for PECs). Nominees were also rejected without proper explanation. TECs and PECs were predominantly composed of state employees with a marginal representation from political

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

parties. They were dominated by members supportive of the incumbent president, which calls into question their impartiality.

The Central Election Commission (CEC) lacked independence, impartiality and collegiality. Its sessions were open and attended by observers and media. The technical aspects of the electoral process were generally well administered. Important parts of the legislation, especially regarding counting procedures remained ambiguous, and in the absence of clear CEC implementing procedures, this led to inconsistent application of the law by election commissions.

The quality and accuracy of the voter lists remain serious concerns since a consolidated, centralized and computerized register does not exist. The compilation of voter lists is decentralized and performed by the relevant local administration in each precinct. Wide discretion is granted to PECs regarding layout of the voter list and introducing changes until election day. Voter lists are not cross-checked at the regional or national level nor do other safeguards exist to avoid the possibility of multiple registrations and subsequently, the risk of multiple voting.

The registration of candidates was inclusive. The field of ten candidates offered voters a genuine choice between different political alternatives. This is in part the result of legal amendments that eased the collection of support signatures. The process of signature verification, however, lacked transparency since candidates' representatives and other domestic observers were not able to monitor it.

Overall, the campaign environment improved compared to recent elections. Candidates were generally able to communicate with the electorate in an unhindered manner. The campaign was however, characterized by a lack of a level playing field between the incumbent and the other nine candidates, and was marked by instances of pressure, harassment and misuse of administrative resources to promote the incumbent. The limited access to resources, including the media, the small amount of state funding and the low ceiling for campaign expenditures restricted opportunities for effective campaigning, especially for opposition candidates. Throughout, the visibility of the campaign was low and there was low public interest.

There was a general lack of independent and objective reporting in the print and electronic media despite the existence of a high number of media outlets. A scarcity of alternative sources of information significantly reduced the possibility for voters to make an informed choice. Freedom of expression is guaranteed by the Constitution. However, these constitutional rights are constrained by national legislation, particularly the 2009 media law. In addition, harassment and intimidation of journalists remain one important challenge to media freedom.

State-funded media met their legal obligations to provide free airtime and print space to all candidates. For the first time, two live debates gave candidates the opportunity to address the electorate directly. Free airtime was provided in an uncensored format, although it was limited in scope and time. In state-funded print media, information about the incumbent and his campaign usually appeared on the front page. Campaign material by opposition candidates was only printed inside and was censored.

All major TV stations with nationwide coverage demonstrated a clear bias in favour of the incumbent, devoting 89 per cent of primetime news coverage to his campaign activities and official duties. Even recognizing the advantage of incumbency, this is a high figure. The tone of President Lukashenko's coverage was exclusively positive or neutral, while the tone of coverage of the other candidates was mostly negative and in some cases neutral.

The existing legal framework does not provide for an effective complaints and appeals mechanism and is not fully in line with OSCE commitments. The legislation does not provide for challenging the election results to court and to appeal all CEC decisions to the Supreme Court. Despite some legal improvements in this aspect, ambiguous provisions remain that led to an inconsistent and non-transparent consideration of electoral disputes by the CEC. PECs and TECs improvised procedures, often implementing them in an inconsistent manner.

A few positive steps were taken to improve the security and integrity of early voting period. For instance, ballot boxes were to be sealed in the presence of observers for overnight storage, and the daily voting protocol containing the number of voters who had already voted was to be displayed at the polling station. However, the steps undertaken did not fully ensure the integrity of the early voting which was marred by inadequate security measures and low quality for election materials and equipment. The plasticine seals used were not tamper-proof and the metal stamps applied to the plasticine were identical throughout the country.

While the overall voting process was assessed as good, the process deteriorated significantly during the vote count, undermining the steps taken previously to improve the election process. Observers assessed the vote count as bad and very bad in almost half of all observed polling stations. Clear instances of ballot stuffing and tampering with the results were noted by international observers. The count was largely conducted in a non-transparent manner, generally in silence, which undermined its credibility and raised questions about the integrity of the election. In over a third of PECs, access of observers was limited. Tabulation of results was assessed as bad or very bad in about one fifth of observed TECs.

On 25 December, the CEC announced the official results according to which Alexander Lukashenko received 79.6 per cent; some 6.5 per cent of voters voted against all candidates. The CEC did not publish disaggregated results by precinct, either on its website or in any other format. The voter turnout was established at 90.65 per cent.

## **II. INTRODUCTION AND ACKNOWLEDGEMENTS**

Following an invitation from the Ministry of Foreign Affairs of the Republic of Belarus to observe the 19 December 2010 presidential election, and based on the recommendation of a NAM conducted in Minsk from 27 to 29 September,<sup>2</sup> the OSCE/ODIHR deployed an EOM on 15 November. The OSCE/ODIHR EOM was headed by Ambassador Geert-Hinrich Ahrens and consisted of 14 core team experts and 40 long-term observers (LTOs)

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<sup>2</sup> <http://www.osce.org/odihr/elections/73235>.

from 26 OSCE participating States. The OSCE/ODIHR EOM was based in Minsk, with LTOs deployed in 20 regional locations for the duration of the mission.

For election-day observation, the OSCE/ODIHR EOM joined efforts with a delegation of the OSCE PA. Tony Lloyd, Head of the OSCE PA delegation, was appointed Special Coordinator by the OSCE Chairperson-in-Office to lead the OSCE short-term observers (STOs). In total, there were 452 STOs, including over 340 seconded by OSCE participating States, from 44 States. STOs observed three days of early voting. On election day, they observed the opening and voting in over 960 out of a total of 6,390 polling stations. Counting was observed in 162 polling stations and the tabulation of results in 138 out of 155 TECs.

The OSCE/ODIHR EOM assessed compliance of the election process with OSCE commitments and other international standards for democratic elections, as well as with national legislation. This Final Report follows a Statement of Preliminary Findings and Conclusions, which was delivered at a press conference on 20 December.<sup>3</sup>

The OSCE/ODIHR EOM is grateful to the Ministry of Foreign Affairs, the CEC, the Presidential Administration, state authorities, candidates, media outlets, and civil society representatives for their co-operation. The OSCE/ODIHR EOM also wishes to express its appreciation to the OSCE Office in Minsk, meanwhile closed, and to the diplomatic missions of OSCE participating States and international organizations resident in Belarus for their co-operation during the deployment of the mission.

### III. POLITICAL CONTEXT

On 14 September 2010, the House of Representatives set the date for the presidential election for 19 December. The election was conducted under the 1994 Constitution, which was amended twice by referendum, first in 1996, giving the president increased powers and establishing a bicameral parliamentary system, and again in 2004, abolishing a constitutional two-term presidential limit.<sup>4</sup> Alexander Lukashenko has been president of Belarus since 1994.

Belarus is a presidential republic, governed by the president who has extensive powers, including the authority to decide to dissolve the lower and upper houses of parliament, to issue presidential decrees which have the force of law when the legislature is in recess, to declare a state of emergency or to impose martial law. The president also appoints the prime minister and the government, as well as six of the twelve judges of the Constitutional Court including the chief justice, and has the power to dismiss any of them.

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<sup>3</sup> See: <http://www.osce.org/odihr/74638>.

<sup>4</sup> The Council of Europe's European Commission for Democracy through Law (Venice Commission) stated at the time that 'the question concerning the possibility for Mr. Lukashenko to again be candidate in the forthcoming election is in direct and clear contravention of this law (the Constitution). It can therefore not be decided by referendum.' See Venice Commission 'Opinion on the Referendum of 17 October 2004 in Belarus', adopted by the Venice Commission at its 60. plenary session, Sec 7, [http://www.venice.coe.int/docs/2004/CDL-AD\(2004\)029-e.asp](http://www.venice.coe.int/docs/2004/CDL-AD(2004)029-e.asp); OSCE/ODIHR observed the 2004 parliamentary elections that were held concurrently with the referendum, but did not observe the referendum.

Furthermore, the president is empowered to appoint and dismiss the judges of all other courts,<sup>5</sup> including the Supreme Court.

Belarus' political landscape is characterized by a weak political party structure. Political pluralism is limited as most of the 15 registered political parties support President Lukashenko. The political opposition to the incumbent is not represented in the two houses of parliament.

Freedom of peaceful assembly remains constrained and open debate has been limited for over a decade. While the law provides for freedom of association, in practice the government restricts operation of political parties, civil society organizations, and other public associations that oppose the president. By law, public organizations are required to have a legal address in a non-residential building.<sup>6</sup> Non-governmental organizations critical of the government and opposition political parties oftentimes face difficulties in finding adequate office space. Failure to comply with the non-residential address requirement has been frequently used by the Ministry of Justice to de-register or deny registration to organizations in opposition to the authorities, and to hold their supporters criminally liable. Participation in the activities of unregistered political party or any other public organization is a criminal offence punishable by up to two years in prison.<sup>7</sup>

#### **IV. ELECTORAL SYSTEM AND LEGAL FRAMEWORK**

The president is elected by a direct popular vote for a five-year term in a two-round majoritarian contest. In case no candidate wins more than 50 per cent of all votes cast, including 'invalid ballots' and votes 'against all', in the first round, a second round takes place within two weeks after election day between the two candidates who won the most votes. In order for the election to be valid, over 50 per cent of all registered voters must take part. In case of an invalid election, the repeated presidential election also requires a turnout of 50 per cent.

The election is regulated by the Constitution and the Electoral Code. The Constitution guarantees universal, equal and direct suffrage by secret ballot. The legal framework is supplemented by the Law on Mass Media, the Law on Mass Events, relevant provisions of the Criminal Code, the Code of Administrative Offences, the Civil Procedure Code and resolutions issued by the CEC.

