



Office for Democratic Institutions and Human Rights

REPUBLIC OF BELARUS
PARLIAMENTARY ELECTIONS
28 September 2008

OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT

9-12 June 2008



Warsaw
30 June 2008

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	EXECUTIVE SUMMARY	1
III.	FINDINGS.....	3
A.	POLITICAL CONTEXT.....	3
B.	LEGAL FRAMEWORK.....	4
C.	ELECTION ADMINISTRATION.....	6
D.	MEDIA	7
E.	INTERNATIONAL AND DOMESTIC OBSERVERS.....	8
IV.	CONCLUSIONS AND RECOMMENDATIONS.....	9
	ANNEX: LIST OF MEETINGS.....	10

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OSCE/ODIHR Needs Assessment Mission Report

I. INTRODUCTION

The Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) undertook a Needs Assessment Mission (NAM) to the Republic of Belarus between 9-12 June. The NAM included Gerald Mitchell, Head of the OSCE/ODIHR Election Section, Mats Lindberg, OSCE/ODIHR Election Adviser and Holly Ruthrauff, External Election Expert. The purpose of the NAM was to assess the conditions and level of preparation for the parliamentary elections expected for the 28 September, in line with OSCE commitments, and to advise on a possible election observation activity.

The OSCE/ODIHR NAM held meetings in Minsk with representatives of the governmental authorities, election administration, political parties, media, civil society and international community (see annex for list of meetings). The OSCE/ODIHR is grateful to the Belarusian authorities, in particular the Ministry of Foreign Affairs (MFA), for their co-operation and assistance, and is appreciative of the timely manner in which the NAM was received in the Republic of Belarus. The OSCE/ODIHR would also like to thank the OSCE Office in Minsk for its assistance to the NAM.

II. EXECUTIVE SUMMARY

Elections to the Chamber of Deputies of the National Assembly of Belarus will be held on 28 September 2008, in line with legislation that requires the elections to be called four months prior to the expiry of the mandate of the outgoing parliament. Second round contests will be held as necessary two weeks thereafter.

Representatives of the Ministry of Foreign Affairs assured the OSCE/ODIHR NAM that an invitation to OSCE/ODIHR to observe the 2008 parliamentary elections will be issued in a timely manner after the elections have been officially announced. The OSCE/ODIHR NAM emphasized that a timely invitation is essential for the preparation and deployment of an observation mission.

Interlocutors with whom the OSCE/ODIHR NAM met expressed divergent views on the upcoming parliamentary elections. The Belarusian authorities uniformly expressed confidence that the elections will be held in a democratic manner, in accordance with Belarusian legislation and international standards. Pro-presidential parties largely voiced the same opinion. By contrast, opposition parties and civil society representatives expressed very little confidence in the election administration and the election process in general.

Most political parties and movements anticipated that the candidate registration process would be difficult, based on experience in previous elections where many prospective

candidates from across the political spectrum were denied registration. While most opposition parties plan to participate in the elections, some stated that they are considering the possibility of withdrawing candidates if minimal conditions for their meaningful participation are not met. Conditions mentioned in this context include representation on election commissions; registration of candidates without undue obstacles; and full access of domestic and international election observers to all stages of the electoral process, including the vote count and tabulation.

The OSCE/ODIHR NAM was informed of constraints to the campaign environment which may limit the ability of voters to receive information about the candidates and parties competing in the elections. All nationwide broadcast media is State-run and does not present alternative political opinions. Print media offering independent or opposition political viewpoints are few in number and operate under difficult conditions. A draft Law on Mass Media is currently before parliament, and some interlocutors expressed their concern that this legislation would further constrain the media environment, including the internet as a media source. This concern has also been raised by the OSCE's Representative on the Freedom of the Media.

In addition, the OSCE/ODIHR NAM was informed of what was described as recent harassment by the authorities of journalists, civil society representatives and political party activists, which is a source of ongoing concern. Interlocutors noted that certain civil society groups and youth activists have been the focus of particular attention by the authorities in the run-up to the elections. In previous elections in Belarus, the OSCE/ODIHR has concluded that fundamental freedoms of association, peaceful assembly and expression were disregarded. There is no evident progress in this respect.

