

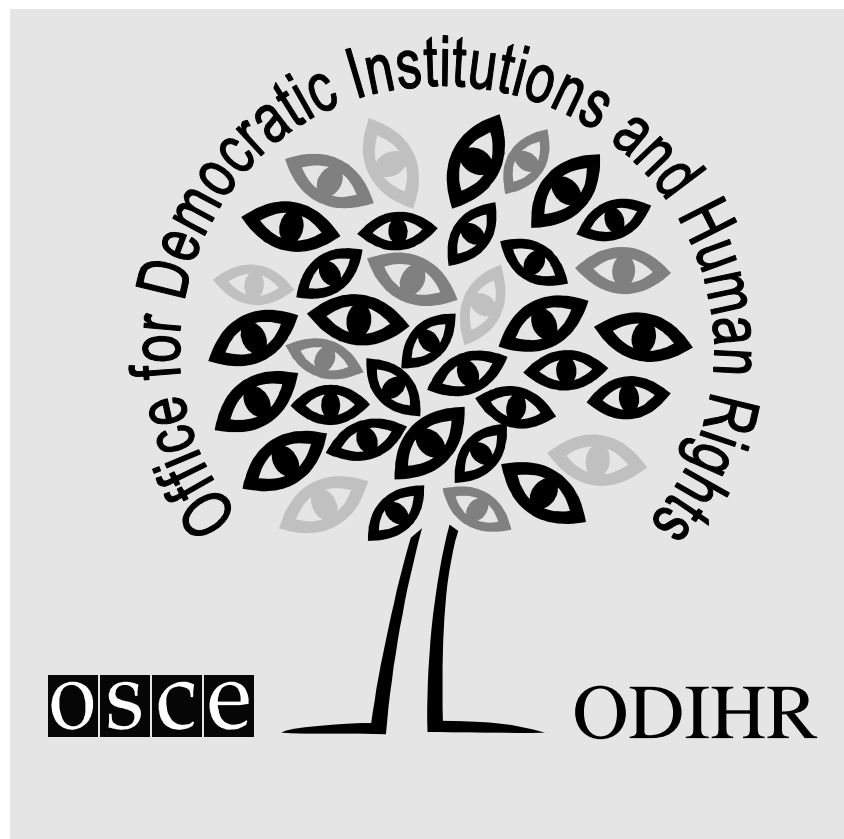


Office for Democratic Institutions and Human Rights

**BELARUS
PARLIAMENTARY ELECTIONS**

15 and 29 October 2000

**TECHNICAL ASSESSMENT MISSION
FINAL REPORT**



Warsaw
30 January 2001

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BELARUS
PARLIAMENTARY ELECTIONS
15 and 29 October 2000
OSCE/ODIHR Technical Assessment Mission
Final Report¹

I. EXECUTIVE SUMMARY

The 15 and 29 October parliamentary elections in Belarus failed to meet international standards for democratic elections, including those formulated in the 1990 Copenhagen Document of the OSCE. In particular, the elections fell short of meeting the minimum commitments for free, fair, equal, accountable, and transparent elections. Despite some improvements since previous elections, the process remained flawed.

Considering the pre-election environment in Belarus and flawed election day provisions in the law, the OSCE Parliamentary Assembly, the Office for Democratic Institutions and Human Rights (ODIHR), and the OSCE Advisory and Monitoring Group (AMG), together with the Council of Europe, the European Parliament, the Commonwealth of Independent States (CIS), and the Inter-Parliamentary Assembly of the CIS decided at a conference in Vienna on 30 August that OSCE/ODIHR would deploy a Technical Assessment Mission (TAM) for the 15 October elections. In addition, the conference decided not to deploy observers to monitor election day proceedings, as in the best of circumstances, the fundamental shortcomings of these elections could not be remedied.

However, eleven representatives of the Parliamentary Troika of the OSCE, the Council of Europe and the European Union also visited Belarus during the election period and prepared a political assessment in light of the OSCE/ODIHR Technical Assessment Mission's findings and conclusions. The assessment of the Parliamentary Troika (see Annex 1) was presented jointly with the TAM's findings during a press conference on 16 October.

The factors contributing to the failure of these elections to meet international standards include:

- The electoral legislation, adopted in early 2000 and amended in June, while improved, still includes substantial and fundamental deficiencies;
- The executive apparatus maintained control on election commissions;
- Candidate registration procedures were abused to prevent undesirable candidates from participating in the elections, limiting voters' choice;
- Campaign activities were regulated excessively, limiting candidate performance;
- Significant restrictions on the fundamental freedoms of expression, assembly and association had an intimidatory and constraining effect on the campaign. As a result, the authorities' agreement to respect a "period of peace" during the electoral campaign was not fulfilled;
- Insufficient respect for the rule of law and due process of law, together with observed instances of the executive interfering with the independence of the judiciary, created an uncertain legal environment characterized by arbitrary implementation of laws;
- Heavily biased State-controlled media dominated the electronic and print sectors, and no effective counterbalance was provided by the independent media. In the end, candidates had very limited access to the media; and
- Provisions for early voting, mobile ballot boxes, the vote count and aggregation of results, far short of minimum transparency requirements for independent verification.

¹ This report is also available in Russian. However the English text remains the only official document.

These shortcomings remained despite measures undertaken by the authorities during the summer in an attempt to improve the electoral process, including amendments to the new electoral legislation and measures proposed by the President. The most notable of these improvements over previous elections include:

- The electoral appeals process was opened to the public, enhancing transparency in this area;
- Independent domestic observers worked within an improved regulatory framework, and this promoted the transparency of the electoral process;
- The appointment of representatives from some political parties participating in the election as consultative and non-voting members of the Central Election Commission represented a welcome step towards greater pluralism and transparency;
- The opportunity for some leading opposition figures to continue advocating a boycott without being subject to prosecution, including on the eve of polling, or to take part in the elections as candidates, and their ability to campaign and to criticize the authorities was a welcome step; and
- The revocation of a requirement that political parties must be registered at the regional level in addition to the national in order to field candidates in the constituencies.

In view of the concerns outlined above, The OSCE/ODIHR recommends:

- All legislation relating to the elections should be amended to ensure harmonization with the Electoral Code, including all relevant public order legislation, and should remedy concerns outlined in this report and detailed in the recommendations section;
- Fundamental freedoms, including association and expression, should be fully respected during the election period;
- Election commissions at all levels should include full members representing the political spectrum;
- The candidate registration process should be more inclusive; and
- The Electoral Code should be amended to introduce detailed rules and regulations requiring equal access to State media.

The OSCE/ODIHR stands ready to continue the dialogue with the authorities and civil society of Belarus in order to address the concerns contained in this report and in view of the forthcoming presidential election.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

The government of Belarus invited OSCE's Office for Democratic Institutions and Human Rights (ODIHR) to observe the 15 October parliamentary elections.

Following the decision of the Technical Conference in Vienna on 30 August, an eight person Technical Assessment Mission (TAM), headed by Ms. Elisabeth Rasmusson (Norway) arrived in Minsk on 14 September. The TAM assessed the pre-election preparations, the election campaign, and the role of the media, but did not observe the early voting, nor did it deploy observers on election day. Throughout the duration of the assessment, the OSCE Advisory and Monitoring Group (AMG) in Minsk, headed by Ambassador Hans-Georg Wieck, provided valuable support.

The OSCE/ODIHR Technical Assessment Mission wishes to express appreciation to the Presidential Administration, Ministry of Foreign Affairs and the Central Commission for Elections and National Referenda (CEC) for their assistance and cooperation during the course of the assessment.