The Electoral Code was last amended in January 2010 and introduced considerable modifications, several of which addressed some longstanding OSCE/ODIHR recommendations.<sup>8</sup> Significant improvements to the Electoral Code included the

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<sup>5</sup> Oblast Courts, the Minsk City Court, Belarus Military Court, district courts, military district courts and other courts on commercial matters.

<sup>6</sup> Article 272 of the Civil Code of the Republic of Belarus.

<sup>7</sup> Article 193<sup>1</sup> of the Criminal Code of the Republic of Belarus. A number of decisions by the UN Human Rights Committee which found violations by Belarus of the right to freedom of association (article 22 of the ICCPR) were not taken into account by the government of Belarus (individual communications 1039/2001, 1274/2004, 1296/2004, 1383/2005).

<sup>8</sup> Previous OSCE/ODIHR election observation reports for Belarus are available at: <http://www.osce.org/odihr/elections/belarus>. For a comprehensive review of the latest amendments see The European Commission for Democracy through Law (Venice Commission) and

replacement of a permission-based system to hold public meetings with a two-day notification procedure for candidates and proxies, a provision for broadcasting debates between candidates in the State media and the possibility for candidates to set up individual campaign funds. The amendments also contained additional regulations of early voting procedures, including the need to complete a protocol at the end of each day during the five-day early voting period. In addition, the Electoral Code now requires that at least one third of the members of PECs and TECs are drawn from representatives of political parties and public associations. Finally, decisions on the composition of PECs and TECs can now be appealed to courts at the corresponding level.

Despite these improvements, the legal framework still does not fully comply with OSCE commitments and other international standards, and continues to contain serious shortcomings.

Persons in pre-trial detention and those serving a prison sentence for any criminal offences do not have the right to vote or to be elected.<sup>9</sup> Denial of the right to vote to those in pre-trial detention is not consistent with the principle of the presumption of innocence, which is not in line with paragraph 5.19 of the OSCE Copenhagen Document.<sup>10</sup> Furthermore, the denial of suffrage rights, irrespective of the nature of the crime committed, may be considered a disproportionate sanction and inconsistent with internationally accepted practices on the principle of universality.<sup>11</sup> Moreover, the Electoral Code prohibits citizens whose previous criminal convictions have not been expunged to stand for the post of president.<sup>12</sup> International good practice indicates that the suspension of political rights should be proportionate to the offence committed and that their restoration should be automatic after a person has served the sentence.<sup>13</sup>

The amendment concerning a notification-based procedure prior to holding a rally, meeting or demonstration is a significant step forward. This provision, however, is only relevant in the cases of signature collection and campaign events held by candidates and their proxies. On occasions when mass events are organized by other electoral actors,

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OSCE/ODIHR Joint Opinion on the for Amendments to the Electoral Code of the Republic of Belarus as of 17 December 2009 adopted by the Council Democratic Elections at its 33rd meeting (Venice, 3 June 2010) and by the Venice Commission at its 83rd Plenary Session (Venice, 4 June 2010) (the 2010 Joint Opinion) at:

<http://www.osce.org/odihr/elections/belarus/68711>.

<sup>9</sup> Article 64 of the Constitution and article 4 of the Electoral Code.

<sup>10</sup> Article 13 of the Criminal Procedural Code; according to paragraph 5.19 of the 1990 OSCE Copenhagen Document “everyone will be presumed innocent until proved guilty according to law”.

<sup>11</sup> Paragraph 7.3 of the 1990 OSCE Copenhagen Document states that the participating States will “guarantee universal and equal suffrage to adult citizens”. General Comment No. 25 (1996) to Article 25 of the International Covenant on Civil and Political Rights by the UN Human Rights Committee states that grounds for the deprivation of voting rights should be “objective and reasonable” (point 14). In addition and while Belarus is not member of the Council of Europe, the European Court of Human Rights provides some authoritative interpretations about the meaning of universal suffrage. The Court states that limitations on suffrage for prisoners can be imposed only where the prisoner has been convicted of a crime of such a serious nature that forfeiture of the suffrage right is a proportionate punishment, see *Hirst v. United Kingdom* (2005) and *Frodl v. Austria* (2010).

<sup>12</sup> Article 60 of the Electoral Code.

<sup>13</sup> The CEC issued a resolution allowing citizens convicted of minor or administrative offences to vote by mobile voting from the PEC that covers the territory in which they are serving their sentence; Resolution 152 of 30 November 2010.



permission from local authorities is still required, either 5 or 15 days prior to the event.<sup>14</sup> This provision continues to be problematic in light of paragraph 9.2 of the 1990 OSCE Copenhagen Document on the freedom of peaceful assembly.<sup>15</sup>

The existing legal framework does not contain adequate safeguards to ensure the integrity of voting, counting and tabulation on election day. The absence of sufficiently detailed procedures for counting and tabulation continued to pose problems. Furthermore, the election legislation does not require PECs to conduct the count aloud, which would provide an adequate possibility for review, or to show the counted ballots to all present at the count, including observers. The Electoral Code does not contain a requirement to publish preliminary and final disaggregated results of the election. Taken altogether, these shortcomings seriously undermine public confidence in the electoral process.

## V. ELECTION ADMINISTRATION

The presidential election was administered by a three-level election administration, consisting of the CEC, 155 TECs and 6,390 PECs. Out-of-country voting was administered in 45 Belarusian embassies and consular offices abroad.

The CEC is a permanent, 12-member body with a 5-year mandate. The term of office of the current CEC expires in 2012. Under the Constitution and the Electoral Code, the president appoints six of the twelve members of the CEC, including the chairperson, and can dismiss all its members.<sup>16</sup> The other six members of the CEC are appointed by the upper house of the Parliament (Council of the Republic). Such extensive rights of the president call into question the independence and impartiality of the main electoral body, which is responsible for the organization and conduct of presidential elections, including the registration and de-registration of candidates. In the course of this election, the CEC acted mainly in favor of the incumbent.<sup>17</sup>

Each registered presidential candidate was entitled to appoint one member with an advisory vote to participate in CEC sessions. Those members were permitted to propose agenda topics and examine CEC documents, but were not allowed to vote and their advice was not recorded. Although members with an advisory vote contributed to the transparency of the CEC's work, this did not effectively increase the participation of candidates and political parties in the electoral administration.

The CEC adopted all decisions required by the Electoral Code within the legal deadlines and its sessions were open to accredited observers and media. With few exceptions, the 126 CEC decisions related to the preparation of the election were approved unanimously.

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<sup>14</sup> Article 5 of the Law on Mass Events (last amended in 2010) stipulates the requirement to obtain permission five days prior to the event if it is intended for agitation purposes and in all other cases, 15 days.

<sup>15</sup> Paragraph 9.2 of the Copenhagen Document states that "everyone will have the right of peaceful assembly and demonstration."

<sup>16</sup> Article 84, paragraph 4 and paragraph 10 of the Constitution of the Republic of Belarus; article 32 of the Electoral Code.

<sup>17</sup> In its 9 November 2010 session on complaints, the CEC showed outright support for the incumbent. The CEC Chairperson repeatedly publicly stated her admiration for President Lukashenko. European Radio for Belarus interview: <http://euroradio.by/ru/1098/reports/43037/?autofresh=1>.

No dissenting opinions were recorded. Resolutions considered to be of a legal nature were posted on the CEC website, which contained general information and announcements, but omitted important decisions concerning technical preparations.<sup>18</sup>

The local authorities appointed TEC and PEC members within the legal deadlines. For the first time, political parties and public associations had the right to nominate at least one third of TEC and PEC members. This positive development was undermined by a lack of clear regulations governing the formation of election commissions, including the criteria for nomination and appointment of commission members. Consequently, for this election, local authorities interpreted and implemented the provision to the detriment of political party representatives, admitting more representatives from public associations.<sup>19</sup>

Furthermore, the vast majority of nominations made by organizations supporting the president were approved. Out of 781 TEC nominees, 729 were appointed (93 per cent success rate). By contrast, organizations considered in opposition to the president nominated 72 people, but only 14 of them (20 per cent) were appointed. This group represented 0.7 per cent of the total number of TEC members. Most of the local administrations and TECs declined to share information on the employment status of appointed TEC members. However, observation showed that the electoral process was largely dominated and administered by state officials.<sup>20</sup>

A similar pattern was observed at the PEC level. Out of 25,492 nominees of organizations considered as supporting the president, 23,689 members were appointed (93 per cent). Out of 1,073 nominations from organizations considered to be in opposition to the president, 183 members were appointed (17 per cent). These 183 members represented 0.26 per cent of the total number of PEC members.

TECs organized training seminars on election day procedures for PEC chairpersons, their deputies and secretaries. OSCE/ODIHR EOM observers reported that training on vote counting procedures was insufficient and lacked uniformity. A CEC resolution instructed PEC chairpersons “to provide observers with a real possibility to observe the counting procedures” but this new provision was not communicated in 10 out of 40 training sessions observed.<sup>21</sup>

Neither the Electoral Code nor the CEC sufficiently regulated the quality and standard of election materials. Election materials, such as ballot boxes, polling booths, the official metal stamps, and the seals were all supplied by local administrations. The CEC only prescribed a difference in size among the stationary, mobile and early ballot boxes, as well as the method for applying the plasticine (wax) when sealing the ballot box.

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<sup>18</sup> The CEC Rules of Procedure indicate that all CEC resolutions should be posted on the CEC website. See chapter 5, part 37 of the CEC Rules of Procedure (<http://www.rec.gov.by/english.html>).

<sup>19</sup> The final composition of TECs comprised 6 per cent of nominees from political parties and 44 per cent of nominees from other public associations. The composition of PECs comprised 2.5 per cent of nominees from political parties and 39.3 per cent of nominees from other public associations.