Most interlocutors met by the OSCE/ODIHR NAM expressed an open attitude regarding a potential OSCE/ODIHR election observation mission. While some explicitly requested observation, there were differing views regarding the utility of short-term observers to follow the process at polling station and intermediate commission levels due to past experience whereby international and domestic observers were frequently prevented from any meaningful observation of the vote count and tabulation.

The OSCE/ODIHR election observation missions to the 2004 parliamentary elections and the 2006 presidential election in Belarus were indeed hindered by the frequent refusal of polling station and intermediate level election commissions to permit observers to follow the vote count and tabulation in a meaningful and transparent manner.¹ The OSCE/ODIHR NAM raised this issue with the Central Election Commission (CEC), which noted the legal right of observers to be physically present in polling stations, but provided no further assurances thus far that observers would have effective access to the work of these commissions during the vote count and tabulation. If such assurances are not received in time, this would limit the utility of deploying short-term observers.

The OSCE/ODIHR has provided recommendations in its previous observation mission reports to improve the conduct of elections in Belarus in line with OSCE commitments. It has also issued a joint legal review of the Election Code together with the Council of Europe

¹ The OSCE/ODIHR Election Observation Mission Final Reports on the Parliamentary Elections 2004 and the Presidential Elections 2006 in the Republic of Belarus are available at www.osce.org/odihr.

Commission for Democracy through Law (Venice Commission). However, the authorities do not appear to have taken any significant steps to address outstanding concerns.

In considering an observation activity, the OSCE/ODIHR has taken account of the obstacles to effective and meaningful observation of the vote count and tabulation in past elections. Despite an apparent lack of measures to address this issue thus far, the OSCE/ODIHR recommends the establishment of a standard Election Observation Mission (EOM) for the forthcoming parliamentary elections, also taking into account the OSCE/ODIHR's previous engagement with Belarus on election issues. However, the OSCE/ODIHR seeks assurances from the Belarusian authorities that access for all observers during the vote count and tabulation will be ensured.

In anticipation of a timely invitation, the OSCE/ODIHR is preparing to establish an EOM in early August. In addition to the deployment of a core team of election experts, the OSCE/ODIHR is requesting OSCE participating States to second 40 long-term observers (LTOs) to be deployed throughout Belarus by mid-August. In addition, OSCE participating States will be requested to second 300 short-term observers (STOs) to observe election day proceedings.

III. FINDINGS

A. POLITICAL CONTEXT

Interlocutors with whom the OSCE/ODIHR NAM met expressed divergent views on the upcoming parliamentary elections. The Belarusian authorities expressed uniform confidence that the forthcoming elections would be held in a democratic manner, in accordance with Belarusian legislation and international standards. Pro-presidential parties largely voiced the same opinion. On the other hand, opposition parties and civil society representatives expressed very little confidence in the election administration and the election process in general. Most interlocutors met by the OSCE/ODIHR NAM expressed an explicit wish for OSCE/ODIHR election observers to be present and none of them advised against it.

During the 2004 parliamentary elections no opposition candidates were elected, and only 12 of the 110 parliamentary deputies elected represented political parties. This result reflects the overall weakness of political parties in Belarus. Most elected deputies were nominated jointly or solely by labour collectives, who played a dominant role in the parliamentary election process.

The United Democratic Forces (UDF) is the largest grouping of opposition political parties and includes the United Civic Party (UCP), the Belarusian Popular Front (BPF), the Party of Belarusian Communists (PCB), and the Belarusian Social Democratic Party (Hramada) (BSDP-H). UDF representatives expressed their intention to take part in the upcoming elections by presenting 110 candidates, jointly agreed on by the constituent parties. However, they reserve the right to withdraw their candidates in case certain minimal conditions are not met, such as: 1) allowing opposition parties to have their representatives on election commissions at the district and polling station levels; 2) that opposition candidates be registered without undue obstacles; 3) that there be full access for domestic and international election observers to follow the electoral process, including the vote count

and tabulation. The UDF also emphasized the need for all political prisoners to be released. The UDF has announced its unified campaign message to be “citizen control over authorities” to highlight their contention regarding a lack of accountable oversight in the current political system.

The “European Coalition” is a separate opposition political grouping led by former political prisoner Nikolai Statkevich, which was formerly part of the UDF, but decided to present 70 candidates of its own for the parliamentary elections. The stated objective of the “European Coalition” is European integration, and its slogan is “Democracy is the Way to Europe.” However, a representative of one coalition member, the youth movement Malady Front, informed the OSCE/ODIHR NAM that it intends to boycott the elections.