III. BACKGROUND

The 15 October elections to the 110-seat House of Representatives were the first parliamentary elections in Belarus since the disputed referendum of 1996 and the subsequent constitutional controversy. They followed a year of intense domestic and international activity that sought to create the conditions for democratic elections.

Following commitments by President Lukashenko to hold democratic parliamentary elections in 2000, negotiations between the authorities and opposition to seek resolution to the constitutional controversy began in the autumn of 1999. The negotiations concentrated on access to the media for all political forces, the Electoral Code and the functions of the parliament to be elected. Initial optimism arising from the signing of an agreement on the opposition's access to the electronic State media proved unfounded when President Lukashenko subsequently revoked the agreement. No further negotiations took place and a new Electoral Code was adopted by Parliament in January 2000. In February, President Lukashenko announced the establishment of a "Public Political Dialogue". The OSCE did not consider this to be a substitute for direct talks between the government and key opposition parties. The latter chose to boycott the "Dialogue".

Following a meeting of European institutions in April 2000, the OSCE Parliamentary Assembly, the OSCE/ODIHR, the OSCE AMG, together with the Council of Europe, the European Parliament, and the Venice Commission agreed to a series of guidelines outlining improvements required. These focused on four key areas – improvement of the Electoral Code, access by the opposition to the mass media, establishment of meaningful functions of the parliament to be elected, and a "period of peace" in the run-up to the elections. These guidelines are included in Annex 2.

The Electoral Code was amended in June, improving some provisions. On 25 July, the OSCE/ODIHR published a comprehensive analysis of the amended Electoral Code, outlining remaining shortcomings.² In August, President Lukashenko announced a number of additional measures remedying a limited number of the shortcomings. Seven opposition parties decided to boycott the elections.

On 30 August, the OSCE Parliamentary Assembly, the OSCE/ODIHR, the OSCE AMG, the Council of Europe, the European Parliament, and the Inter-Parliamentary Assembly of the Commonwealth of Independent States met in Vienna to review the conditions for democratic elections in Belarus. They concluded that the Belarus authorities had not made enough progress to justify the presence of a full election observation mission. However, the conference concluded the improvements and changes that had been made in the legal framework of the elections justified the deployment of an OSCE/ODIHR Technical Assessment Mission (TAM), excluding any observation on election day. The conclusions of this conference are included in Annex 3.

² See "OSCE/ODIHR Assessment of the Electoral Code of the Republic of Belarus and of the Position of the Government of Belarus on the Electoral Code as Stated by the Central Election Commission of Belarus", 25 July 2000. The document can be obtained from the OSCE/ODIHR web site at [<http://www.osce.org/odihr/election/bela00-1-assessment.htm>].

IV. LEGAL FRAMEWORK

A. GENERAL OVERVIEW

The legal framework for the conduct of elections in Belarus is provided by the Constitution, the Electoral Code, decisions of the Central Election Commission and other laws governing campaign-related activities, notably the 1984 Administrative Code and the 1997 Law on Gatherings, Street Processions and Picketing. In addition, the 1991 Police Act that allows police officers to detain a person for three hours to ascertain identity is relevant.

The 1996 Constitution provides for the supremacy of the Republic's obligations under international law.³ Article 66 of the Constitution provides that: "Elections shall be free. A voter shall decide personally whether to take part in elections and for whom to vote. The preparation and conduct of elections shall be open and in public."

The Electoral Code adopted on 24 January 2000 fell short of OSCE commitments, in particular those contained in the 1990 Copenhagen Document. Despite the June 2000 amendments to include some positive provisions, particularly relating to observers, it failed to promote democratic elections. Many aspects of the Code were problematic, including:

- Failure to provide for multi-party or pluralistic representation on the Central Election Commission and other election commissions;
- Insufficient provisions ensuring transparency in the work of election commissions;
- Restrictive candidate registration procedures;
- Excessive regulation of campaign activities to such a degree that it stifles robust and vigorous campaigning and limits the right of free speech and expression; and
- Provisions for early and mobile voting that are too broad and that fail to guarantee the integrity of the process.

In addition, the legal framework was characterized by confusion created by contradictory legislation and a lack of mechanisms to solve the problems arising thereof.

B. CONFLICTS BETWEEN THE ELECTORAL CODE AND ADMINISTRATIVE LAW

Substantial legal uncertainty and tension arose as a result of conflict between the Electoral Code and various legislative provisions relating to public order offences. There was no effective mechanism to resolve this conflict which significantly restricted the fundamental freedoms of expression, assembly and association, and had an intimidatory and constraining effect on the campaign. The continuing use of Article 167(3) of the Code on Administrative Offenses to prosecute those who call for a boycott of elections when a similar provision in the Electoral Code had been repealed in June was a particular concern.

³ Belarus is a signatory to the International Covenant on Civil and Political Rights of 1966 (ICCPR); Article 25 provides basic safeguards for free elections. It is also noteworthy that Belarus has ratified the Optional Protocol of the ICCPR, according to which an individual can petition the Human Rights Committee in violation of rights contained in the ICCPR.

1. *Article 167(3) of the Administrative Code and the Electoral Code*

Article 45 of the Electoral Code states that it is an offence to call for a boycott on polling day, whereas the Administrative Code provides that this is an offence at any time.⁴ Defendants charged under Article 167(3) routinely referred to this article of the Electoral Code and also to the Law on Normative Acts, which provides that the later and the more specific of two laws (the Electoral Code) relating to the same subject should prevail. However, the courts neither responded to the arguments in question nor made judicial reference to the Law on Normative Acts.⁵

Furthermore, First Deputy Foreign Minister Sergei Martynov promised that the advocates of a boycott would be able to pursue their activities “safe and sound”.⁶ In spite of this guarantee, reinforced by promises from the Belarusian authorities in Minsk during subsequent meetings with the OSCE/ODIHR, more than 100 persons were charged for breaching Article 167(3) and related provisions during the pre-election period.

Further complicating the situation, on 9 October, a Law (No. 428) amended the Administrative Code to bring it in line with the Electoral Code. However the law would come into effect one month after publication. Though an important measure for future elections, it came too late for 15 October.

2. *Voter Meetings*

Article 1 of the Law on Gatherings, Meetings, Street Processions and Picketing, dated 30 December 1997, states that “...picketing means a public expression by a citizen or group of citizens of their social, political, group, personal or other interests or protest (without any marching), including hunger-strike, related to any problems, using or without using posters, transparencies or other facilities”. The Law also outlines a procedure for obtaining permission for such activities. Furthermore, Article 167(1) of the Administrative Code outlines penalties for violations of established regulations in this regard.⁷ In the case of repeat offences, possible fines range from 150 to 300 times the minimum wage and periods of imprisonment of 10 to 15 days.

However, the Electoral Code failed to define when a voter meeting may or may not constitute an unlicensed picket. Further, the Electoral Code fails to define whether it was necessary to obtain permission for a voter meeting from the executive authorities, or whether to inform the local police.

3. *Central Election Commission Decisions*

CEC decisions which are sufficiently general in application constitute normative acts which may be reviewed by the Constitutional Court if they are incompatible with the Constitution or with the law under which they are passed. However, there is no practical mechanism by which normative acts can be questioned. For example, the CEC passed a resolution on 11 September purporting to control independent media, despite only being able to direct the State media, according to the

⁴ A broad provision in Article 49 of the Electoral Code allowing a person to be prosecuted for calling for a boycott was amended in June to limit the prohibition against calls for boycott to election day.