<sup>20</sup> The OSCE/ODIHR EOM collected employment information of 44 TECs. For example, the TECs in Drogichin, Stolin, Liozno, Kleck, Shumilin and Bobruisk, included each three employees of the local administration, while the TECs in Gorodok, Kopyl, Nesviz, Liuban and Molodechno included each four, in the TEC Glusk five, and in the TEC Ivanovo six employees of local administration.

<sup>21</sup> Resolution 95 amended resolution 45 which outlines PEC guidelines. The OSCE/ODIHR observed 40 training sessions.

## VI. VOTER REGISTRATION

Citizens aged 18 or older on election day have the right to vote in the precinct in which they have a registered permanent or temporary residence.

Voter lists were compiled for each precinct by the relevant local administrations and no consolidated or centralized voter register existed above the level of the PEC. PECs are tasked with verifying and updating the lists by conducting door-to-door checks. In line with the law, PECs published their voter lists on 3 December for public scrutiny. The Electoral Code stipulates that voter lists can be updated until the end of voting, provided that voters present a valid passport to the PEC. While this provision can serve to increase enfranchisement, there are no safeguards in place to avoid double registration and possible multiple voting.<sup>22</sup>

## VII. CANDIDATE REGISTRATION

In order to be eligible to stand for presidential office, an individual must be a Belarusian citizen by birth, at least 35 years of age, and should have resided in the country continuously for at least ten years immediately preceding the election.

The registration of candidates took place in an inclusive manner. Presidential candidates can only be nominated by an 'initiative group' of no fewer than 100 eligible voters. Each initiative group was required to submit no less than 100,000 signatures to TECs in support of a prospective candidate. While collecting signatures in support of a candidate is an acceptable requirement, the required number can be considered high given the fact that initiative groups may not have the resources and structures to collect so many signatures in a short period of time. This is all the more significant as political parties are not entitled to put forward candidates. In a positive step, the process of signature collection was eased as prospective candidates could collect signature in all places not specifically prohibited by local executives and administrative bodies.

The TECs verified the authenticity of support signatures within ten days of their submission. However, the signature verification process is poorly regulated. The Electoral Code does not set out a clear procedure on the selection and verification of signature samples. Moreover, candidates, their proxies and observers were not able to monitor this process and it was impossible to verify whether the findings of the signature review were accurate.

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<sup>22</sup> For example, voters who have voted early at a polling station of temporary residence may have also enrolled later at a polling station of their permanent address. The presidential decree no. 413 of 7 September 2007 'On improving the system of citizens registration of permanent and temporary residence' paragraph 3.2 stipulates that the previously used stamp applied in the passport as a record of temporary address registration was replaced with a certificate of registration, which is a separate slip that is not attached to the passport. Multiple registrations could also be possible since the deadline for compilation of voter lists in medical institutions was two days before election day, the third day of the early voting period. A voter could have enrolled at a medical institution voter list after he or she had already voted early at a regular polling station.

On 18 November, the CEC registered ten of the eleven applicants: Ryhor Kastusiou, Alexander Lukashenko, Alexei Mikhalevich, Vladimir Nekliaev, Yaroslav Romanchuk, Vital Rymasheuski, Andrei Sannikov, Nikolai Statkevich, Viktor Tereshchenko, and Dmitri Uss. The CEC did not register Vladimir Provalski due to an excessive number of invalid signatures. The field of ten candidates offered voters a genuine choice between different political alternatives.

## VIII. ELECTION CAMPAIGN

The electoral campaign started on 18 November, the day the CEC registered the final candidates. Overall, the campaign was characterized by an uneven playing field between the incumbent and the nine other candidates.

Throughout the campaign period, the visibility of the campaign was low. All candidates held campaign rallies, met with voters, undertook door-to-door canvassing, and used to a limited extent printed campaign materials such as posters and leaflets. Five candidates<sup>23</sup> reported difficulties printing election-related materials, stating that printing houses refused to accept orders due to pressure from the Committee for State Security (KGB).

Local authorities were obliged to allocate space for campaign materials and venues for campaign events. The OSCE/ODIHR EOM observed the removal or destruction of opposition campaign materials<sup>24</sup> and some opposition candidates<sup>25</sup> reported that members of their teams had been harassed by police. On 24 November, an opposition activist was beaten in Minsk while posting leaflets for Mr. Sannikov and on 8 December, campaign materials for Mr. Statkevich were seized by police. During the course of the campaign the CEC gave a warning to two candidates while the Prosecutor General's Office issued a warning to five candidates.<sup>26</sup>

Early in the campaign period, some candidates<sup>27</sup> complained about the unsuitability of the allocated campaign venues. In the majority of cases, candidates appealed against the decisions of the local authorities and were allocated alternative locations. OSCE/ODIHR EOM observers noted a more restrictive approach by local authorities in rural areas than in provincial (oblast) capitals and Minsk.

Throughout the country, the OSCE/ODIHR EOM observed 92 rallies and meetings of candidates, who were able to convey their messages in an unhindered manner. Candidates Sannikov and Nekliaev organized more campaign events than other candidates, while campaign events on behalf of the incumbent were generally conducted by his proxies rather than in person.

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<sup>23</sup> Messrs. Kastusiou, Nekliaev, Romanchuk, Sannikov, and Statkevich.

<sup>24</sup> Mr. Rymasheuski's in Orsha, Mosty, Bobruisk and Mr. Sannikov's in Slutsk, Gomel, Mogilev.

<sup>25</sup> Messrs. Nekliaev, Romanchuk, Rymasheuski, and Sannikov.

<sup>26</sup> The CEC issued a warning to candidates Mr Rymasheuski and Mr Statkevich for organizing an unsanctioned rally in Oktyabrskaya Square on 24 November in Minsk. On 9 December, the General Prosecutor's office issued warnings to five candidates (Messrs. Nekliaev, Sannikov, Romanchuk, Rymasheuski, and Statkevich) for the 'inadmissibility of preparation and organization of an unsanctioned mass event'.

<sup>27</sup> Messrs. Kastusiou, Mikhalevich, Rymasheuski, Sannikov, and Statkevich.

The OSCE/ODIHR EOM observed the misuse of administrative resources to promote the incumbent's bid for re-election. The Fourth All-Belarusian People's Assembly,<sup>28</sup> while not presented as a forum for the incumbent's campaign, was the largest event during the campaign period. The incumbent used the event for campaigning, with delegates receiving household appliances for their participation. In all regions, President Lukashenko's campaign team used the offices of *Belaya Rus*,<sup>29</sup> typically located in public administrative buildings, for campaign purposes.<sup>30</sup> Furthermore, members of the government administration at times served on the president's local campaign teams during working hours. This practice contravenes paragraph 5.4 of the 1990 OSCE Copenhagen Document.<sup>31</sup>

A number of campaign events for the incumbent were attended by students, teachers and employees of large state enterprises who confirmed to OSCE/ODIHR EOM observers that they were encouraged by university teachers, directors or heads of ideology departments of enterprises to attend, sometimes in exchange for paid leave.<sup>32</sup> A number of attendees confirmed pressure to participate in early voting and to cast their vote in favour of the incumbent. This practice runs contrary to paragraph 7.7 of the 1990 OSCE Copenhagen Document.<sup>33</sup>

In a positive step, the recent amendments allowed candidates to establish individual campaign funds, comprising a candidate's private financial contributions, as well as contributions from citizens and legal entities. With the exception of candidates Lukashenko, Nekliaev and Sannikov,<sup>34</sup> no other candidate received significant contributions.<sup>35</sup> Each candidate was allocated state funding of 2,300 'basic units' (approximately EUR 19,500), to be used exclusively for printed material.<sup>36</sup> The limits established on contributions and the total expenditure for campaign purposes proved to be

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<sup>28</sup> The Assembly, convened by the presidential decree of 13 October, took place on 6/7 December. It was a general meeting of the Belarusian government with officials and industry leaders. It was designed to provide the president with a forum to report on achievements and develop plans for the future. Some 2,500 delegates attended the assembly. No other candidate but the incumbent participated.

<sup>29</sup> The purpose of *Belaya Rus*, a public association founded in 2007, has been to 'provide consistent assistance to the leadership of the country in prevention, exposure and overcoming of shortcomings in the activities of the state-run authorities.' The chair of *Belaya Rus* was the incumbent's campaign manager.

<sup>30</sup> On 29 November, a meeting of the incumbent with his proxies was held in a government building during working hours. The CEC did not consider this to be campaigning (Resolutions no. 158 and no. 159 of 9 December).

<sup>31</sup> Paragraph 5.4 of the 1990 OSCE Copenhagen Document stipulates a "clear separation between the State and political parties".

<sup>32</sup> In the oblasts of Minsk, Grodno and Mogilev as well as in the rayons of Svisloch and Klichev.

<sup>33</sup> According to paragraph 7.7, "OSCE participating States will ensure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution."

<sup>34</sup> These candidates received EUR 30,500, EUR 25,000 and EUR 4,200 respectively. Mr. Uss was the only presidential candidate who did not establish an individual campaign fund.

<sup>35</sup> See: <http://www.rec.gov.by/pdf/prb2010/inf2.pdf>.