Pro-presidential parties represented in parliament, the Communist Party of Belarus (CPB) and the Agrarian Party, both intend to run candidates in the parliamentary elections. These party representatives described the current situation as calm, stable and businesslike, and expressed confidence in the Election Code and the election process as a whole. One party leader told the OSCE/ODIHR NAM that only those without political support portray the elections as illegitimate. The leader of the Liberal Democratic Party (LDP), which has one representative in parliament, stated that it has chosen 110 candidates, but has not yet taken a final decision on whether to participate in the upcoming elections. The pro-presidential public association “Belaya Rus”, formed in November 2007, has also discussed the possibility of nominating candidates. Despite a request, the OSCE/ODIHR NAM was unable to meet with “Belaya Rus”.

Candidate nominations can be made by registered political parties, labour collectives of more than 300 persons and initiative groups of individuals who collect more than 1,000 voter signatures (known as “self-nominated candidates”). Registered political parties have the possibility of nominating party candidates in constituencies where the parties have local branch offices. However, the considerable number of closures of local party offices in the past few years has made this requirement particularly difficult for some political parties to meet. Several parties, both opposition and pro-presidential, stated that they plan to follow a double nomination strategy whereby candidates are both nominated by parties and collect signatures to be self-nominated, in order to increase the chances of successful registration.

Overall, and based on past experience, parties are preparing for an environment in which difficulties to register candidates may be expected.

B. LEGAL FRAMEWORK

The National Assembly of Belarus is made up of an indirectly elected Council of the Republic (upper house) and a directly elected Chamber of Representatives (lower house). The Chamber of Representatives comprises 110 deputies elected in single mandate constituencies for a four-year term. Elections to the Chamber of Representatives are scheduled for 28 September, with the possibility of a second round within two weeks in those constituencies in which no candidate receives 50 per cent of the votes cast.

A 50 per cent turnout rate of registered voters are required by law for first round election results to be valid, and a 25 per cent second round turnout rate is required in the case of a

second round. If these turnout requirements are not met, the entire election process is repeated in those constituencies concerned.

On 24 June, President Alexander Lukashenko formally announced 28 September as the date for elections to the Chamber of Deputies of the National Assembly of Belarus. As required by law, the election was announced four months prior to the expiry of the mandate of the outgoing parliament.

In addition to the Constitution (1996, amended in 2004), elections in Belarus are primarily regulated by the Election Code (2000, last amended 2006). In addition, the following legislation is also relevant to the election process: the Code on Administrative Violations, the Criminal Code, the Law on Mass Events, the Law on Press and other Mass Media and regulations that may be promulgated by the CEC.

The OSCE/ODIHR and other organizations have extensively reviewed the Election Code and provided a number of recommendations on how it could be brought in line with OSCE commitments and other international standards for democratic elections.² Despite these efforts, no willingness to consider improvements has been displayed by the authorities, and no significant changes have been made to the Code since 2000.

The OSCE/ODIHR EOM to the 2006 Presidential Elections found that the Election Code “limits civil and political rights, lacks sufficient safeguards for political pluralism and transparency and fails to guarantee the integrity of early voting, election day voting, counting and tabulation of results.” In addition, the OSCE/ODIHR EOM highlighted that the strict implementation and interpretation of the legislation further undermined the ability of the law to protect the integrity of the election process in line with OSCE commitments.

At the same time, members of parliament representing pro-presidential parties and holding positions on parliamentary commissions, stated that the Election Code was in full compliance with international standards, and that suggestions of previous election observation missions had been taken into account. They felt that after several elections, the provisions of the Election Code were clear and well established, and therefore they did not expect the promulgation of CEC regulations or clarifications to be necessary.

