



## **Human Rights Defenders – for Free Elections!**

5 November 2010

### **Election of the President of Belarus 2010: Preliminary Report on Monitoring Formation of Precinct Election Commissions**

#### GENERAL CONCLUSIONS

1. November 3 was the deadline for forming precinct election commissions (PECs) – one of the key mechanisms of the election process, directly in charge of organizing the voting and vote count.

2. Certain positive features introduced into the electoral legislation in December 2010<sup>1</sup> did not change the essence of the PEC formation process: absolute control by local executive committees, which are elements of the "power vertical" of the incumbent president.

3. Among 84,084 candidates nominated to 6,346 PECs by political parties, public associations, labour collectives and citizen groups, only 1,073 persons were nominated by opposition political parties. The remaining candidates were nominated under the control of local authorities, who defined respective "quotas" for state enterprises and organizations and approved the offered candidates well before the end of the nomination process.

4. The sittings of executive committees and local administrations where PECs were formed (held on November 1-3) were relatively open to observers, but were extremely formal. In most cases they just approved – very quickly and on a non-alternative basis – the lists of commission members, prepared before the sittings in a closed manner.

5. The discriminatory attitude of executive committees to candidates from opposition parties was obvious; out of 1,073 candidates to PECs from these parties only 183 persons, or 17.1 percent, became commission members. At the same time the average "passing rate" of other candidates was 84.3 percent (70,815 members out of 84,024 candidates); the figure for the parties loyal to the authorities was 87.7 percent (1586 out of 1808), while with the candidates from 4 major pro-governmental public associations and 1 trade union the figure was 93.2 percent (23,689 persons out of 25,419 candidates became PEC members).

6. As a result, the nominees of opposition parties make up only 0.25 percent of the total PEC members and will work in less than 3 percent of them. This deprives them of any

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<sup>1</sup> Restriction on the number of state servants as members of commissions, the guarantee of inclusion into commissions of at least one third of representatives of political parties and public associations, and a possibility to challenge the decisions on formation of commissions in court.

effective opportunity to influence the work of commissions, and accordingly, the key point of the election process – voting and the vote count.

7. Most of the members of the newly formed PECs had at least once been members of such commissions at previous local, parliamentary or presidential elections, which were neither free nor fair.

8. According to the campaign "Human Rights Defenders for Free Elections", 77 complaints were filed regarding decisions of local executive committees on PEC formation. A lack of clear criteria for PEC members, the formal nature of consideration of complaints by the courts and the fact that none of the similar complaints on non-inclusion into the territorial election commissions (TECs) was satisfied render the appeal process ineffective in ensuring any fair election process.

9. Therefore, the process of formation of PECs virtually has not differed from the TEC formation process. While the process was conducted generally in line with national legislation and without significant violations, the resulting PECs cannot be viewed as impartial and unbiased.

## I. LEGAL FRAMEWORK

In accordance with Article 27 of the Electoral Code, along with territorial election commissions (TECs), precinct election commissions (PECs) are in charge of preparing and conducting the presidential election. The PECs directly organize the voting, vote count and determination of vote totals at polling stations, which makes them one of the key mechanisms of the election process.

As with territorial election commissions, PECs are made up from representatives of political parties, public associations, labour collectives and representatives of citizens' groups nominated through collection of signatures.<sup>2</sup>

PECs are formed by district and city executive committees, and in the cities split into urban districts by local administrations. PECs are composed of 5-19 members.

Formation of PECs, as compared with the 2006 presidential election, took place under the Electoral Code of 2000 as amended on January 4, 2010. The major changes in the procedure of nomination to PECs are as follows:

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<sup>2</sup> The procedure of nominating candidates to election commissions was also explained by the Decision of the CEC (Central Election Commission) No. 48 of September 15, 2010, "On Interpreting the Use of Part 2, Article 35, of the Electoral Code of the Republic of Belarus, which Stipulates Nomination to Election Commissions at Election of President of the Republic of Belarus in 2010".