<sup>36</sup> Article 45 of the Electoral Code.

low and campaign funds insufficient to allow candidates to conduct an effective and meaningful campaign.<sup>37</sup>

## IX. MEDIA

### A. MEDIA ENVIRONMENT

A total of 77 television stations, 157 radio stations, 9 information agencies, and over 1,300 print outlets operate in Belarus.<sup>38</sup> Despite this high number, there is a general lack of independent and objective reporting. The scarcity of alternative information sources significantly reduced the possibility for voters to make an informed choice during the election. This undermines the provisions of paragraph 7.8 of the 1990 OSCE Copenhagen Document.<sup>39</sup> The state controls all nationwide broadcast outlets as well as the distribution networks for print media. The expression of alternative views on political developments is thus confined to a few private newspapers and the Internet.<sup>40</sup>

The main state-funded National State Television and Radio Company comprises both television and radio broadcasters. *First Channel* TV has nationwide outreach and together with *ONT* TV remain the principal source of political information for most Belarusians.<sup>41</sup> Two state-controlled TV channels, *ONT* and *Stolichnoe TV (STV)* together, account for 80 per cent of countrywide coverage. The popular Russian TV channels *Russia* and *NTV* were removed from cable operators in 2009 and are only partially re-broadcast by state-controlled broadcasters. The OSCE/ODIHR EOM observed that the majority of news items on Russian TV on the election in Belarus were censored by the Belarusian TV stations responsible for re-broadcasting.

Harassment and intimidation of reporters and representatives of media outlets remain one important challenge to media freedom. The OSCE Representative on Freedom of the Media (RFoM) noted that the “brutal treatment of media representatives by law-enforcement agencies in the aftermath of the election shattered signs of progress.”<sup>42</sup>

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<sup>37</sup> Article 48<sup>1</sup> of the Electoral Code specifies that a candidate’s own financial contribution cannot exceed 50 ‘basic units’ (approximately EUR 420), from individual persons 10 ‘basic units’ (approximately EUR 85) and from legal entities 30 ‘basic units’ (approximately EUR 255). The candidate’s expenditure from the individual campaign fund may not exceed 3,000 ‘basic units’ (approximately EUR 25,300).

<sup>38</sup> See: <http://www.mininform.gov.by/rus/smi/>.

<sup>39</sup> According to paragraph 7.8, OSCE participating States provide that no legal or administrative obstacle stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process.

<sup>40</sup> According to the National Statistical Committee of the Republic of Belarus in 2009 some 700,000 households in Belarus had access to the Internet  
[http://belstat.gov.by/homep/ru/publications/innovations/bul\\_it.rar](http://belstat.gov.by/homep/ru/publications/innovations/bul_it.rar).

<sup>41</sup> According to a public opinion poll conducted by “Zerkalo-Info” newscasts of First Channel and ONT are the most watched news programs in Belarus:  
<http://www.tvr.by/rus/releases.asp?date=17.11.2010&id=1341>.

<sup>42</sup> See: <http://www.osce.org/fom/74671>; The RFoM originally recognized improvements in the working conditions of the journalists during the election.

## B. LEGAL FRAMEWORK FOR THE MEDIA

Freedom of expression is guaranteed by the Constitution, which establishes the right to receive, store and disseminate information.<sup>43</sup> However, these constitutional rights are constrained by national legislation, particularly a new Media Law, which took effect in February 2009. The RFoM has expressed the view that “the majority of the provisions of the Law are unnecessary for, or detrimental to, freedom of expression and freedom of the media in Belarus.”<sup>44</sup> Defamation, libel or insult of the head of State is punishable by up to five years in prison;<sup>45</sup> as a consequence, many journalists resort to self-censorship.

The Electoral Code envisages free airtime for candidates on state television and radio, and free space in the state-funded print media. A CEC resolution<sup>46</sup> on media coverage of the election granted one hour of free airtime and five typed pages (one A3 newspaper page) in four national and seven regional newspapers to each candidate. In a welcome step, two debates between candidates were aired live for the first time since 1994; one on television and one on radio. Contrary to the provisions of the Electoral Code, the two debates were not aired during primetime. The incumbent did not participate in the debates.

Candidates used their limited allocation of free airtime to present their platforms, and most criticized the incumbent. On 6 and 7 December, the broadcast media aired President Lukashenko’s live addresses at the Fourth All-Belarus People’s Assembly. *ONT*, *First Channel* and *STV* aired the full three-hour speech about achievements of the government in the past five years and plans for the next five years, with only minor edits, during evening primetime.

All candidates used their allocated space in the print media, but while the incumbent’s presentation appeared on the front pages of the most widely-circulated newspapers, opposition candidates’ platforms were published on the inside pages. This practice contradicts the provision on equal treatment included in the Electoral Code.<sup>47</sup> Editors also insisted on changes to opposition candidates’ content, thus effectively censoring some of their messages.<sup>48</sup>

The CEC established a Supervisory Council to monitor the conduct of the election campaign in the media and to consider media-related disputes. The Council, chaired by the Deputy Minister of Information, consisted exclusively of state officials and state-funded media representatives. Such composition of the body undermined the perception of the council as an independent body among most candidates and observers. It met only once,

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<sup>43</sup> Articles 33 and 34 of the Constitution.

<sup>44</sup> See: <http://www.osce.org/fom/32599>.

<sup>45</sup> Articles 367 and 368 of the Criminal Code.

<sup>46</sup> CEC Resolution No 82 of 14 October 2010.

<sup>47</sup> Article 46.2 of the Electoral Code.

<sup>48</sup> This practice is not in line with international good practice as outlined by the United Nations Special Rapporteur on Freedom of Expression in 1999, which in particular suggest, that “Censorship of any election programme is not allowed and the media are encouraged to broadcast and/or publish election-related programmes and are not penalized for programmes critical of the Government, its policies or the ruling party.” UN Doc. E/CN.4/1999/64 29 January 1999, Paragraph 17b.

reviewed four media-related complaints lodged by candidates, and dismissed three of them.<sup>49</sup>

### C. OSCE/ODIHR EOM MEDIA MONITORING



The OSCE/ODIHR EOM commenced its media monitoring on 18 November, the day the campaign started.<sup>50</sup> It monitored six TV channels, one radio station, and eight newspapers.<sup>51</sup>

All major TV stations with nationwide coverage demonstrated a clear bias in favour of the incumbent, devoting 89 per cent of primetime news coverage to his campaign activities and official duties. Even recognizing the advantage of incumbency, this is a high figure. Other candidates tended to be mentioned collectively and only rarely individually. They were generally portrayed negatively.

State-funded TV *ONT* devoted 8 hours and 17 minutes (94 per cent) of news coverage to the president's campaign and official activities. All other candidates received a combined total of 32 minutes. The tone of the incumbent's coverage did not contain any negative reference, while the tone for other candidates was mostly negative. On an irregular basis, *ONT* newscasts featured a five-minute editorial, *Kak Est* (How it is) that discredited opposition candidates. The coverage of the campaign on state-controlled *First Channel*, *STV* and *Radio 1* yielded similar results, with some 89 to 98 per cent of news coverage dedicated to the incumbent.

The four state-funded newspapers monitored by OSCE/ODIHR EOM demonstrated a clear bias in favour of the president. Notably, *Sovetskaya Belorussia*, the newspaper with the highest daily circulation in the country, devoted 91 per cent of its political and election-related coverage to the incumbent. Private print media coverage varied: *Komsomolskaya Pravda v Belarusi* provided more diverse coverage and refrained from criticism of candidates, while *Narodnaya Volia* and *Nasha Niva* gave greater coverage to opposition candidates and sharply criticized the president.<sup>52</sup> *Belorusy i Rynok* devoted limited space to the coverage of the campaign and the candidates and provided critical coverage of the president.

On 22 November, candidate Nekliaev brought to the attention of the CEC the unequal and insufficient coverage of the campaign in the state media. The CEC responded that it is not

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<sup>49</sup> Candidate Rymasheuski was permitted to rebroadcast his presentation during primetime following a technical malfunction during the original broadcast by a cable operator in Mogilev. The other three complaints concerned unequal coverage, allocation of additional airtime and the use of free airtime by proxies.

<sup>50</sup> The media monitoring, which is both qualitative and quantitative, sought to evaluate whether the media provided impartial and balanced coverage of candidates and other political entities, as well as other relevant information to enable voters to make an informed choice. It assessed both the amount of time and space allocated to candidates and the tone of coverage.

<sup>51</sup> TV: *First Channel*, *ONT*, *Stolichnoe TV*, *TV Lad*, *RTR-Belarus*; Radio: *Radio 1*; Newspapers: *Sovetskaya Belorussia*, *Zvyazda*, *Narodnaya Gazeta*, *Respublika*; *Komsomolskaya Pravda v Belarusi*, *Narodnaya Volia*, *Nasha Niva*, *Belorusy i Rynok*.

<sup>52</sup> *Sovietskaya Belorussia*, daily, circulation 400,000; *Narodnaya Volia*, twice weekly, circulation 23,000, *Nasha Niva*, weekly, circulation 6,500; *Komsomolskaya Pravda v Belarusi*, daily, circulation 60,000 *Belorusy i Rynok*, weekly, circulation 13,000.



authorized to interfere with the editorial policies of the media and noted that the president is entitled to receive airtime on national media on demand.<sup>53</sup>

## X. PARTICIPATION OF WOMEN

The Constitution and the legal framework provide for equal participation of women and men in the electoral process.<sup>54</sup> No female candidate, however, stood in this election. The only female presidential hopeful, Nataliya Starikova, was not able to establish an initiative group of the required 100 eligible voters, and thus the CEC did not register her initiative group. Gender issues did not feature in any of the candidates' programs nor were they raised during the campaign.

Women are well-represented in the electoral administration; the CEC chairperson is a woman and 55 per cent of PECs chairpersons and 26 per cent of TECs chairpersons, respectively, were women.

## XI. PARTICIPATION OF NATIONAL MINORITIES

Equality between citizens and enjoyment of all the political and social rights by minorities is guaranteed by law.<sup>55</sup> Belarusian and Russian are both official languages. According to the 2009 census,<sup>56</sup> the main ethnic groups in the country are Belarusians, accounting for 83.7 per cent of the population, while Russians make up 8.3 per cent, Poles 3.1 per cent, and Ukrainians 1.7 per cent. None of the presidential candidates identified himself as a member of a national minority group. Issues related to national minorities were not raised during the course of the campaign.

