



**Election of the President of Belarus 2010:
Weekly Analytical Review (November 8-14)**

GENERAL CONCLUSIONS

1. The Central Election Commission (CEC) has agreed with the proposal of the campaign of the partisan observation "For Fair Elections", and with a number of nominees for the status of presidential candidate (Ryhor Kastusyou, Ales Mikhalevich, Uladzimir Nyaklyaeu, Vital Rymasheuski and Yaraslau Ramanchuk) concerning the inclusion of a provision into the Methodological Recommendations on Election Organization about "providing observers with a real possibility to execute their monitoring in the conditions, which guarantee good visibility of the vote count procedure." Besides, the CEC has allowed the governing bodies of political parties and republic's public associations to send their observers to election commissions of all levels (as it was in 2001 and 2006, but was not allowed by the September Decision of the CEC No. 49).

2. At the same time, the CEC has rejected other proposals of the above candidates and the campaign "For Fair Elections" aimed at better transparency and fairness of the election process – formation of precinct election commissions (PECs) first of all from activists of political parties; holding television debates on candidates live on air; detailed description of the vote count procedure; protection of ballot papers against forgery; and others. In the opinion of the campaign "Human Rights Defenders for Free Elections", the unwillingness of the CEC to adopt these proposals has almost completely devalued the positive changes in conditions for observation.

3. Out of 85 complaints against non-inclusion of 413 persons into PECs, the courts have rejected 83 (2 complaints remain unconsidered). The courts have ignored arguments about discriminatory attitude of executive committees to representatives of opposition political parties and justified their refusals by the fact that all the formal procedures of forming PECs had been observed.

4. The observers of the campaign "Human Rights Defenders for Free Elections" report an increased number of incidents of direct and indirect pressure on members of initiative groups of certain candidates and activists of the independent civil society.

5. The state-owned mass media continue paying more attention to the forthcoming Fourth All-Belarusian People's Assembly than to the election; they keep publishing the results of a sociological poll, where the authors assert that over 80 percent of voters do not believe in victory of opposition candidates and do not trust them.

I. CONSIDERATION BY THE CEC OF PROPOSALS ON IMPROVEMENT OF ELECTION PROCESS

On November 5, the Central Election Commission (CEC) made several decisions pertaining to the election process.

Decision No. 93 concerns the review of six draft resolutions of CEC Decisions, offered by the campaign of partisan observation "For Fair Elections" and five nominees for presidential candidates (Ryhor Kastusyou, Ales Mikhalevich, Uladzimir Nyaklyaeu, Vital Rymasheuski and Yaraslau Ramanchuk). These drafts concerned the following:

- Formation of Precinct Election Commissions (PECs) mainly from representatives of political parties;
- Possibility for all presidential candidates to take part at the same time in all meetings with voters, regardless of who organizes these meetings;
- Additional explanation of the procedure of using state-owned media (guarantees of television debate of candidates live on air);
- Guaranteed opportunity for observers to take such positions in the process of vote count, from where they could see the content of ballot papers;
- Clarification of the procedure of vote count;
- Protection of ballot papers against counterfeiting (watermarks, serial numbers and/or holograms).

All the proposals, except one, were rejected by the CEC on the basis of point 3, Article 33, of the Electoral Code (EC). According to the refusal, which was issued in the form of Decision 93, the CEC has the right to give explanations only to those provisions, which are contained in the EC. At the same time, the CEC has "no right to interpret provisions of the EC and set up new ones."

In this context, it should be noted that some proposals concerned issues not regulated by the Electoral Code. For example, its Article 55 has no provisions concerning any procedure for the members of election commissions on how to count votes. Earlier, Lidziya Yarmoshina, Chair of the CEC, had repeatedly stated that every precinct election commission (PEC) should independently decide what method to use for vote counting. However, no specific explanations could be found in the Methodological Recommendations on Organization and Holding the Elections on this point. According to experts of the campaign "Human Rights Defenders for Free Elections", explanation of the procedures for vote counting is entirely within the competence of the CEC and, together with application of additional measures to protect ballot papers from forgery (watermarks, serial numbers and/or holograms), would significantly increase the transparency of the election process.