1) It was established by Article 34 that, as a rule, at least one third of commissions shall be made up by nominees of political parties and other public associations;

2) New provisions also restrict heads of local executive and administrative bodies, judges and prosecutors from serving on election commissions and provide that civil servants shall not make more than a third of the commission;

3) Essential changes in Article 34 now provide representatives of the entities that have nominated their candidates to commissions with the right to be present during the sittings of the bodies that approve and form commissions;

4) The new wording of Article 34 also provides for judicial appeal against the decision of the body that forms the commissions. The subjects, who have nominated their candidates to commissions, now may appeal against the decision at the district or city court.

However, as before, the possibility for political parties and other public associations to nominate PEC members is restricted by the requirement to have respective organizational structures. The right to nominate candidates to PECs belongs to the governing bodies of the regional, Minsk city, district, city (in towns of regional subordination) and urban district organizational structures of political parties and other public associations. Thus, the nationwide public associations, which have no local organizational structures, are generally deprived of the opportunity to nominate their representatives to PECs.

## II. NOMINATION OF CANDIDATES TO COMMISSIONS

According to the Calendar Plan of Organizing the Election,<sup>3</sup> nomination of candidates to PECs ended on October 31.

Nomination of the vast majority of candidates for PECs was conducted by executive committees. In Mahilyou, for example, an announcement was placed on the ads board at the Lenin District Executive Committee, prescribing to local institutions and enterprises how many persons they should nominate as PEC members and in which PECs. The Salihorsk District Executive Committee (Minsk Region) approved the "Plan of Organizational and Ideological Support of Election", according to which the ideological division of the executive committee was made responsible for "holding meetings with representatives of district structures of political parties and public associations regarding their participation in the election."

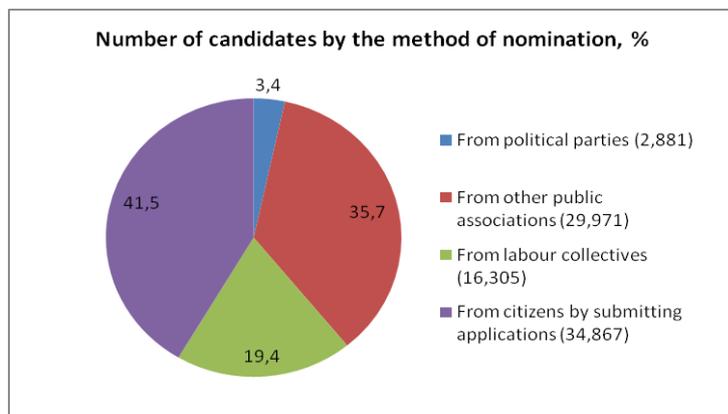
The Campaign's observers did not record any refusals to accept documents for nomination to PECs. All the interested parties were able to submit required documents and were informed about the time and place of accepting them. However, observers note that information about the submitted documents was issued unwillingly by local administrations; and in most cases it was not issued at all.

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<sup>3</sup> Approved by Decision of the CEC No. 43 of September 15, 2010.

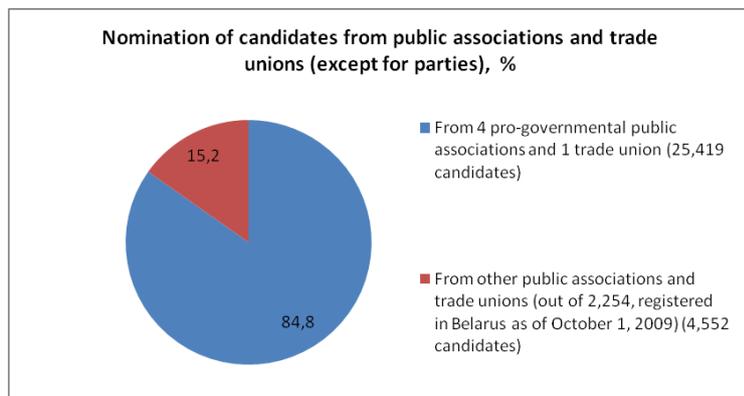
According to the CEC, a total of 84,024 candidates were nominated to 6,346 PECs created in the territory of Belarus. It is absolutely impossible to check this figure, as well as to know whether all the rules for nominations were observed by all the candidates.