## XII. COMPLAINTS AND APPEALS

In accordance with the Electoral Code, any person has the right to lodge a complaint against decisions of all levels of election commissions, to a local administration body in its sphere of responsibility<sup>57</sup> and to the prosecutor's office, as the body responsible for supervising the implementation of the law within the executive branch of the government. By election day, 105 complaints about decisions of local administration bodies on PEC

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<sup>53</sup> The Law 'On the President of the Republic of Belarus' no. 3602-XII, 21 February 1995, article 25.

<sup>54</sup> In 2010 Belarus submitted its seventh periodic report to the UN Committee on the Elimination of Discrimination against Women (CEDAW). CEDAW expressed a concern that the Constitution did not contain a prohibition of discrimination on the basis of sex or an explicit provision on gender equality and that Belarus had not yet adopted a law on gender equality. See: Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15(b) of the annex to Human Rights Council Resolution 5/1; Working Group on the Universal Periodic Review, Eight Session, Geneva, 3 – 14 May 2010.

<sup>55</sup> Article 6 of the Law on National Minorities.

<sup>56</sup> See National Statistical Committee of the Republic of Belarus:  
<http://belstat.gov.by/homep/ru/indicators/pressrel/census.php>.

<sup>57</sup> Responsibilities include the formation of PECs and TECs, the allocation of venues for campaigning and assistance to election commissions.

and TEC formation were lodged with the courts but none of them was upheld. These first instance court decisions were final, without a possibility for an appeal to a higher court.

Some amendments of the Electoral Code represented significant improvements since decisions relating to the appointment of members of PECs and TECs can be appealed to a court at the appropriate level, and appeals to the Supreme Court against some types of CEC decisions are now expressly envisaged. The amendment further established categories of complaints which must be considered by the CEC on a collegial basis including all complaints relating to decisions by lower level commissions. Despite the 2010 amendments, the existing legal framework does not provide for an effective complaints and appeals mechanism and is not fully in line with OSCE commitments.<sup>58</sup>

Access to justice is constrained by the time limit<sup>59</sup> for court appeals established in the Civil Procedure Code and in the Electoral Code, coupled with the restrictive list of issues which can be appealed to courts. The legal framework does not have provisions for challenging the election results to courts.<sup>60</sup> The Electoral Code foresees collegial decisions of the CEC only in a limited number of cases despite its underlying principles of collegiality enshrined in the Electoral Code. Furthermore, the CEC chairperson has the right to consider complaints individually. Complaints can also be considered individually by a CEC member or a CEC staff under instructions from the CEC chairperson.<sup>61</sup> The contradictory provisions, as well as the lack of clarity of complaint hearing procedures in the Electoral Code led to inconsistent and non-transparent handling of complaints by the CEC.

Before election day, the CEC had received 421 complaints, proposals or requests for clarification.<sup>62</sup> The majority of them related to the composition of PECs and TECs; the creation of initiative groups; the collection of signatures; the misuse of administrative resources; election campaign activities, including excessive restriction on the allocation of venues; accreditation and activities of domestic observers and voting and vote count procedures. The complainants were granted a reply in the form of a letter signed by either the CEC chairperson or the CEC secretary, a practice in line with the Electoral Code. Although the replies were generally given within the specified timeframe, they lacked consistency and precluded effective legal remedy. Only five complaints were considered

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<sup>58</sup> Especially paragraph 5.10 of the OSCE Copenhagen Document as well as paragraphs 18.2-18.4 of the Moscow Document 1991. See also paragraphs 63 to 72 of the 2010 Joint Opinion.

<sup>59</sup> The Civil Procedure Code stipulates that a person disagreeing with a commission decision can lodge an appeal no later than seven days before election day; article 341 of the Civil Procedure Code.

<sup>60</sup> Article 79 of the Electoral Code provides that "Elections of the President of the Republic of Belarus in the republic in general, or in separate voting stations, districts, cities, city districts, regions, the city of Minsk can be recognized invalid due to the violations of the requirements of the present Code committed during the elections or count of votes if they have influenced the results of the elections in general in the republic. A decision on recognizing the elections invalid shall be taken by the Central Commission. The appeal against such violation shall be submitted by the candidate for the office of the President of the Republic of Belarus to the Central Commission no later than on the third day after the elections. The decision of the Central Commission can be appealed against to the Supreme Court of the Republic of Belarus within 10 days. The right to appeal against the decision on recognizing the elections invalid shall belong to the candidates for the office of the President of the Republic of Belarus."

<sup>61</sup> Articles 32<sup>1</sup> and 33 of the Electoral Code.

<sup>62</sup> Additionally, the prosecutor's offices received 120 and the local administration bodies received 147 election-related complaints and requests for clarification. In no instance was the complaint satisfied.

by the CEC collegially with decisions taken in the form of a resolution.<sup>63</sup> In all these cases, the CEC decided against the complainants without appropriate legal reasoning as to why they were rejected.

CEC decisions can be appealed to the Supreme Court as the court of first instance in only four situations: according to the Electoral Code, cases should be related to the denial of candidate registration, the denial of the registration of an initiative group, the recognition of withdrawal by a candidate without a reasonable excuse and the invalidity of the election result. The Supreme Court has reviewed only one appeal against a CEC decision on denial of a candidate registration concerning presidential hopeful Mr. Provalski. The Supreme Court dismissed the case.

The Electoral Code stipulates that TEC and PEC decisions on complaints and appeals are taken by an open vote by the majority of the total membership of that commission.<sup>64</sup> In an attempt to regulate the provision, the CEC decided that TECs should consider appeals against PEC decisions in open session.<sup>65</sup> However, it did not envisage the same procedure for initial complaints considered at the TEC and PEC level. As a result, PECs and TECs improvised procedures for considering complaints, and implemented these procedures in an inconsistent manner. The vast majority of the commissions issued letters signed by the chairperson and very few issued minutes of the commission sessions.

On election day, international observers noted the reluctance of PECs to consider complaints or to attach complaints and the corresponding decision to the final results protocol. All complaints lodged with the CEC on election day were dismissed without due consideration. Nevertheless, on 22 December, Mr. Kastusiou challenged the results of the election in the CEC. On 24 December, the CEC rejected his complaint after a collegial review, based on 'lack of substantial grounds'. On 3 January 2011, Mr. Kastusiou lodged an appeal to the Supreme Court challenging this decision. On 6 January the Supreme Court refused to review the appeal on the grounds that the issue was beyond its jurisdiction.<sup>66</sup>

### **XIII. DOMESTIC AND INTERNATIONAL OBSERVERS**

The Electoral Code provides for domestic and international observation of the election process.<sup>67</sup> Representatives of public associations, political parties, citizens' groups, labour collectives, and media outlets have the right to be accredited as domestic observers, to attend any session of the commission with which they are registered, and to observe election day proceedings. Registration of observers was eased by lifting the previous requirement that a party or public association needed a registered local unit in order to be accredited. A CEC decision facilitated the accreditation of domestic observers to be

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<sup>63</sup> Resolution No 93 of 5 November, resolution no. 158 of 9 December 2010, resolution no. 159 of 9 December 2011, resolution no. 160 of 9 December, resolution no. 161 of 9 December.

<sup>64</sup> Article 37 of the Electoral Code.

<sup>65</sup> See resolutions 43 and 45 of 15 September 2010.

<sup>66</sup> On 10 January 2011 the Belarus Helsinki Committee lodged an appeal with the Supreme Court challenging the presidential election results in the whole country. The Supreme Court denied the appeal on the basis of lack of jurisdiction: <http://www.belhelcom.org/?q=ru/node/7430>.

<sup>67</sup> Article 13 of the Electoral Code.

present at PECs without prior notice but observers' rights have been limited to following sessions of the commissions with which they were registered.

There have been, however, no substantive amendments to the Electoral Code to ensure that election observers are given direct and effective opportunities to monitor the voting and counting process, as well as to the tabulation of results. The law does not provide observers with the right to receive certified copies of the results protocol nor does it specify the observation of signature verification of initiative groups' signature lists, the handover of the results protocol from the PECs to the TECs and the compilation of the results at the TECs.

These shortcomings, together with a restrictive interpretation of the law, seriously hampered legitimate observation activities. The CEC adopted a number of resolutions in an attempt to clarify existing provisions of the Electoral Code on observers' rights.<sup>68</sup> Despite a resolution providing that observers should be given 'a real opportunity to observe the counting procedures', observers did not always have a clear view of the count. These resolutions were vague and ultimately did not provide sufficient clarification of observers' rights. Observers were not provided access to all stages of the electoral process, particularly during the post-election period.

A total of 36,096 domestic observers registered with TECs and PECs. The most active observer organization, Human Rights Defenders for Free Elections, deployed a total of 600 observers, including 80 long-term observers. Most observers were nominated by non-governmental organizations supporting the incumbent.<sup>69</sup>

The CEC accredited a total of 1,032 international observers from the OSCE/ODIHR, the OSCE PA, the Commonwealth of Independent States (CIS), and the CIS PA.

#### **XIV. EARLY VOTING, ELECTION DAY AND COUNTING**

##### **A. EARLY VOTING**

The Electoral Code provides for a five-day early voting period. The CEC reported that a total of 27.9 per cent of registered voters cast their vote during this time. The OSCE/ODIHR EOM observed three of the five days of early voting in a systematic manner throughout the country. In total, 2,235 observation report forms were submitted during this period.

Though insufficient, the recent 2010 amendments to the Electoral Code partially addressed security concerns. Ballot boxes were to be sealed in the presence of observers for overnight storage, a daily voting protocol containing the number of voters who had

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<sup>68</sup> Resolutions no. 49 and no. 50 of 15 September 2010, no. 95 of 5 November 2010, no. 99 of 5 November. For example, Resolution no. 95 states that 'observers shall be given a real opportunity to observe the vote count in polling stations'.