The CEC has agreed with only one of these proposals - providing the opportunity for observers to take such positions in the process of vote count, from where they could see the content of ballot papers. According to the CEC's Decision No. 95, this is the wording of the paragraph to be added to the Methodological Recommendations. It should be noted here that in

the absence of clearly worded procedures for counting ballot papers by PECs, it is not possible to ensure a proper monitoring of the count.

The CEC has also satisfied the complaint of the Belarusian Helsinki Committee, which was filed within the campaign "Human Rights Defenders for Fair Elections" against CEC's Decision No. 49 of September 15, according to which the governing bodies of political parties and republic's (nationwide) public associations were deprived of the opportunity to send their observers to sittings of territorial election commissions (TECs) and to polling stations. As a result (CEC's Decision No. 94), the governing bodies of political parties and nationwide public associations now have the right to send their observers to the election commissions of all levels. Thus, the CEC took off the groundless restriction and returned to the practice of observation, which existed during the 2001 and 2006 presidential elections.

II. COMPLAINTS AND APPEALS RELATED TO PEC FORMATION

According to the lawyers of the campaign "Human Rights Defenders for Free Elections", in total 85 complaints had been filed against decisions of executive committees on formation of PECs. The complaints dealt with illegality and invalidity of non-inclusion of 413 persons into PECs. The complaints were filed mainly by political parties (more than 35 percent were the complaints filed by the Belarusian Left-Wing Party (BLWP) "Fair World", about 30 percent – by the United Civil Party (UCP), and about 15 percent – by the Party of the Belarusian National Front (BNF)). There were also complaints filed by groups of voters (in Brest, Vitebsk and other cities).

As of November 12, 83 complaints had been considered – all of them were rejected. The remaining two complaints, filed on November 5 by the Homel Regional Organization of the BLWP "Fair World" to the courts of the Chygunachny and Tsentralny Districts of Homel, remain unconsidered hitherto, despite the fact that under Article 34 of the Electoral Code they should have been considered before November 8.

In all the cases the courts resorted to studying the procedure of decision-making in PEC formation: whether commissions had been formed by competent authorities; whether the quorum was observed; whether the sittings of executive committees had been held within the terms as defined by the EC, etc. Most of the court rulings state that PECs had been formed in strict accordance with Article 34 of the EC, since commissions included one third of representatives of parties and public associations and included no judges, prosecutors and heads of local executive and administrative bodies.

In most cases complaints dealt not with violations of the procedure of PEC forming but with discriminatory approach to members of opposition parties and public associations. The latter in most cases had experience of work in election commissions of different levels, but they were not included into PECs. At the same time, for example, PECs comprise many representatives of the Belarusian Republic's Youth Union, who have no such experience.

The arguments of the applicants about discriminatory nature of the decision on PEC formation were ignored by the courts. Moreover, in some cases they were not even investigated. None of the 83 court rulings mentions the fact that the considered complaints had to do with discrimination of candidates from certain political parties and public associations.

Quite illustrative is the decision of the Tsentralny District Court in Minsk of November 6 passed on the complaint of the Minsk city organization of the Belarusian Social Democratic Party (Hramada) against the actions of the district administration at forming the PEC. The court's ruling says that "assessment of the motives of inclusion or non-inclusion of particular nominees of parties and public associations into commissions is outside the competence of the court." The court of the Baranavichy District and the city of Baranavichy (Brest Region) stated in its decision of November 9 on the complaint filed by the Baranavichy City Organization the F. Skaryna Society of the Belarusian Language on discriminatory approach to its nominees at forming the PEC that "in accordance with the Election Code, the court does not discuss any superiority of one candidate over some other."