⁵ The Sovietsky District Court acknowledged the need for clarification as regards to boycott provisions, whilst others simply applied the Administrative Code as opposed to the Electoral Code, without justifying.

⁶ Address to Third Technical Conference on the Belarus election, Vienna, 30 August.

⁷ In the form of fines ranging from 20 to 150 times the minimum wage, or administrative custody for a period of 3 to 15 days.

Electoral Code. While the CEC did not enforce the resolution, the absence of any mechanism to question the CEC resolution was troubling.

The same lack of mechanism to review normative acts also means that executive bodies can enter orders which cannot be challenged. An example is the 1999 Minsk Executive Committee decision which, in effect, varied the Administrative Code by according the police (as opposed to executive committee officials) the right to press charges in relation to boycott offences.

Under Article 116 of the Constitution, the Constitutional Court can review the Electoral Code, CEC decisions, the decision of the Minsk Executive Committee, and the conflict between the Electoral Code and the Administrative Code and Law on Gatherings. However, under Article 116 only the President, the House of Representatives, the Senate, the Supreme Court and the Cabinet of Ministers can refer cases to the Constitutional Court.

V. ELECTION ADMINISTRATION

Concerns about weaknesses in the Electoral Code, including its failure to ensure pluralistic commission membership, became manifest during its implementation in the pre-election period.

A. STRUCTURE AND COMPOSITION OF THE ELECTION ADMINISTRATION

In addition to the Central Commission for Elections and National Referenda (CEC), 110 District Election Commissions (DECs) and 6,693 Precinct Election Commissions (PECs) administered the elections.

Whilst the Electoral Code creates an illusion of plurality by providing for nomination of electoral commission members by a variety of parties, in reality the executive has made all appointments. Members are drawn predominantly from executive bodies and State-owned enterprises and are, in practice, subordinate to them.

Of the 330 DEC chairmen, deputy chairmen and secretaries, 86% occupied senior positions in executive bodies and State enterprises. In District No. 50, for example, the DEC Chairman was a Deputy of the Volkovysk City Executive Committee. The Chairman of the same executive committee was a candidate. Workplace lines of management were also often replicated in PEC membership. For instance, in District No. 37 (Gomel-Promyshlenny), 354 of the 373 PEC members had a subordinate employment relationship with the PEC chair or deputy chair.

On 11 September 2000, the President appointed (Decree No. 18) nine additional CEC members with consultative status only. These members were drawn from political parties participating in the elections, including one representative from each of the two opposition parties officially participating in the elections.⁸ This was a positive step towards a CEC composition reflecting the political spectrum and promoted transparency.

B. INTERFERENCE BY THE EXECUTIVE AUTHORITIES

The composition of election commissions predisposes them to work in the interest of the authorities. The Electoral Code provides that the executive authorities should provide "support" to the election commissions, but in fact their role was often more directive than supportive. Most

⁸ The Liberal Democratic Party and the Party of Communists Belaruskaya (Kalyakin).

election commissions were located in government executive offices. Undue intervention by the executive authorities was particularly in evidence during candidate registration and campaign activities.

In Grodno Oblast, for example, on 12 October the director of a State-owned enterprise wrote to the supervisors of his 2,000 employees on official Oblast Executive Committee stationery, urging 100% employee participation on election day and ordering them to report back to him personally no later than 10:00 on the day after the election. In Brest City, the local authorities required candidates to submit their platforms for pre-publication approval. In district No. 50 (Volkovysk), candidate Nina Pritulik alleged that the DEC chairman, Vladimir Zakharchyk, asked her on two occasions to withdraw from the election contest.

More indicative was President Lukashenko's address to the Congress of Soviets (local councils) on 29 September. During the address, he stated: "Some ill-wishers say that there is pressure from the side of authorities. It has never happened and never will. Each of my working days starts with the clarification of issues of the CEC. The head of the CEC reports directly to me about the kind of assistance that is needed."

C. REGISTRATION OF CANDIDATES

Provisions in the Electoral Code governing candidate registration were used to prevent legitimate candidates from participating in the elections.

Candidates could be nominated either by political parties or labour collectives, or through the collection of signatures from at least 1,000 supporters. In total, 768 candidates were nominated and 550 were registered by the DEC. Of the 218 who were refused registration, 146 appealed to the CEC. The CEC allowed 23 of the appellants to be registered. Of the 123 whose appeals were not allowed by the CEC, 85 appealed to the Supreme Court. The Supreme Court allowed only five of these appellants to be registered. Accordingly, 578 candidates were registered. Eleven subsequently withdrew, and one candidate had his registration cancelled.

Only 20% of candidates nominated by labour collectives and political parties were rejected, while approximately 50% of candidates proposed by means of signature petitions were rejected. Since opposition candidates (excluding those from the Party of Communists Belaruskaya (Kalyakin) and the Liberal Democratic Party) were primarily nominated through the collection of signatures, DEC rejected a higher percentage of opposition candidates.

Approximately half of the 578 registered candidates were nominated by nine political parties, seven of which are considered pro-government parties and two, the Party of Communists Belaruskaya (Kalyakin) and the Liberal Democratic Party, are generally considered opposition. A further seven parties took part in the "active boycott", though some of these (e.g. Belarusian Social Democratic Party - *Narodnaya Gramada*) allowed their members to stand as independent candidates. All together analysts agreed that between 20 and 30 of the registered candidates were opposition activists and another 150 were moderately critical of the authorities, including some 30 candidates supported by the Confederated Trade Union Movement.

Candidates' income and property declarations and the signature verification process were used to reject candidates. Requirements in the Electoral Code were applied arbitrarily and DEC were given a broad margin of latitude to deny registration.

All candidates were required to submit income and property declarations, and on this basis, some were refused registration for very minor reasons, including failure to declare a trailer or receipt of a sum equivalent to \$0.50. DEC's would verify information with the tax authorities, who were empowered to divulge details of a candidate's previous tax declarations. In effect, an undue degree of latitude was afforded to the tax and other State authorities to confirm inconsistencies and without the possibility of any effective challenge from the candidate in question.

The overly detailed declaration form seemed to serve little purpose other than to provide another tool for the authorities to reject undesirable candidates. For example, in District No. 16 (Stolin) in rural Brest oblast, candidate Alexander Ignatiuk was de-registered largely, but not exclusively, because of minor errors in the income and property declaration. The complaint that led to the de-registration was lodged by Ignatiuk's rival, incumbent deputy Ivan Pashkevich.

The failure of the Electoral Code and CEC instructions to define a uniform method for selection of a random sample of signatures for verification created scope for DEC's to examine signature lists for the highest concentration of errors for candidates known to be unsympathetic to the authorities. Moreover, in accordance with Article 67, registration can be denied on the basis of more than 15% of signatures verified that are deemed to be "inauthentic", regardless of the total number of signatures submitted. In court (and in the DEC and CEC), a graphologist's statement of *possible* "inauthenticity" was assumed to be valid proof.

The arbitrary nature of the candidate registration process was acknowledged by CEC chairwoman Lidia Yermoshina in a press conference on 18 September when she stated: "Election commissions tried their best to register the so-called meaningful figures by sometimes overlooking faults the latter made. The Election law is rather flexible as regards reasons for the rejection of candidates....."

The electoral appeals process was open to the public, thus improving transparency in this area. However, the CEC could not guarantee uniform application of the law on registration, as it did not receive from the DEC's all documentation and materials regarding nominees.