Civil society in Belarus has been advocating changes to the electoral legislation for several years. In a recent attempt to improve the implementation of the election legislation prior to elections, the *For Freedom* movement,³ together with opposition political parties, submitted to the CEC six draft regulations on 31 March 2008. These included: conducting the vote count aloud, allowing observers clear view of the count, entitling observers to receive result protocols, granting equal opportunities for candidates to hold meetings and obliging local authorities to permit a campaign meeting unless another candidate has booked premises for the same time. In response, the CEC stated that some of the proposals have already been reflected in the clarifications to the election legislation passed by the CEC, and others would require changes to the Election Code, which is outside of the CEC’s mandate. The United Democratic Forces also submitted the proposals to parliament last autumn and suggested the

² Most recently, OSCE/ODIHR/Venice Commission Joint Opinion on the Electoral Legislation of the Republic of Belarus, 17 October 2006 (CDL-AD(2006) 028

³ Subsequent to the OSCE/ODIHR NAM, the *For Freedom* movement was again denied official registration.

formation of a joint working group to consider them, but this proposal has not been accepted.

C. ELECTION ADMINISTRATION

The CEC is responsible for organizing elections in Belarus. The CEC oversees the work of the 110 District Election Commissions (DECs) and approximately 7,000 Precinct Election Commissions (PECs). Six of the twelve members of the CEC, including the Chairperson, are appointed by the President and six are appointed by the Council of the Republic. The current Chair, Mrs. Lydia Yermoshina, was appointed to a third five-year term in 2007.

The composition of election commissions continues to be a source of discussion in Belarus, and a concern for some election stakeholders. According to the CEC, it has been asked to prepare a draft presidential decree that would allow political parties to appoint non-voting “advisory members” to the CEC, as was done in previous elections. Members of DECs and PECs are to be nominated by political parties, other public associations and labour collectives. While members may be nominated by a variety of stakeholders, no guarantee exists for pluralistic representation on these commissions. Appointment of commission members is conducted by regional and local executive committees, and is viewed by some electoral actors to lack accountability and transparency.

Several interlocutors considered the criteria for selection of election commission members as unclear, and claim that a disproportionate number of members represent labour collectives and regional and local executive committees. Some also commented that election commissions are often formed according to pre-existing hierarchical employment relationships. Political party representatives, moreover, point to the fact that in recent past elections, either the positions had already been filled or they were informed that their nominees were not qualified. They furthermore complained that labour collective representatives and civil servants, often dependent on the State for their livelihood, were not appropriate actors to administer an election process, and certainly should not be given priority over political party or candidate representatives.

According to the CEC Chair, in preparation for the forthcoming elections, the electoral boundaries have been adjusted in some of the seven constituencies. According to information received from her, the most substantial changes to the boundaries have been made in Minsk and in Vitebsk, in response to significant shifts in population. In further preparation of the elections, DECs will be established no later than 14 July. Candidate nomination will take place from 20 July to 18 August, candidate registration from 19 to 28 August and the official election campaign period will be conducted from 28 August to 27 September.

Voter lists are prepared for each precinct with no centralized lists above this level and no facility for cross-checking whether a voter appears on more than one list. The PECs receive a draft voter list upon their appointment, and must check and update it by a deadline of 15 days prior to election day. The draft lists are based on data supplied by the local civil registration authorities of the Ministry of Internal Affairs. The CEC Chair informed the OSCE/ODIHR NAM that a draft law on national registration of citizens might eventually allow for the creation of a centralized voter register, in line with OSCE recommendations, but such a development would not occur prior to the upcoming elections.

The State budget for the elections will be established as soon as they are called. The campaign budget of each candidate is limited to the equivalent of approximately 500 Euros, which will be allocated by the CEC from a State fund. No additional funding for candidates is permitted.

D. MEDIA

According to several interlocutors, parliamentary elections will take place within an increasingly constrained media environment. All nationwide broadcast media are State-run, and offer extensive and favorable coverage of the President, with little or no mention of other political actors. The few local private broadcast media do not provide wide coverage of Belarusian political issues. No independent daily newspapers are published, and the only source of independent or opposition political viewpoints are the non-state print media, which are now few in number and operate under difficult conditions, and the internet.

During the OSCE/ODIHR NAM, a revised draft Law on Mass Media was placed on the parliamentary agenda. Opposition party and civil society representatives expressed concern that the new law would make it easier to shut down media outlets, while making it more difficult to open new ones. They also expressed concern that the new law will apply media regulations to internet media sources that previously had not been regulated by the authorities.⁴ Given the constrained media environment, internet websites have been a key source of independent information during recent elections. At the same time, the Chair of the Parliamentary Committee on Human Rights, Ethnic Relations and Mass Media told the delegation that the law did not contain any substantial changes, and stated that it would ban censorship and any interference in the activities of journalists. The Chair acknowledged that regulation of the internet was a complex issue, but was not in a position to confirm whether the draft law would extend to the internet.