The lawyers of the campaign "Human Rights Defenders for Free Elections" note cases when decisions on different complaints were virtually identical, although were considered by different courts. Thus, there is obvious similarity in the wording and structure of the decision of the Kastychnitski District Court of Vitsebsk on the complaint of the Vitsebsk Regional Organizations of the BLWP "Fair World" and the decision of the Pershamaiski District Court of Vitsebsk on another complaint of the same Party, despite the fact that both decisions were passed on one day, November 9. It is fairly safe to assume that the templates of court decisions on complaints about non-inclusion into PECs had been prepared well in advance.

III. PRESSURE ON PARTICIPANTS OF ELECTION CAMPAIGN

The observers of the campaign "Human Rights Defenders for Free Elections" note an increase in the number of incidents related to direct and indirect pressure on members of initiative groups of individual candidates and activists of the independent civil society.

Thus, for example, on November 3, Uladzimir Kumets, a member of the initiative group of Nyaklyaeu and a 5th year student of the correspondence department of the International Humanities and Economics Institute (Minsk), was expelled from the Institute with the official version "for systematic absenteeism and poor academic results." The claim prepared by lawyers of the campaign "Human Rights Defenders for Free Elections" and lodged to the Lenin District Court of Minsk says that earlier Kumets had never been brought to disciplinary responsibility for absenteeism at lessons. The claim also asserted that as of October 6, 2010 (the last day of the examination session), all the examinations and tests had been successfully passed by Kumets. This was confirmed by a certificate signed by the dean of the department and his student's achievement sheet. In his claim to the court Kumets asked to restore him as a 5th year student of the International Humanities and Economics Institute, as well as to recognize the order of the Rector of this Institute as unlawful and discriminatory on political grounds.

On November 10, the decision of the Economic Court of Minsk on liquidation of the legal entity named "Movement Forward" came into effect. The Appeal Panel of the Court dismissed the complaint lodged by the entity against the Court's decision to liquidate it. The official reason for liquidation was invalidity of the agreement with the lessor, and, accordingly, absence of legal address. It is worth recalling that it was the entity "Movement Forward", which had officially initiated the campaign "Say the Truth", where Nyaklyaeu – one of the contenders for presidential candidate – is the leader.

Experts of the campaign "Human Rights Defenders for Free Elections" believe that with the liquidation of the entity "Movement Forward" the leaders and activists of the campaign are under threat of criminal prosecution for carrying out activities on behalf of a non-registered organization under Article 193.1 of the Criminal Code. Despite the fact that over the past two years the authorities did not use this Article, its very presence in the Criminal Code is still a risk of using it, especially during elections.

IV. MASS MEDIA

For the state-run mass media the election is still a minor event. Only brief official reports of the BelTA (Official State Information Agency) related to the election are replicated.

For the first time during the whole election campaign, the regional print media gave the list of persons who may become presidential candidates. Publications on socio-political topics are dominated by preparation for the All-Belarusian Assembly and nomination of delegates thereto.

Most of the regional state-owned newspapers printed the BelTA material "Opposition Candidate Has No Chances to Win Presidential Election in Belarus – Sociological Poll". The article presents the data of a sociological polling conducted by the Analytical Centre EcooM (in October 2010). According to EcooM, 81 percent of respondents believe that the opposition cannot win the election and there are no worthy candidates among them; while 82.6 percent of the respondents do not trust the opposition.

The aim of the campaign "Human Rights Defenders for Free Elections" is observation of the election of the President of the Republic of Belarus, assessment of the election process from the viewpoint of Belarusian electoral legislation and international standards of free and democratic elections, and keeping the Belarusian public and international community duly informed about our conclusions. The campaign is independent and politically non-engaged. More information about the campaign may be found in the websites of the Human Rights Centre "Viasna" (<http://spring96.org>) and Belarusian Helsinki Committee (<http://www.belhelcom.org>).