D. PROVISION FOR EARLY VOTING

The provision for early voting extended the election process over a six-day period. Any voter could vote during this period. No specific reason was required and early voting was strongly encouraged by the authorities.

The early voting process raised questions of security and transparency. First, only two PEC members were required to be present in the polling station. Second, ballot boxes were left unattended overnight. Third, candidates' proxies or domestic observers were unable to remain with the boxes throughout the six-day period. Fourth, the metal seals used by polling station commissions to secure ballot boxes were the same for all PEC's.

E. PROVISION FOR AGGREGATION OF THE RESULTS

Several elements in the vote count and aggregation process reduced transparency. First, the Electoral Code did not require that copies of polling station protocols with the signatures of PEC members be given immediately to candidates' proxies and observers. Second, the CEC did not issue a resolution instructing DEC's how to proceed if the figures in a PEC protocol did not tally. Third, neither the law nor a CEC resolution issued on 11 September, required that copies of DEC

aggregation tables with the signatures of DEC members be given to proxies and observers or that DEC members publish detailed aggregation data including all PEC figures. The possibility to challenge PEC or DEC protocols in court was therefore denied.

VI. ELECTION CAMPAIGN

The official campaign period began immediately after candidates were registered on 14 September. However, some candidates could only start their campaign after the Supreme Court accepted their appeals on 28 September.

Excessive restrictions were placed on campaign activities, limiting the right of expression and assembly. Within this restrictive context, however, registered candidates were able to present a variety of platforms, with candidates able to air their views during meetings and door-to-door campaigning.

Voter choice was also limited as a result of the exclusion of a large number of potential candidates opposed to the authorities and the decision by seven opposition parties to boycott the elections. Nonetheless, approximately five candidates stood in each constituency, offering voters a limited choice.

The Electoral Code prohibits campaign material from containing “insults or slander in relation to official persons of the Republic or other candidates” and allows prosecution for the spreading of “false data”. It also holds candidates liable for the action of their supporters. These provisions are vague and open the possibility for candidates to be punished for legitimate political discourse, robust campaigning, and actions of supporters outside their control. However, the CEC undertook no action following a statement of the President on State television on 22 September, calling former Prime Minister Mikhail Chigir and Nikolai Statkevich, leader of the Belarusian Social Democratic Party – *Narodnaya Gramada*, who were standing as candidates, “idiots and thieves”.

The spending limit on campaign materials was restricted to 50 times the minimum monthly wage, the equivalent of Belarusian Rubles 130,000 (\$130). In general, this fund was controlled by the DEC members. Since the average number of voters in each constituency is 70,000 and the fund could only cover the cost of some 10,000 leaflets, candidates struggled to run an effective campaign within the bounds of the law and there was little use of posters and other campaign literature. Under the circumstances, some candidates used general political party literature that did not contain candidate names or specific platforms, printed more materials than was legally permitted or deferred payment for materials to avoid a technical breach of the candidate expenditure limit.

The TAM received numerous complaints from candidates that their campaigning was hindered by heads of State institutions and enterprises who selectively allowed candidates to have access to their electorate. Last minute schedule changes, lack of advertising, or refusal of access gave certain candidates an advantage over others. Turnout at campaign meetings outside of the workplace or educational establishments was generally poor. As a result of an amendment to the Electoral Code in June, DEC members were required to “create conditions” for campaigning rather than only to “assist”. Some DEC members were more active than others in organizing campaign meetings. Most campaign activities centered on candidates or their proxies meeting with voters personally through campaigning door-to-door, organizing meetings themselves, or attempting to gain access to State institutions and enterprises.

While the Freedom Marches of 1 and 8 October organised by those advocating the boycott passed off without serious incident, a number of activists were charged with various offences, often several days after the marches in question. Less than half of the requests to hold marches in the regions were officially accepted by the authorities. In total, more than 100 advocates of the election boycott were charged under the provision of Article 167(3) of the Administrative Code and other boycott and unauthorized picket related offences. This could only have a chilling effect on the campaign environment as a whole.

VII. THE MEDIA

A. THE ENVIRONMENT

Only limited pluralism exists in the media. State-controlled media dominate both the electronic and print sectors. The independent media provides no effective counterbalance. Furthermore, centralization of control of the media under the Presidential administration constitutes a serious restriction to any independence of the State-owned media.

The format of the election campaign, especially on television, did not allow a genuine debate about political alternatives. The executive branch and the President dominated political communication. Opposition party leaders had no direct access to State-controlled media and were never given the opportunity to explain their position about the boycott to voters. Moreover, the State media covered the opposition with a consistently negative tone.

The election campaign on State-owned media is regulated by Articles 46, 47 and 49 of the Electoral Code, and the Mass Media Decree of the Central Election Commission.⁹ This decree reiterates the principle of equal and free access to media for every candidate. All candidates were offered five minutes of free broadcast time on State television and radio, and free advertising space (two typewritten pages) in one of the six main State newspapers. Paragraph 13 of the Decree purports to also control the election campaign in the private media, but according to Article 33(8) of the Electoral Code, the private media falls beyond the CEC powers.

State radio and television are the only media with a national reach. They are controlled by the Presidential administration, which appoints their managers. State television is mostly watched in rural areas, while Russian television stations (RTR, ORT, NTV) are mostly watched in urban areas. Due to very limited broadcast range, the private electronic media do not have a strong influence on public opinion. Independent radio is popular, but does not deal with political issues.¹⁰

There are 1,097 print media registered in Belarus. They show more pluralism, and provide space for a genuine political debate. However, with a combined circulation of approximately one-third of that of the State-owned press, the private media cannot effectively compete with government newspapers. In strictly controlling the system of distribution and licensing, the State makes it difficult for independent media to develop.

⁹ Decree of the Central Commission of the Republic of Belarus on Elections and Republican Referenda "On the Order of Usage of State-Owned Mass Media during Preparation and Holding of Elections of Deputies of the Chamber of Representatives of the National Assembly of the Republic of Belarus", 11 September 2000.

¹⁰ Radio Rock and Radio Alpha.

B. MEDIA MONITORING

The TAM monitored the main Belarusian media from 18 September to 14 October. Media coverage focused on governmental and presidential activities, reported positively by the State-run media and negatively by the independent/opposition media. The main issue was presented as the struggle between the opposition and the President. The opposition was almost always covered in a biased manner by the State media (e.g. by blaming the supporters of the Freedom March), but was more visible in the independent print media.

1. *Belarusian National Television*

A total of 405 hours (15 hours recorded daily) was monitored and analysed on Belarusian National Television, the State-owned broadcaster. Coverage of political issues amounted to 12% of total broadcast time. Of this, time dedicated to candidates comprised 30%, almost all concentrated in the programme "Elections 2000" devoted to the five minute presentation of candidate platforms. Independent candidates received 35% of the total time, followed by the "pro-government" candidates (27%), candidates nominated by labour collectives (16%), candidates from the Liberal Democratic Party 11%, and those nominated by the Party of Communists Belaruskaya (Kalyakin) 10%.

Other non-candidate political personalities received 70% of coverage, of which 50% was dedicated to presidential activities, especially in the prime time editions of news and current affairs programmes. Interviews with the President amounted to 56% of all interview time, more than all parliamentary candidates put together. In addition, his coverage was always positive (89%) or neutral (11%). Of the remaining time, "pro-government" subjects received 29% of mainly positive coverage (76%), while the opposition received 15% of the time almost exclusively negative in tone (95%).