The Deputy Chairman of the Belarusian National TV and Radio Company, which operates under the supervision of the Ministry of Information and the Presidential Administration, told the OSCE/ODIHR NAM that each candidate in the parliamentary elections will be granted free primetime slots on TV and radio, but added that the precise length of free airtime will depend on the number of candidates eventually registered. Some opposition representatives expected a total time slot of some five minutes per candidate, which they considered as insufficient for effectively conveying campaign messages. The National TV and Radio Company does not intend to organize any debates between parties or candidates. According to its Deputy Chairman, TV viewers do not find campaigning by candidates on TV interesting, and this is why the few existing private local TV stations have chosen not to broadcast campaign coverage.

Interlocutors pointed to several developments in the media context as giving cause for concern prior to elections, such as pressure exerted by the authorities on non-state *Gazeta Slonimskya*, the last non-state political periodical in Grodno region, which may result in the closure of the publication. In another recent development, the OSCE Representative on Freedom of the Media criticized a 27 March, 2008 “crackdown”, when the homes of 13 independent journalists were searched and computer hard drives seized by the KGB. Finally, starting on 9 June, the Belarusian TV First Channel broadcast what was presented as a series

⁴ See press release by OSCE Office of the Representative on Freedom of the Media, 27 June, 2008, http://www.osce.org/documents/rfm/2008/06/31899_en.pdf

of TV documentaries, which appeared to discredit civil society representatives who have been active in domestic election monitoring or similar activities, alleging that they are financed and instructed by foreign supporters whose interests are illegitimate.

E. INTERNATIONAL AND DOMESTIC OBSERVERS

The Belarusian Election Code allows for domestic non-partisan observation, and accreditation of observers can be obtained either through NGOs, or individually by collecting signatures of 10 other voters. Representatives of the Belarusian Helsinki Committee (BHC) informed the OSCE/ODIHR NAM that it intends to carry out long-term observation of the forthcoming parliamentary elections, focusing in particular on the campaign. By contrast, the BHC will only make limited efforts to follow election day proceedings, including the vote count, as based on previous experience, it deems them to be non-transparent and non-accessible for effective observation.

Other domestic NGOs which have previously been involved in election observation have had their organizations' registration withdrawn by the authorities and are hence prevented from accrediting election observers. Moreover, the negative experience of the domestic observer group *Partnership*, which had leading members arrested prior to the 2006 presidential elections, and subsequent prison terms lasting several months, may deter other domestic organizations from engaging in election observation as a civic undertaking.

The OSCE/ODIHR EOMs in 2004 and 2006 were frequently hindered by the refusal of Belarusian polling station and district election commission officials to allow short-term observers effective access to follow the vote count and tabulation in a meaningful manner.⁵ The OSCE/ODIHR NAM raised this issue with the CEC Chair, but no further assurances were offered thus far to mitigate this concern for the 2008 parliamentary elections, beyond the basic legal right for observers to be physically present in polling stations. This may limit the utility of deploying short-term observers.

Representatives of the Ministry of Foreign Affairs assured the OSCE/ODIHR NAM that an invitation to OSCE/ODIHR to observe the 2008 Parliamentary elections would be forthcoming and would be issued in a timely manner. The OSCE/ODIHR NAM emphasized that a timely invitation is essential for the preparation and deployment of an observation mission. Representatives of the Ministry of Foreign Affairs informed the OSCE/ODIHR NAM that the Commonwealth of Independent States will also be invited to observe the forthcoming parliamentary elections.

⁵ Cf. OSCE/ODIHR Election Observation Mission Final Report on the Parliamentary Elections 2004 in the Republic of Belarus, p. 19: "observers were regularly ordered not to approach voting materials, and confined to one part of the voting room. The problem became particularly acute during counting and at DEC's during the results tabulation" and OSCE/ODIHR Election Observation Mission Final Report on the Presidential Election 2006 in the Republic of Belarus, p. 24: "Despite assurances from many TECs prior to the election that observers would be able to follow the tabulation of PEC results by TECs, 39 per cent of observers were restricted, or even obstructed, in their efforts to gather information on this phase of the process, including being denied access to TEC premises".