<sup>69</sup> Of the 39,096 domestic observers accredited a total of 20,715 were nominated by non-governmental organizations supporting the incumbent (Federation of Trade Unions of Belarus, Belarusian National Youth Union, Belaya Rus, Belarusian Public Association of Veterans, Belarusian Union of Women).

already voted was to be displayed at the polling station, and the total number of voters who had voted early was to be reported as a separate figure in the results protocol.

On 30 November, in addition, the CEC issued a decision approving additional security measures including the sealing of ballot boxes during the two-hour period between the two daily voting sessions. During the same session, however, the CEC unanimously rejected the request of five presidential candidates to allow observers to accompany the designated police guards during their overnight duty guarding election material.

Despite improvements in the security of early voting, the process remained vulnerable to manipulation, which negatively affected voters' and candidates' confidence.

The OSCE/ODIHR EOM observed that, in general, early voting was conducted in a calm and orderly manner in the presence of at least two PEC members and that all election materials were available. PEC members largely co-operated well with OSCE/ODIHR EOM observers, but in 10 per cent of observed polling stations, observers were restricted in monitoring the procedures.<sup>70</sup> In seven per cent of the observed polling stations, unauthorized persons were present and in some cases interfered in the work of PECs.<sup>71</sup>

OSCE/ODIHR EOM observers reported that PEC members generally did not have a clear understanding of how to fill out the early voting protocol. Some inserted cumulative figures of votes cast, while others reported figures by each day.

The standards for election materials and equipment applied were, in general, of low quality and did not provide the necessary security safeguards. Ballot papers had no security features and PECs did not differentiate between ballot papers for early voting and election day. Almost all OSCE/ODIHR observers noted the poor quality of ballot boxes, which varied in size and composite material and were often not sufficiently secure.<sup>72</sup> The plasticine (wax) seals used did not ensure that they were tamper-proof. In some cases, ballot boxes were not properly sealed or the seal was not intact. The metal stamps applied to the plasticine were identical throughout the country and had been used for over a decade. Additionally, the positioning of the ballot booths did not always ensure the secrecy of the vote. Further, the format of the voter lists was left to the discretion of each individual PEC.

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<sup>70</sup> For example, at PEC 21 and PEC 22 from Ostrovetskaya rayon TEC (Grodno region), at PEC 61 from Leninskaya rayon TEC (Grodno city), at PEC 19 from Chervenskaya rayon TEC (Minsk region) observers were denied access to the voter list and/or to the ballots kept by the PEC.

<sup>71</sup> For example, at PEC 12, Gomelskaya rayon TEC (Gomel region) and at PEC 11, Rechickaya rayon TEC (Gomel region) the heads of the local government were present; at PEC 17, Ostrovetskaya rayon TEC (Grodno region) an army official gave instructions to PEC members.

<sup>72</sup> During the training session for PEC members at Moskovskaya TEC (Minsk city), the trainer demonstrated to the audience the possibility to remove the bottom of the ballot box. Further, the early voting ballot box at PEC 12, Zavodskaya rayon TEC (Minsk city), was sealed with scotch tape, which had been re-used; at PEC 21, Baranovichkaya city TEC (Brest region), at PEC 33 Liahovichkaya rayon TEC (Brest region) and at PEC 41 and 43, Partizanskaya rayon TEC (Minsk city), the early voting ballot box showed a gap which could have allowed the inserting of additional ballots.

## **B. ELECTION DAY: OPENING AND POLLING PROCEDURES**

Polling stations opened on time without major procedural shortcomings. Observers assessed the overall conduct of opening procedures as ‘good’ to ‘very good’ in 96 per cent of polling stations observed. PEC members were present and all essential materials were available. Domestic observers were present in 84 per cent of observed polling stations for the opening. Minor procedural problems were noted. In 6 cases, ballot boxes were not placed in clear view of all present in the polling station.<sup>73</sup>

Voting took place in a calm environment. OSCE/ODIHR observers submitted 1,605 reports on voting procedures in polling stations. Voting procedures were properly implemented in 92 per cent of the observed polling stations with no differences between urban and rural PECs. The assessment of observers indicated that the election process was marked with a number of problems and irregularities. Group voting was observed in 10 per cent<sup>74</sup> and improper sealing of ballot boxes was reported in 4 per cent of polling stations visited.

In some cases, voters were denied their vote on presentation of improper or no identification documents. A few cases of unauthorized persons interfering in the work of PEC members were reported.<sup>75</sup> PECs were not accessible for voters with disabilities in 45 per cent of observed polling stations and in one of four observations in hospitals the voting process was evaluated negatively. International observers were restricted in their observations in nine per cent of observed polling stations.<sup>76</sup> In some cases, PEC members were not fully co-operative. While the overall process was assessed as ‘good’ to ‘very good’ in 94 per cent of the observed polling stations, 6 per cent of ‘bad’ and ‘very bad’ assessment indicates serious flaws. International observers evaluated the transparency of the process in 11 per cent as ‘average’ to ‘very bad’.

## **C. ELECTION DAY: COUNTING PROCEDURES**

The process significantly deteriorated during the vote count. International observers evaluated the overall conduct of the vote count as ‘bad’ to ‘very bad’ in 71 (45 per cent) of polling stations visited. The count was largely conducted in a silent, non-transparent

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<sup>73</sup> For example, at PEC 17, Orshanskaya city TEC (Vitebsk region), and at PEC 3, Slutskaya rayon TEC (Minsk region). At PEC 30, Lepelskaya rayon TEC (Vitebsk region), and at PEC 36, Pervomayskaya rayon TEC (Minsk city) the early voting ballot box was kept in another room.

<sup>74</sup> For example, at PEC 146, Oktyabrskaya rayon TEC (Mogilev city) group/family voting was frequent; at PEC 4, Goretskaya rayon TEC (Mogilev region) family voting was observed; at PEC 12, Krasnopolskaya rayon TEC (Mogilev region), family voting was considered to be allowed by PEC members.

<sup>75</sup> For example, at PEC 24, Chervenskaya rayon TEC (Minsk region) the town mayor was present at the polling station; at PEC 58, Lidskaya rayon TEC (Grodno region), the head of the local cooperative was present at the polling station, the same as at PEC 10, Cherikovskaya rayon TEC (Mogilev region), were the head of the local cooperative was handling ballot papers.

<sup>76</sup> For example, at PEC 40, PEC 46 and PEC 50 from Leninskaya rayon TEC (Mogilev city); PEC 19, Glusskaya rayon TEC (Mogilev region); PEC 25, PEC 29, PEC 41 from Baranovichkaya rayon TEC (Brest region); PEC 26, Vileiskaya rayon TEC (Minsk region); PEC 41, Smorgonskaya rayon TEC (Grodno region); PEC 18 Orshanskaya city TEC (Vitebsk region), observers were restricted in their observations.

manner, which seriously undermined the credibility of the count.<sup>77</sup> Observers did not have a real opportunity to observe the counting procedures in 52 (33 per cent) polling stations visited, as stipulated by the CEC Resolution 95, and were restricted in their observation in 56 (35 per cent) of visited polling stations.<sup>78</sup> Counting procedures were implemented in a 'bad' or 'very bad' manner in 54 (35 per cent) of observed polling stations. In some cases, the results protocol was pre-signed by PEC members and unauthorised persons were actively participating in the vote count.<sup>79</sup> Observers noted clear indications of ballot stuffing in 45 cases.<sup>80</sup>

The announcement of the results of the count separately for the mobile, the stationary and the ballot boxes used during the early voting was considered a positive step in the vote count process but was only followed in less than half of observed polling stations. In 18 cases, the announced figures indicated tampering with the PEC results protocol<sup>81</sup> and in 17 cases, a copy of the results protocol was not displayed in public as required by law. In addition, in 26 of 125 of the assessed polling stations, the PEC members had problems reconciling the results in the results protocol.

The vote count was flawed and lacked transparency, which raised serious doubts on whether votes were counted and reported honestly as prescribed by paragraph 7.4 of the 1990 OSCE Copenhagen Document.<sup>82</sup>

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<sup>77</sup> For example, at PEC 131, Oktyabrskaya rayon TEC (Grodno city) the count was conducted in full silence and PEC members communicated with each other by written messages; at PEC 09, Sovetskaya rayon TEC (Gomel city) no final figures were announced, nor was a copy of the protocol displayed; at PEC 02, Tolochinskaya rayon TEC (Vitebsk region) the final figures were not announced to the observers even upon request.

<sup>78</sup> For example, PEC 05, Pervomayskaya rayon TEC (Minsk city); at PEC 02, Novobelickaya rayon TEC (Gomel city); at PEC 26, Pinskaya city TEC (Brest region); at PEC 35, Pervomaiskaya rayon TEC (Vitebsk city).

<sup>79</sup> For example, at PEC 02, Liahovichkaya rayon TEC (Brest region), an official from the rayon executive council assisted the PEC members during the counting; at PEC 08, Zelvenskaya rayon TEC (Grodno region) the draft protocol was not signed and forwarded to the TEC, and then after a phone consultation with the TEC, the chairperson filled in the protocol; at PEC 47, Minskaia rayon TEC (Minsk region) three copies of the protocol were signed, one filled in ink, another one by pencil and a third, blank one, without figures.

<sup>80</sup> For example, at PEC 33, Moskovskaya rayon TEC (Brest city), the early voting box was announced to contain 1006 votes but not more than 200 early voting signatures were on the voter list. Other cases were observed at PEC 30, Lelchickaya rayon TEC (Gomel region), PEC 05, Pervomaiskaya rayon TEC (Minsk city), PEC 51, Berezinskaya rayon TEC (Minsk region), PEC 5, Belnichkaya rayon (Mogilev region) and PEC 17, Ostroveckaya rayon TEC (Grodno region).