Article 46 of the Electoral Code, that prohibits opinion polls, was infringed at least twice, on 5 and 9 October, in prime time television news when details of an opinion poll involving electoral matters were broadcast.

2. *Belarusian Radio Station Stolitsa*

A total of 324 hours (an average of 12 hours daily) was monitored and analysed on Belarusian Radio *Stolitsa*, the State-owned news and information station. Political matters constituted only 6% of the total monitored time. Coverage of candidates was limited to the five minutes for airtime granted by the law. In addition, the order of appearance of candidates was not clear, since the schedule issued by the DEC did not correspond to the actual schedule set by the radio station.

3. *The Press*

Eight pro-government and eight independent newspapers were monitored. Election coverage in the press was even more limited than in the electronic media. The total space devoted to politics was less than 6%, of which candidates received 19%. Independent candidates received the highest rate of attention - 38 % of State press coverage and 65% in the independent press.

In the State press, President Lukashenko received 65% of space, 80% of which was positive, followed by 24% for pro-government personalities, 78% of which was positive. In contrast, more than half of the opposition's 10% share of coverage was negative in tone. The opposition was

covered in a more balanced manner in the independent press, with 40% of the space for political coverage. President Lukashenko and pro-government actors received 24% and 27% of space, which was generally negative. Some candidates complained that their platforms were subject to censorship by the CEC and editors-in-chief prior to being printed. In some cases publication was refused on the basis of potentially libelous allegation.

In a letter dated 4 October, the Chair of the CEC, Mrs Lidya Yermoshina, writes to the Editor-in-Chief of *Orshanskaya*, a regional newspaper relating to a candidate, who had submitted his campaign platform to be published in the newspaper. In the letter, Mrs Yermoshina stated that “the platform can be published only if the author agrees to exclude points 1 and 4 from it or edit their content. The author’s claim [in point 1] about the ‘authoritarian regime’ in Belarus is groundless and contradicts the Constitution of Belarus”. In addition she writes, the claim in point 4 “about the so-called political persecution of mass media in Belarus is not true and should be considered far-fetched.” She also states that in the candidate platform “there are accusations against a public official of committing a crime which is not substantiated by facts and therefore can be regarded as libel.”

Harassment of the independent press was also evident. After a raid on 13 September on a leading independent publishing house (Magic Publishing House), the government charged owner and president Yuri Budko with violating Article 167(3) of the Administrative Code. During the raid, copies of the independent *Rabochy* newspaper, which advocated a boycott of the parliamentary elections, were seized. On 18 September, all charges were dropped against Budko. He reported that the government froze the firm’s bank accounts on 11 October, then threatened to seize his printing press two days later, allegedly to satisfy back taxes of the publishing house’s benefactor the Soros Foundation, which closed its offices in Belarus in 1997. Budko had encountered similar problems in the run-up to the 1996 referendum.

C. TREATMENT OF THE OPPOSITION

The opposition was often subjected to abuse on State media. The Belarusian Popular Front was compared to “Fascist collaborators” during the Second World War and characterised as a nationalist force supported by the Soros Foundation.¹¹ On 7 October, the leader of the Belarusian Popular Front, Zyanon Pazniak, was characterised as “a swine well fed up with Western food”. On 9 and 10 October, the prime time television news program “Panorama” reported that the Freedom March had been a failure and western money had been wasted. The journalist ended his report stating that the opposition would have needed western bombs, rather than western money, to subvert the existing political order. On 12 and 13 October in the programme “Puppets”, a journalist compared opposition leaders to the Nazis.

The opposition did not have direct access to electronic media and were never given the possibility to reply to the accusations and slanderous statements. However, two leaders of the opposition, Stanislav Shushkevich (Belarusian Social Democratic *Gramada*) and Alexander Dobrovolsky (United Civil Party) appeared on the Russian channel ORT during prime time television news during the week prior to the election day. They explained their reasons for the boycott and complained about their exclusion from the State media.

¹¹ From the program “Secret Spring of Politics”, broadcast by Belarusian National Television on 21 September.

D. VOTER EDUCATION POLICY

The CEC is obliged to inform the public about the electoral process through the State mass media. The CEC was often present in the media, explaining the voting procedures, announcing the main events of the electoral process (i.e. the date for the early voting) and encouraging people to participate in the election (to ensure the 50% minimum turnout requirement). Many of the CEC's interventions stressed the legitimacy and the fairness of the election. From the beginning of October, a large number of CEC spots were broadcast on the State electronic media, especially during prime time. In contrast, voter education in the print media was absent, but material was displayed on community notice boards and in polling stations.

VIII. DOMESTIC OBSERVERS

Seven domestic non-governmental organizations observed the elections jointly under the Central Coordination Council (CCC),¹² representing the first integrated domestic observation network in Belarus.

According to the CCC, 70 coordination centres were established countrywide, mainly in urban areas, and some 5,000 domestic observers were accredited. The CCC followed the election process from the announcement of elections and the formation of electoral commissions to the conclusion of elections. The CCC also presented 470 representatives for participation in electoral commissions, however only 20 were included.

A final report issued by the CCC analyses electoral data from 70 of the 110 constituencies. It documents governmental interference in the electoral process at all levels and concludes that the 50% voter turnout threshold required to validate the election in each constituency was not met in 34 constituencies, rather than 13 constituencies as announced by the CEC.

IX. INTERNATIONAL OBSERVERS

While the OSCE/ODIHR declined to observe the election day proceedings, some 150 international observers, including 74 from the Commonwealth of Independent States, observed the 15 October parliamentary elections. They were present in country for only 4 to 5 days. The OSCE/ODIHR was informed that the CEC had offered to pay, or had paid, the hotel expenses for some of these observers. On election day, the CEC distributed OSCE/ODIHR reporting forms to observers without prior authorization. The CEC also organized guided bus tours for some of the observers to visit polling stations. At the end of the process, the CEC gave these observers a prepared statement to sign, concluding, without supportive findings, that "...the parliamentary elections have become an important step in building democratic society in Belarus...[and]...considerable progress [has] been achieved in creating conditions for holding free and fair elections".

¹² The Republican Association of Voters, Belarus Helsinki Committee, Free Trade Unions, Sapiiega Foundation, Association of Democratic NGOs, Movement for Free and Democratic Elections, and Belarus Initiative.

X. ELECTION RESULTS

According to the Electoral Code, a candidate is elected if more than 50% of registered voters in a constituency cast their ballot, and the candidate receives more than 50% of votes cast. If no candidate reaches the latter threshold, but the 50% turnout is reached, a run-off election takes place between the two candidates who obtained the most votes. More than 25% of registered voters must take part in the run-off elections. If the 50% voter turnout threshold for the first round and 25% threshold for the second round are not met, then the entire election process, including the registration of candidates, is repeated in those constituencies.

According to the CEC, turnout on 15 October was higher than 50% in 97 of the 110 constituencies, and 41 deputies were elected. At the second round on 29 October, a further 56 deputies were elected. In 13 constituencies, the 50% turnout requirement was not met on 15 October and re-run elections will take place on 18 March.¹³

Of the 41 known opposition candidates nominated through the collection of signatures, 21 were refused registration. Of the 20 who were registered to take part in the election, none were elected during the first round. Only three were elected in the second round - Vladimir Novosyad and Yuri Morazov (former members of the United Civil Party) and Olga Abramova (Chair of Yabloko). One Liberal Democratic Party candidate, Aleksey Vaganov was also elected. Former Prime Minister Mikhail Chigir obtained enough votes to participate in the second round of voting, but withdrew before voting took place. In the constituencies where Nikolai Statkevich (leader of the Belarusian Social Democratic Party – *Narodnaya Gramada*), Sergei Kalyakin (leader of the Party of Communists Belaruskaya) and Sergei Gaidukevich (leader of the Liberal Democratic Party) were candidates, the 50% turnout threshold was not met during the first round of voting.