IV. CONCLUSIONS AND RECOMMENDATIONS

The OSCE/ODIHR recommends the establishment of a standard Election Observation Mission (EOM) for the forthcoming parliamentary elections scheduled for 28 September. In considering an observation activity, the OSCE/ODIHR has taken account of the obstacles to effective observation of the vote count and tabulation in past elections. Despite an apparent lack of measures to address this issue thus far, the OSCE/ODIHR recommends the establishment of a standard Election Observation Mission (EOM) for these elections, considering the OSCE/ODIHR's previous engagement with Belarus on election issues.

However, as past OSCE/ODIHR EOMs have been hindered by the frequent refusal of Belarusian polling station and intermediate level election commission officials to allow short-term observers meaningful access to follow the vote count and tabulation, the OSCE/ODIHR seeks assurances from the Belarusian authorities to ensure effective access for observers including during the vote count and tabulation stages.

In anticipation of a timely invitation, the OSCE/ODIHR is preparing to establish an EOM in early August. In addition to the deployment of a core team of election experts, the OSCE/ODIHR is requesting OSCE participating States to second 40 long-term observers (LTOs) to be deployed throughout Belarus by mid-August. In addition, OSCE participating States will be requested to second 300 short-term observers (STOs) to observe election day proceedings.

ANNEX: LIST OF MEETINGS

Visit of the OSCE/ODIHR Needs Assessment Mission to Minsk Minsk 9 – 12 June 2008

STATE AUTHORITIES:

Ministry of Foreign Affairs:

Mr Vladimir SERPIKOV, Department of Europe, Deputy Head

Mr Denis SIDORENKO, OSCE Division, Head

Mr Oleg ANISIMOV, Department of Europe, 1st Secretary

Central Election Commission:

Ms Lidiya YERMOSHINA, Chair

Ms Nadezhda KISELEVA, Head of the Legal Department

National State TV and Radio Company:

Mr Alexandr MARTYNENKO, Deputy Chair

Mr Alexandr GRITSENKO, International Co-operation Department

Parliamentary Committees:

Mr Yury KULAKOVSKY, the Standing Committee on Human Rights, Ethnic Relations and Mass Media, Chair

Mr Anatoly KRASUTSKY, the Standing Committee on Foreign Relations and the CIS, Vice Chair

POLITICAL PARTIES:

Parties represented in Parliament:

Mr Sergey GAYDUKEVICH, Liberal Democratic Party, Chair

Mr Tatyana GOLUBEVA, Communist Party of Belarus, 1st Secretary

Mr Mikhail RUSY, Agrarian Party, Chair

United Democratic Forces:

Mr Anatoly LEBEDKO, United Civic Party, Chair

Mr Vintsuk VYACHORKA, Belarusian Popular Front, Vice Chair

Mr Sergey KALYAKIN, The Party of Communists *Belorusskaya*, Chair

Ms SKRYGAN, The Party of Communists *Belorusskaya*

European Coalition:

Mr Nikolai STATKEVICH, Belarusian Social Democratic Party *Narodnaya Hramada* (unregistered), Chair

Mr Vladimir NOVOSIAD, The Party of Freedom and Progress (unregistered), Chair

Mr Artur FINKEVICH, *Malady Front* youth group (registered in Czech Republic; unregistered in Belarus)

CIVIL SOCIETY/MEDIA:

Belarusian Helsinki Committee:

Mr Oleg GULAG, Chair
Ms Tatyana GATSURA, Vice Chair
Mr Garry POGONYAILO, lawyer
Mr Dmitry Chernyh, lawyer

Belarusian Association of Journalists/Media representatives

Ms Zhanna LITVINA, Belarusian Association of Journalists (BAJ), Chair
Mr Vyacheslav KHODOSOVSKY, *Belarusy I Rynok* weekly, Chief Editor,
member of the BAJ board
Mr Yury TOPORASHEV, legal expert
Mr Ales ANTSIPENKA

INTERNATIONAL COMMUNITY:

Delegation of the European Commission to Belarus

Mr Janis Aizsalnieks

Embassy of Finland, representing the OSCE Chair-in-Office

Ambassador Timo Lahelma

Embassy of France, representing the EU Presidency

Mr Philippe Seigneurin, First Secretary
Mr Ronan Parent, Head of Scientific and Technical Cooperation