<sup>81</sup> For example, at PEC 07, Dzerzhinskaya rayon TEC (Minsk region) and at PEC 49, Frunzenskaya rayon TEC (Minsk city), the figures announced were different from those established during the count; at PEC 58, Oktyabrskaya rayon TEC (Minsk city) no visible calculating process took place; at PEC 18, Lininskaya rayon TEC (Minsk city) the figures were inaccurate. Further, in PEC 21, Centralnaya rayon TEC (Minsk city), the figures in the PEC protocol were changed by adding 111 votes to candidate Lukashenko (the original 336 votes were replaced with 447).

<sup>82</sup> According to paragraph 7.4 of the Copenhagen Document participating States will ensure that "votes are cast by secret ballot or by equivalent free voting procedure, and that they are counted and reported honestly with the official results made public".

## XV. TABULATION AND ANNOUNCEMENT OF ELECTION RESULTS

Observers monitored 138 of 155 TECs and evaluated the tabulation of results as ‘bad’ to ‘very bad’ in 18 per cent of the visited TECs. In 17 per cent of the observed TECs, observers reported that they were restricted in their observation of the tabulation process and did not have a clear view of the process.<sup>83</sup> In 10 per cent of observed TECs, a delay in transferring the results protocol from the PECs to the TECs was noted. Domestic observers were present in all observed TECs. In two cases, observers reported that the figures recorded in the results protocol at the PEC were different upon arrival at the TEC.<sup>84</sup>

Verification of the control equations did not take place and the figures from the result protocols were not entered into the summary table in some 15 per cent of observed TECs. The summarized table was computerized in 43 per cent, on paper in 40 per cent, and on both in 17 per cent of the observed TECs.

On 25 December, according to the official results, Mr. Lukashenko received 79.65 per cent of the votes and the other nine candidates, together, 12.89 per cent; the turnout was 90.65 per cent. 27.9 per cent of electors voted early and a significant number of 7.6 per cent used mobile voting. The percentage of voters who voted “against all” was 6.47 per cent. The CEC did not publish disaggregated results by precinct on its website or in any other format.

## XVI. POST-ELECTION DEVELOPMENTS

From the outset of the election campaign, opposition candidates Vladimir Nekliaev, Vital Rymasheuski, Andrei Sannikov and Nikolai Statkevich called on their supporters to “defend their vote” peacefully on Oktyabrskaya Square in Minsk on 19 December.

On the evening of election day, candidate Nekliaev was prevented from reaching Oktyabrskaya Square and was severely beaten. He was hospitalized, and subsequently removed from hospital by unidentified individuals. All other presidential candidates, except the incumbent, as well as thousands of demonstrators gathered on Oktyabrskaya Square. Five candidates, accompanied by the demonstrators, then moved to Nezavisimosti Square, the location of the parliament and the CEC. A group of individuals attempted to break into the House of Government, causing damage in the process. This action was countered by the OMON (riot police), which used force against the assailers, but also against peaceful demonstrators. Indiscriminate use of disproportionate force left several demonstrators suffering from severe head injuries. Many demonstrators subsequently left

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<sup>83</sup> For example, at Oktyabrskaya rayon TEC (Mogilev city), two STO teams were not allowed into the premises of the TECs; at Kalinkovichkaya rayon TEC (Gomel region), STOs were only allowed to sit too remotely to ensure meaningful observation.

<sup>84</sup> In Centralnaya TEC (Minsk city) the protocol of PEC 21, originally stated that of the 620 votes cast, candidate Lukashenko received 336 votes and candidate Sannikov received 109 votes. However, at TEC Centralnaya the protocol of the same PEC 21 stated that 646 votes were cast, 447 votes for Lukashenko and only 13 votes for Sannikov. Further, the original protocol of PEC 30, Lelchitskaya rayon TEC, stated that of 1038 registered voters 1030 had cast their vote. Lukashenko received 563 and Sannikov 181 votes respectively. However, at the Lelchitskaya rayon TEC it was reported that in PEC 30 a total number of 1182 votes were cast, 827 for Lukashenko and 35 for Sannikov.



the site, while some five thousand remained on the square together with candidates Rymasheuski and Sannikov, who took turns addressing the crowd.

Just before midnight, hundreds of OMON personnel violently dispersed the demonstration. Seven<sup>85</sup> presidential candidates, their campaign managers and proxies, hundreds of activists, among them journalists, civil society representatives and foreign citizens, were arrested during and immediately after the demonstration. While being apprehended, candidate Andrei Sannikov was severely beaten. For two days, there was no information available regarding several of the candidates arrested. On 20 December, President Lukashenko gave the figure of those arrested as 639 and confirmed that the candidates were being interrogated in a KGB detention facility.<sup>86</sup>

Immediately after the election night events, the OSCE/ODIHR EOM attempted to schedule meetings with the courts and the City Department of Internal Affairs, but was not successful. Moreover, these institutions refused to provide any information on the arrests and trials. Belarusian authorities explained at the time that a number of participants in “unsanctioned activities” have been sentenced by the courts to administrative arrests and fines, in addition to which criminal proceedings have been instituted under the title of “mass disturbances”.

As of 18 February 2011, 41 people had been charged and 12 people had been facing investigation for organizing<sup>87</sup> and participating<sup>88</sup> in the unsanctioned demonstration on 19 December. At the time of publication of this report, former candidates Sannikov, Statkevich and Mikhalevich were still in detention.<sup>89</sup> On 29 January presidential candidate Nekliaev and journalist Khalip (the wife of candidate Sannikov) were released from KGB detention and placed under house arrest.<sup>90</sup> On 17 February, a campaign activist of presidential candidate Nekliaev was sentenced to four years in prison for participation in “mass disturbances”.

Reportedly, administrative court hearings of those detained took place at closed sessions, with access only granted by court summons. The arrested were sentenced to either pay administrative fines (30 “basic units” – approx. 265 EUR) or were incarcerated for between 10 and 15 days for violation of provisions on participation and/or conduct of mass events.<sup>91</sup>

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<sup>85</sup> Messrs. Kastusiou, Mikhalevich, Nekliaev, Rymasheuski, Sannikov, Statkevich, and Uss.

<sup>86</sup> <http://president.gov.by/press104951.html#doc>.

<sup>87</sup> Article 293 part 1 of the Criminal Code envisages from 5 to 15 years of imprisonment.

<sup>88</sup> Article 293 part 2 of the Criminal Code envisages from 3 to 8 years of imprisonment.

<sup>89</sup> On 29 December, candidates Nekliaev, Rymasheuski, Sannikov, Statkevich, and on 30 December, candidate Mikhalevich, were charged with organizing and participating in an unsanctioned mass event on 19 December. Messrs. Kastusiou and Uss were suspects in this criminal case.

<sup>90</sup> Late on 20 December, candidates Kastusiou and Uss, and on 1 January, candidate Rymasheuski were freed from KGB detention on condition of not leaving the country.

<sup>91</sup> The Minister of Justice, Mr. Golovanov, also announced on 21 December that political parties and non-governmental organizations that authorized their members to participate in the post-election event could face shut-down. Leaders of registered political parties subsequently informed the Ministry of Justice that “the ruling bodies of their parties made no decisions regarding their parties’ participation in the unsanctioned actions on election day”, [http://www.minjust.by/ru/site\\_menu/news?id=726](http://www.minjust.by/ru/site_menu/news?id=726).

On 31 December, the Ministry of Foreign Affairs communicated that Belarus would not renew the mandate of the OSCE Office in Minsk and close down its operation. On 21 January 2011, Alexander Lukashenko was sworn in for his fourth term as President of Belarus.

## **XVII. RECOMMENDATIONS**

The following recommendations are offered for consideration by the authorities, political parties and civil society of the Republic of Belarus with a view to supporting their efforts to conduct elections in line with OSCE commitments and other international standards for democratic elections. These recommendations should be read in conjunction with other recommendations offered previously by the OSCE/ODIHR.<sup>92</sup> The OSCE/ODIHR stands ready to assist the authorities in further improving the electoral process.

### **A. PRIORITY RECOMMENDATIONS**

1. Notwithstanding improvements made in January 2010, further legal reforms are still required to remedy remaining shortcomings and to bring the Electoral Code closer in line with OSCE commitments and other international standards for democratic elections. The Electoral Code should include clear and detailed procedures on key stages of the electoral process, *inter alia* the formation of election commissions, support signature verification, counting, tabulation as well as the conduct of early and mobile voting. Such amendments should be developed on the basis of previous recommendations of the OSCE/ODIHR and the Venice Commission Joint Opinions. It is important that any revision of the electoral legislation be undertaken in an inclusive and transparent manner, with a broad participation of representatives of political parties, civil society organizations and other electoral stakeholders.
2. Independence and impartiality of the election administration should be established at all levels. Political parties should be given a meaningful opportunity to participate in the work of election commissions in order to increase transparency and build public confidence. Consideration could be given to establishing a broad consultation process with political stakeholders before the nomination and appointment of CEC members by the president. Consideration could also be given to granting full voting rights to representatives of political parties in the CEC and to ensure that no less than one third of members of lower-level commissions are appointed by political parties. It is necessary that the Electoral Code clearly outlines the criteria for selecting members of TECs and PECs, their chair, deputy chair and secretary positions.
3. Enhanced transparency of the vote count and tabulation is required to protect the integrity and credibility of elections. Clear, open and transparent procedures for the count need to be established and strictly implemented by PECs. Consideration could be given to announcing aloud the mark on each ballot and to showing it to commission members, observers and party agents. The tallying of results at PECs should be done in an open manner. It is important that certified result protocols be distributed to

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<sup>92</sup> All election-related reports can be found at <http://www.osce.org/odihr/elections/belarus>.

individuals wishing to receive a copy and by systematically posting them in an easily accessible place, as provided by law.