XI. RECOMMENDATIONS

These recommendations focus on the election law and media elements of the four criteria identified in the international community's recommendations regarding the possibility of democratic elections in Belarus (see Annex 2). Clearly, without a political will to improve the overall environment in which future elections take place in Belarus, technical improvements will have very little impact.

Interference by the executive in the pre-election process is another fundamental problem which undermined the independence and integrity of the courts, election administration and the State-owned media. The following recommendations serve to strengthen the legislative and administrative processes. However without a concurrent improvement of the pre-election environment, these proposed changes will have a negligible impact on the process.

A. LEGAL FRAMEWORK

1. All legislation related to elections, including all relevant public order legislation, should be amended to ensure harmonization with the Electoral Code. During the election period, the Electoral Code should prevail.

¹³ According to the CEC, the turnout at the first round was 61.08%, and during the second round 52%. These figures were disputed by domestic observers.

2. The Electoral Code should be amended to ensure multi-party and pluralistic representation on election commissions at all levels.
3. Vague provisions permitting the dismissal of a commission member for “commitment of actions discrediting the Commission” should be deleted.
4. Articles 129 through 152 of the Electoral Code and all provisions related to recall elections due to the early termination of mandates by voters should be deleted.
5. Article 116 of the Constitution should be amended to allow citizens to refer a case to the Constitutional Court. Article 112 of the Constitution should be amended to ensure that CEC decisions of general application may be challenged in court.
6. The voter turnout threshold for elections should be reduced to a more reasonable level (i.e. 25%) in the first round and eliminated from the second round.

B. ELECTION ADMINISTRATION

1. All CEC decisions should be public and available to interested parties immediately.
2. All important electoral documents should be published in a timely manner to allow for public inspection and examination at all levels of election administration. In particular, PECs should be obliged to submit protocols and copies signed by all PEC members to all proxies and observers immediately after its completion. The DEC should publish all data from the protocols of all the PECs in the constituency. This task should also be performed by the CEC for DEC protocols.
3. A uniform appeals process to the Supreme Court should be established for review of all decisions and actions of the CEC.¹⁴

C. CANDIDATE REGISTRATION

1. The candidate registration process should be more inclusive. A reasonable deposit (e.g. 50 times the minimum wage) could be introduced, refundable upon achievement of a reasonable percentage of the valid votes. Article 61 and all related provisions regarding signature requirements for candidate registration should be amended – a fixed number of valid signatures should be required to accept a candidate’s registration.

D. ELECTION CAMPAIGN

1. Restrictions on the freedom of expression should be abolished. In particular, Article 47 of the Electoral Code that prohibits campaign materials from containing “insults or slander in relation to official persons of the Republic of Belarus and other candidates” and Article 49 that allows a person to be prosecuted for spreading false information defaming a candidate and imposing liability on candidates for violations committed by supporters should be removed or considerably narrowed.

¹⁴ See “Resolving Election Disputes in the OSCE Area: Towards a Standard Election Dispute Monitoring System”, Warsaw, 12 July 2000.

2. Executive authorities should play no role, “logistical” or otherwise in the campaign of candidates.
3. Article 48 of the Electoral Code should be amended to include a transparent system for candidates to receive campaign contributions directly.
4. The content of candidates’ programs should not be subject to prior censorship. Candidates should be provided with the possibility of choosing, within the framework provided by the law, the modality of their presentation.

E. MEDIA

1. Articles 46 and 74 of the Electoral Code should be amended to introduce detailed rules and regulations requiring equal access to State media.
2. A neutral body should be established to monitor the media and control the implementation of laws concerning media.

F. VOTING PROCEDURES

1. Article 53 of the Electoral Code should be amended to (i) limit the potential for early voting to a prior request based on justified reasons of inability to travel to a polling station, and (ii) to ensure that the mobile voting process is fully transparent. Both early and mobile voting should be regulated strictly.
2. Article 4 of the Electoral Code should be amended to specify that persons detained but not yet convicted should be allowed to vote.
3. The notion of voting “against all candidates” should be removed.

G. OBSERVERS

1. The Electoral Code should be amended or regulations should be introduced to include (i) remedies for international and domestic observers in the event that their rights are denied during the course of observation, (ii) a requirement that international and domestic observers be provided with a certified copy of official results at all levels upon request, and (iii) a requirement that international and domestic observers be granted full access to military voting and other restricted areas where voting takes place.

ANNEX 1

Report by the Parliamentary Troika on the political situation in Belarus in the light of the parliamentary elections of October 15th

16 October 2000

The Parliamentary Troika, composed of the European Parliament and the Parliamentary Assemblies of the OSCE and the Council of Europe, visited Belarus from 12 – 16 October 2000. This visit took place as part of the continuing endeavours of the three institutions to encourage the development and consolidation of the democratic process in Belarus. The delegation is composed of Mr Adrian Severin, President of the OSCE Parliamentary Assembly, Mr Jan Marinus Wiersma, Chairman of the European Parliament delegation for relations with Belarus and Mr Wolfgang Behrendt, Rapporteur on Belarus of the Council of Europe's Parliamentary Assembly. Other members of the European Parliament and the OSCE Parliamentary Assembly also were part of the delegation.

The Criteria for Free and Democratic Elections

Four criteria were established as benchmarks against which the conduct of these elections were to be judged if they were to be considered as free and democratic, and which would provide the basis for further democratic reform in the country. These criteria were:

- the establishment of a democratic electoral code, guaranteeing full transparency of the electoral process in all respects and in the work and composition of the election commissions at local, district and national level;
- satisfactory procedures for the access of all political parties to the mass media, especially the electronic media;
- the establishment of meaningful powers for the new Parliament; and
- the observance of a 'peace period' for the development of minimum trust and confidence during the run-up to the elections (cessation of political intimidation and threats of court proceedings, no harassment by police and security forces of opposition supporters).

The Mandate of the Third Technical Conference, Vienna

The third Technical Conference of the European Institutions on the parliamentary elections in Belarus, which took place in Vienna on 30 August 2000, concluded that although progress had been made it was still insufficient to meet recognised international principles.

The Parliamentary Troika was invited by the Vienna Technical Conference to continue its consultative and monitoring functions on the occasion of the parliamentary elections and to act as observer in its institutional capacity to the extent which would enable it to formulate an objective assessment of the election process.

The Parliamentary Troika was also asked to evaluate the conduct of the elections and subsequent developments, in particular with regard to the functions of the new parliament, the respect for human rights, and the strengthening of the rule of law.

The Technical Conference was of the opinion that changes to the framework for the parliamentary election justified the creation of a technical assessment mission to be organised and deployed by ODIHR in close cooperation with the OSCE Advisory and Monitoring Group already present in Belarus.

The presence of the Parliamentary Troika and the ODIHR mission in Belarus on the occasion of the parliamentary elections does not constitute an act of international recognition of the democratic character nor of the outcome of the parliamentary election process. It had already been pointed out on earlier occasions that insufficient progress had been made on the four criteria to recognise these elections to be free and democratic. As a result it was decided not to organise a regular international observation mission.

Findings of the ODIHR Technical Assessment Mission

The Parliamentary Troika took note of the following Technical Assessment Mission findings presented by OSCE/ODIHR.

"The 15 October parliamentary elections process in Belarus failed to meet international standards for democratic elections, including those formulated in the 1990 Copenhagen Document of the OSCE. In particular, these elections fell short of meeting the minimum commitments for free, fair, equal, accountable, and transparent elections. Despite some improvements since previous elections, the process remained flawed.

The OSCE/ODIHR deployed only a Technical Assessment Mission (TAM) for these elections on the basis of the 30 August Technical Conference decision in Vienna. As a result of provisions for early voting, mobile ballot boxes, the vote count and aggregation of results falling far short of minimum transparency requirements for an independent verification, the OSCE/ODIHR declined to deploy observers on election day. Even in the best of circumstances, election-day proceedings could not remedy these fundamental shortcomings.

Other factors contributing to the failure of these elections to meet international standards include:

- The electoral legislation, adopted in early 2000 and amended in June, while improved, still includes substantial and fundamental deficiencies.
- Nonetheless, this law could have been implemented in an inclusive manner to provide a more democratic process, but the following problems were manifest:
 1. The executive apparatus maintained control on election commissions.
 2. Candidate registration procedures were abused to prevent undesirable candidates from participating in the elections, limiting voters' choice.
 3. Campaign activities were regulated excessively, limiting candidate performance.
- Other laws also significantly restricted the fundamental freedoms of expression, assembly and association, and had an intimidatory and constraining effect on the campaign. Of particular concern has been the continuing use of Article 167(3) of the Code on Administrative Offenses to prosecute those who call for a boycott of elections when a similar provision in the Electoral Code was repealed in June. As a result, the authorities' agreement to respect a "period of peace" during the electoral campaign was not fulfilled. On the eve of election-day, Article 167(3) of the Administrative Code was amended, but effective late October. Although, an important measure for future elections, it came too late for 15 October.
- Insufficient respect for the rule of law and due process of law, together with observed instances of the executive interfering with the independence of the judiciary, created an uncertain legal

environment characterized by arbitrary implementation of laws. Consequently, electoral disputes, including those relating to controversial decisions of election commissions, were not resolved satisfactorily.

- Heavily biased State-controlled media dominated the electronic and print sectors, and no effective counterbalance was provided by the independent media. In the end, candidates had very limited access to the media. The provision of five minutes free air time on national television to all candidates on an equal basis, while a positive development over past elections, was not sufficient to inform voters of the choices available and its format was deficient.

These shortcomings remained despite measures undertaken by the authorities during the summer in an attempt to improve the electoral process, including amendments to the new electoral legislation and measures proposed by the President. The most notable improvements over previous elections include:

- The electoral appeals process was opened to the public, thus improving transparency in this area.
- Independent domestic observers worked within an improved regulatory framework, and this promoted the transparency of the electoral process.
- The appointment of representatives from some political parties participating in the election as consultative and non-voting members of the Central Election Commission represented a welcome step towards greater pluralism and transparency.
- The opportunity for some leading opposition figures to continue advocating a boycott without being subject to prosecution, including on the eve of polling, or to take part in the elections as candidates, and their ability to campaign and to criticize the authorities was constructive.
- Another improvement was the revocation of a requirement that political parties must be registered at the regional level in addition to the national in order to field candidates in the constituencies.

The OSCE/ODIHR stands ready to continue the dialogue with the authorities of Belarus with a view to addressing the concerns contained in this statement and forthcoming presidential election.

While the OSCE/ODIHR declined to observe the election-day proceedings, the CEC accredited 194 international observers. The CEC coordination of these international observers' activities, in particular their guided visits to polling stations, compromised the credibility of their findings. Unrelated to the CEC, representatives of the Parliamentary Troika of the OSCE, the Council of Europe and the European Parliament visited Minsk around 15 October to prepare a political assessment."

The full text of the Mission's statement is attached.

The emerging mood for change

On the basis of reports received from independent surveys, from ODIHR and the AMG, as well as on the basis of discussion with the Central Coordination Council and other interlocutors from the government and opposition, the Troika realises that a significant proportion of voters in Belarus want change in political, economic and social terms. It would therefore appear that a large proportion of the population wants to restore the powers of the parliament, to give the political parties access to the state run media and to establish the rule of law, in particular to stop the prosecution of political opponents.

Such trends also appear to exist in the growing support for the market economy, privatisation and the trade union movement, and this constitutes further evidence of the desire for political change in the country, changes which will have to be taken into account by the political structures on both sides. The important role played by domestic observers during these elections, and the development of non-governmental organizations is also a source of satisfaction. At the moment, these emerging trends within civil society are not reflected in the state run mass media which is geared to support the ruling power structure, nor in the strategies of the political forces.

Conclusions of the Parliamentary Troika

Both during this mission and on previous missions the Parliamentary Troika has held meetings and discussed developments with all interested parties to the democratisation process. The Troika welcomes the fact that efforts were made by the authorities to satisfy the democratic demands of the European Institutions, but it considers that insufficient progress was achieved to satisfy the four criteria. It regrets that the Belarus authorities were, in the end, unable to use the window of opportunity offered by the organisation of these parliamentary elections to make satisfactory progress. The Parliamentary Troika also regrets that the Belarusian authorities did not recognise the desire for democratic change expressed by significant parts of the Belarus population.

By the same token, the Parliamentary Troika understands the decisions of those opposition figures who chose to boycott the elections. We respect the courage of those who chose to participate in the elections in spite of the unsatisfactory conditions, and regret that the democratic opposition was unable to remain united. We would urge all true democratic forces to establish a common and credible strategy which offers a real choice to the people of Belarus.

Under such circumstances, the Parliamentary Troika can only recommend, at this stage, that a decision concerning the normalisation of relations with the relevant institutions in Belarus should be taken at a later stage on the basis of progress made on the 'four criteria' including the democratic practices of the parliamentary entity which emerges from this election.

The Parliamentary Troika urges the Belarus authorities to comply with these criteria well in advance of next year's presidential elections and in particular to take immediate steps to establish meaningful powers and competences of the parliament.

The work of the Parliamentary Troika is guided by the conviction that the still existing constitutional controversy can only be overcome by establishing truly pluralistic and democratic institutions in Belarus. In this framework the Troika calls on all political forces in the country to unite in a joint commitment to a meaningful dialogue which will end the internal divisions and the international isolation of the country.

In line with its mandate, the Parliamentary Troika will continue in the future to offer its support, and the support of the institutions it represents, to the strengthening of the democratic process in Belarus that will lead to the normalisation of the country's relations with the Council of Europe, the European Parliament, and the OSCE and will thus increase peace and stability in the whole of Europe.

ANNEX 2

Position Paper of the Technical Conference held under OSCE Chairmanship on 7 April 2000 regarding guidelines for international observation of the Parliamentary Elections in Belarus in the Fall of 2000

I. Introduction

The following organisations and institutions took part in the 7 April 2000 Technical Conference:

- OSCE Chairman-in Office
- OSCE Secretary General
- OSCE Advisory and Monitoring Group in Belarus
- OSCE Office for Democratic Institutions and Human Rights
- OSCE Parliamentary Assembly, Secretariat
- Belarus ad hoc Working Group of the OSCE Parliamentary Assembly
- European Parliament
- European Commission
- Council of Europe
- International Foundation for Election Systems (IFES)

The decision on the implementation of international observation will be made in the light of the legislative framework, conditions for political parties, the functions of the parliament to be elected and the prevailing human rights record of the country that needs to be improved by way of meaningful confidence building measures.