4. It is incumbent upon the state authorities to ensure that all electoral contestants can compete with each other on an equal basis. Executive authorities should not engage in the election campaign in favor of one contestant and should be prohibited from using administrative resources for partisan purposes. Any cases of pressure, intimidation, detention or arrest of voters and/or candidates should be thoroughly investigated in a timely manner, and those responsible should be held accountable. In addition, there is a need for state media to cover the election campaign and the contestants in a fair, impartial and balance fashion in line with international recommendations and good practices.
5. To comply fully with international standards on freedom of peaceful assembly, all electoral subjects should be able to effectively exercise the right of assembly during elections. Thus, the notification-based procedure for staging mass events should be extended to all stakeholders, not only candidates and their proxies, and also widened to include any pre- and post- election activity, not just campaigning.
6. In order to foster openness and transparency, and recognizing that election observation legitimately entails the entirety of the process before, during and after election day, the rights of domestic and international observers could be expanded to cover these periods. Consideration could be given to granting them the right to monitor all stages of the election process, including the right to observe signature verification, the tabulation of the votes and the adjudication of post-election disputes as well as to attend meetings of commissions. Observers and party representatives could be given the right to obtain copies of results protocols, which would enhance the accountability and transparency of the process. These rights could be entrenched in the Electoral Code and should be fully respected in practice.
7. In order to allow electoral contestants to verify the accuracy of the election results, serious consideration could be given to publishing detailed PEC result protocols immediately on the CEC website.
8. The mechanisms for election dispute resolution should be strengthened in order to provide complainants with effective and timely remedy. It should be possible to appeal the final election results announced by the CEC to a court of law. The time limits to submit an appeal to court and for the court to rule should be short enough to provide an effective remedy but not to unnecessarily delay the conduct of election and the announcement of final results.

## **B. LEGAL FRAMEWORK**

9. The legal framework should be amended to abolish the forfeiture of suffrage rights, irrespective of the gravity of the crime committed and the length of sentence imposed. Citizens with previous convictions who have served their sentence should automatically have their suffrage rights reinstated.

10. Consideration could be given to raising the threshold for candidates' individual campaign funds to provide the opportunity for candidates to conduct effective and meaningful campaign activities. Full transparency of donations and expenditures should be ensured throughout the election period, with data on candidates' campaign donations and expenditures made publicly available.
11. State authorities are encouraged to adopt legislative provisions guaranteeing equality between women and men in all spheres, including political and public life, as well as adoption of specific gender equality or anti-discrimination legislation that defines and prohibits direct and indirect discrimination on the basis on sex and gender.
12. Consideration could be given to abolishing the turnout requirement of over 50 per cent for the election to be deemed valid or at least to removing it in the case of repeat elections. This would avoid the possibility of indefinitely repeating elections because of a too low turnout.

**C. ELECTION ADMINISTRATION**

13. The CEC could strengthen its efforts in adopting clear and detailed procedures for those aspects of the election process left unregulated by the Electoral Code to guarantee inclusiveness, transparency, security and integrity of the process and to ensure clear rules for lower-level election commissions.
14. The number of state employees appointed as TEC and PEC members, including those of local (executive) authorities, could be limited further. Pre-existing hierarchical professional relationships of TEC and PEC members could be restricted.
15. Training for TEC and PEC members before the next elections could prioritize the rules for counting and reporting of election results as well as highlight the need for transparency and accountability.

**D. CANDIDATE REGISTRATION**

16. The minimum number of signatures which must be collected to support a presidential candidate's nomination could be reconsidered and brought in line with international good practices to not exceed one per cent of the total number of registered voters.

**E. VOTER REGISTRATION**

17. A national, centralized and computerized voter register could be developed and regularly updated to allow nationwide cross-checks and limit shortcomings such as multiple entries.
18. Serious consideration could be given to introducing a legal deadline to close voter lists prior to election day. Additional entries before, but not on election day, could be permitted on an exceptional basis. The procedure for late entries or changes should be clearly stipulated by the law and could require a court decision.

## **F. MEDIA**

19. The editorial line of media outlets would benefit if it were determined without interference or pressure from the authorities. Journalists should be able to cover the activities of candidates and other public events, including rallies, without threat of being arrested while performing their professional duties.
20. Impartial editorial practices, especially in news programmes, could be developed, with the aim that reporting is balanced, objective and factual.
21. The CEC's Supervisory Council needs to ensure respect for the media-related provisions of the Election Code during the campaign, including equitable news coverage of election contestants on state-owned or state-financed media. Clear regulations on the Supervisory Council functions need to be in place. Including media and civil society representatives in its composition would strengthen its impartiality and confidence in its work.
22. Defamation could be decriminalized in line with international good practice. The 2010 Law on Mass Media should be amended to ensure full respect for freedom of expression, in line with the 1990 OSCE Copenhagen Document and recommendations of the Representative on Freedom of the Media.

## **G. VOTING, COUNTING, TABULATION AND ANNOUNCEMENT OF RESULTS**

23. Security measures such as serially numbered security ballot box seals, uniform translucent ballot boxes, ballot papers with safety features, and unique PEC stamps could be considered as they instill public confidence in the electoral process.
24. Despite steps taken to protect the integrity of early voting, additional safeguards are required. They could include the requirement that all PEC members are present for each day of early voting, that ballot box seal numbers are recorded in result protocols, and provisions could be established for the presence of observers around the clock.
25. Mobile voting could be strictly limited to homebound voters with a compelling reason. These voters could be required to file a request in advance of election day.

## **H. COMPLAINTS AND APPEALS**

26. Clear and transparent procedures should be established for the consideration of complaints and appeals at all levels of election commission. Decisions on complaints should always be taken by an open vote of all commission members in order to ensure collegiality and transparency.
27. All election commission decisions should be subject to appeal either to a higher-level commission or to a court of law. In order to avoid conflict of jurisdiction, the Electoral Code should be clear about where a complainant should lodge an appeal. The plaintiff should not be given the choice of jurisdiction.

**ANNEX: OFFICIAL ELECTION RESULTS**

ADMINISTRATIVE REGION	Total number of voters	N of voters who received ballots	N of voters who participated in the election and %	Number of votes and percentage received by the candidate										Number of votes and % cast "against all"
				Kastusiu R.	Lukashenko A.	Mikhailovich A.	Nekliayev U.	Romanchuk Y.	Rymashouski V.	Samikov A.	Statkevich N.	Tereshenko V.	Uss D.	
1 BREST	1032311	939879	939680	13 500	766 059	11 632	14 779	17 631	12 800	25 778	9 555	10 072	4 554	45 398
			91,03%	1,44%	81,52%	1,24%	1,57%	1,88%	1,36%	2,74%	1,02%	1,07%	0,48%	4, 83%
2 VITEBSK	897407	836276	835933	13 863	689 407	8 038	14 585	13 091	9 253	25 717	8 527	9 950	3 169	33 791
			93,15%	1,66%	82,47%	0,96%	1,74%	1,57%	1,11%	3,08%	1,02%	1,19%	0,38%	4, 04%
3 GOMEL	1109170	1034301	1034197	30 416	851 127	7 462	9 359	9 495	7 879	10 157	7 043	7 453	2 754	83 994
			93,24%	2,94%	82,30%	0,72%	0,90%	0,92%	0,76%	0,98%	0,68%	0,72%	0,27%	8, 12%
4 GRODNO	808028	734 555	734 503	7 534	597 667	6 241	13 910	21 397	9 283	20 570	6 928	8 389	2 575	25 713
			90,90%	1,03%	81,37%	0,85%	1,89%	2,91%	1,26%	2,80%	0,94%	1,14%	0,35%	3,50%
5 MINKS OB	1104422	1004703	1004594	15 902	810 825	10 375	12 277	16 858	9 010	15 198	9 314	11 690	3 395	79 829
			90,96%	1,58%	80,71%	1,03%	1,22%	1,68%	0,90%	1,51%	0,93%	1,16%	0,34%	7,95%
6 MOGILIEV	824242	782 180	781 795	7 296	664 314	6 165	14 797	11 611	7 245	21 004	7 394	8 802	1 876	25 159
			93,71%	0,93%	84,98%	0,79%	1,89%	1,49%	0,93%	2,69%	0,94%	1,13%	0,24%	3,22%
7 MINSK C	1320080	1112882	1110359	38 498	751 158	15 835	34 724	37 198	15 045	37 995	18 822	20 408	6 794	123041
			84,11%	3,47%	67,65%	1,43%	3,14%	3,35%	1,35%	3,42%	1,70%	1,84%	0,61%	11,08%
TOTAL	7105660	6444776	6441031	126999	5130557	65 748	114581	127821	70 515	156419	67 583	76 764	25 117	416925
			90,65%	1,97%	79,65%	1,02%	1,77%	1,98%	1,09%	2,43%	1,05%	1,19%	0,39%	6,47%

Source: <http://www.rec.gov.by/pdf/prb2010/sved21.pdf>

## ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (OSCE/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 Summit Document). This is referred to as the OSCE human dimension.

The OSCE/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 130 staff.

The OSCE/ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it co-ordinates and organizes the deployment of thousands of observers to assess whether elections in the OSCE region are conducted in line with OSCE Commitments, other international standards for democratic elections and national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, the OSCE/ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. The OSCE/ODIHR implements a number of targeted assistance programs annually, seeking to develop democratic structures.

The OSCE/ODIHR also assists participating States in fulfilling their obligations to promote and protect human rights and fundamental freedoms consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas including human rights in the fight against terrorism, enhancing the human rights protection of trafficked persons, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance** and **non-discrimination**, the OSCE/ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The OSCE/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 OSCE/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. 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/odihhr](http://www.osce.org/odihhr)).