II. Political and Other Guidelines

Among others these are important criteria:

Functions of Parliament

- Expansion of the functions of the current chamber of representatives to exercise control over the government, budget and its own rules of procedures.

Campaign Environment

- A campaign environment in which neither interference by the executive authorities, nor intimidation prevents parties and candidates from freely presenting their views.
- No harassment, persecution or prosecution of political opponents for political reasons.
- Respect for freedom of association - the right of individuals and groups to establish political parties and non-governmental organisations.

- Guarantee that authorities will address requests to hold campaign rallies in a timely manner. If requests are denied, reasons must be stated and opportunity to appeal the decision provided.
- Respect for international standards by law enforcement personnel during public assemblies.

Media

- Access of political parties to state controlled mass media along the lines of agreements reached between the government and opposition in October/November 1999 and in line with international standards.
- Discontinuation of discriminatory measures such as unwarranted tax inspections, searches, pressure on journalist and editors against independent media, which is also suffering from unfair economic competition with the highly subsidised state run media;

Candidate Registration

- Local registration of candidates from political parties that are registered on the national level, irrespective of the registration of local or regional chapters in the constituencies;

Election Complaints

- Effective complaint mechanisms against administrative actions and decisions.

III. Guidelines regarding the Adopted Electoral Code of Belarus

(Following the 7 April Technical Conference in Vienna, the Venice Commission of the Council of Europe has also agreed to the following guidelines)

The Electoral Code of the Republic of Belarus – as adopted on February 15, 2000 without prior political dialogue with the Advisory Council of the opposition parties – fails to meet minimum international standards. The following changes – which do not address the question of referenda – should be made.

Election Commissions

- Amendment of various articles to ensure multi-party or pluralistic representation on election commissions at all levels.
- Deletion of the vague provisions permitting dismissal of a commission member for ‘commitment of actions discrediting the Commission’.
- Establishment of a uniform appeals process to the Supreme Court for review of all decisions and actions of the Central Election Commission.

Guarantees of Transparency

- Inclusion in Article 13 of the term ‘domestic observers’ and remedies for observers in the event that their rights are denied during the course of observation.
- Inclusion of requirement that important electoral documents, including lists of voters, be published (publicly posted, printed in newspapers etc.) in a timely manner to allow for public inspection and examination, at all levels of election administration.
- Inclusion of requirement that international and domestic observers be provided with a certified copy of official results, at all levels, upon request.
- Inclusion of requirement that international and domestic observers be granted full access to military voting and other restricted areas where voting takes place.

Campaign and Media Regulations

- Removal or acceptable redefinition of provisions in Article 47 that prohibit campaign materials from containing ‘insults or slander in relation to official persons of the Republic of Belarus and other candidates’, and Article 49 that allows a person to be prosecuted for spreading false data defaming a candidate and imposes liability on candidates for violations committed by supporters.
- Amendment of Article 48 to allow for contributions directly to parties and candidates and require that the sources of such financial support be disclosed.
- Amendment of Article 49 to delete the provision that allows a person who publicly appeals for boycott to be prosecuted.
- Amendment of Articles 46 and 74 to introduce detailed rules and regulations requiring equal access to state media and ensure that the Code is fully in line with Paragraph 7.8 of the Copenhagen Document, which deals with freedom of media.

Candidate Registration

- Amendment of Article 61 and all related provisions regarding signature requirements - a fixed number of valid signatures should be required to accept a candidate’s registration.

Recall Elections

- Deletion of Articles 129 through 152 of the Code and all provisions related to recall elections due to the early termination of mandates by voters.

Voting Procedures

- Amendment of Article 53 to
 - a) limit the potential for early voting to a prior request for justified reasons of inability to travel to a polling station;
 - b) include a requirement of official confirmation of causes for a voter to require use of the mobile ballot box;
 - c) include wording to ensure that the mobile voting process is fully transparent.
- Amendment of Article 4 to specify that persons detained but not yet convicted should be allowed to vote.
- Provide for safe storage of the voting material after election day.

In view of the current political situation, the authorities of Belarus are encouraged to change the election system to a mixed proportional representation/majority system and that, if a two round system is maintained, the turnout threshold for elections be reduced to 25% in the first round and nothing in the second round. Moreover, the legal framework should be reviewed to permit a more effective participation of political parties in the election process, in particular their leading role in proposing candidates for elected office, the free and equitable access to state run media, the freedom of expression and meeting, and the right to organise a meaningful campaign.

ANNEX 3

Third Technical Conference on Parliamentary Elections in Belarus under the Chairmanship of the OSCE Vienna, August 30, 2000

Conclusions and Recommendations

The Third Technical Conference reviewed the conditions for democratic parliamentary elections in Belarus and received reports from the Government of Belarus and from representatives of the Advisory Council and other opposition parties. In light of these statements and on the basis of the assessments made by the OSCE-AMG, the Parliamentary Troika and the ODIHR **the following recommendations for the participating institutions were adopted:**

1. Concerted international endeavours – in particular by the OSCE-AMG, the Parliamentary Troika of the European Parliament, and the Parliamentary Assemblies of the Council of Europe and the OSCE, the CIS, the Interparliamentary Assembly of the CIS, and specific initiatives by the High Representative for the Common Foreign and Security Policy of the European Union, by the Chairperson-in-Office of the OSCE, and by separate visits of Political Directors of the European Union and of the OSCE – underline the continued political interest in assisting Belarus to rejoin democracies in Europe.
2. Progress has been made in the four major fields relating to the organisation of democratic elections that constituted the main topics of international consultation, but this still falls short of the internationally agreed criteria.
3. Whilst the legal framework for the elections has been improved, the other framework guidelines – access to the media, functions of parliament, peace period as discussed in the Position Paper of the Technical Conferences dated May 21 2000 – have not so far been changed to the extent that overall conditions could at this point be qualified as satisfactory.
4. However, the changes to the framework for the parliamentary election do justify a technical assessment mission to be organised and deployed by ODIHR in close cooperation with AMG.
5. The ODIHR technical assessment mission will include the deployment of election experts for a period of around four weeks.
6. In light of the experience and respect that representatives of the Parliamentary Assemblies of the OSCE and the Council of Europe, and European Parliament – acting as the Parliamentary Troika – have gained in the past due to their political involvement in the democratization process, the Conference has invited them to continue their consultative and monitoring functions on the occasion of the forthcoming parliamentary elections. The Parliamentary Troika should also act as observers in their institutional capacity to the extent which enables them to make an objective assessment of the election process. It will closely coordinate with the OSCE-AMG, ODIHR and with domestic observers.

7. The Conference invites the Parliamentary Troika, the ODIHR and the OSCE-AMG to evaluate the conduct of the elections and subsequent developments, in particular with regard to the functions of the new parliament, the respect for human rights, and the strengthening of the rule of law.
8. The presence of the Parliamentary Troika and the ODIHR technical assessment mission emphasizes the political significance that Europe attaches to the development and consolidation of democracy in Belarus. Their presence in Belarus on the occasion of the parliamentary elections does not constitute an act of international recognition of the democratic character and outcome of the parliamentary election process.
9. This recommendation is guided by the conviction that the constitutional controversy that arose in November 1996 can only be overcome by peaceful means, negotiations and democratic elections.
10. The recommendations may be reviewed in the case of improvement or deterioration of the situation in Belarus.
11. The delegations of CIS and the Interparliamentary Assembly of the CIS do not associate themselves with paragraph eight (8).