The CEC provides the following data on the number of candidates by the method of nomination:



According to the CEC, out of the 15 political parties registered in the country, 10, including 5 opposition ones, nominated their candidates to PECs. Out of 2,881 party nominees, 1,073 persons were nominated by the opposition parties and 1,808 by parties loyal to the authorities. In addition, a small number of opposition candidates were nominated through collection of signatures.

More than one third of PEC candidates were nominated by public associations and trade unions. Only 5 of them – the Public Association (PA) "Belaya Rus", the PA "Belarusian Republic's Youth Union", the Federation of Trade Unions of Belarus (known as FPB), the Belarusian Women's Union and the Belarusian Public Association of Veterans - nominated 84.8 percent of all the candidates from public associations and trade unions:



### III. SITTINGS OF COMMISSION-FORMING BODIES

Formation of PECs took place in accordance with the Calendar Plan for Organizing the Election – by the end of November 3. In general, as compared to the 2006 election, executive committees were more attentive to the persons who wanted to attend the sittings where PECs were formed. Information about when and where the joint sittings on formation of commissions would take place was usually available. Observers reported that the Baranavichy and Pinsk City Executive Committees (Brest Region), the Hrodna and Orsha District Executive Committees (Vitsebsk Region), the Administration of the Lenin District of Hrodna and others promptly posted the information about the time and place of sittings on their websites. Representatives of NGOs and other subjects that had nominated their candidates to PECs were invited by telephone calls in advance to the sittings of the Administrations of the Pershamaiski and Lenin Districts of Minsk, of the Babruisk, Glusk (Mahilyou Region), Hrodna District Executive Committees and others.

At the same time, there were cases when such representatives were obstructed from attending sittings by the actions of local officials. Thus, representatives of the opposition political parties, which had nominated their candidates, were not invited and were not notified about the time and date of the sitting of the executive committee in Krychau (Mahilyou Region). PECs of the Lenin District of Mahilyou, Savetski District of Minsk, Pershamaiski and Lenin District of Babruisk and others were formed in a state of secrecy.

Representatives of pro-government structures that had nominated candidates appeared not to be interested in attending PEC-formation sittings, which gives additional grounds to believe both in their confidence that their nominees would be approved, and in the fact that lists of PEC members had been prepared well in advance according to the distribution plan.

However, apart from admission to sittings, in essence, nothing has changed. Everywhere observers noted the formal nature of the PEC approval process.

As during previous election campaigns, the duration of sittings of the commission-forming bodies in many places was minimal. According to administration officials, draft resolutions on PEC membership had been prepared by specially created "working groups"; therefore, there were practically no discussions of PECs by executive committees and local administrations. For example, the sitting of the Administration of the Tsentralny District of Homel lasted 14 minutes, in which time 626 of 1,124 candidates nominated to PECs were approved as members. The sitting of the Hrodna District Executive Committee lasted for 7 minutes, during which they managed to "consider" 485 candidates and approve 471 PEC members. The Administration of Lenin District of Minsk formed all of its PECs within 5 minutes (out of 1,101 candidates, 950 members of commissions were approved).

The representatives who attended the PEC-forming sittings, as a rule, had no opportunity to ask any questions, nor were they provided with summary protocols for review. The conditions for holding the sitting, created by the Administration of the Kastychnitski

District of Mahilyou, for example, did not allow the representatives present to hear and see anything – they were placed in the back seats of a huge hall where no microphones were used.

Almost all events related to approval of PECs where long-term observers of the campaign "Human Rights Defenders for Free Elections" could be present were held in a similar manner. The persons nominated to commissions were almost never characterized. It was only announced that all those proposed for inclusion into commissions were experienced members of election commissions and had "enough experience". Then, the bodies usually voted for the pre-compiled list as a whole. The lack of clearly defined criteria for PEC membership allows local authorities to form PECs solely at their own discretion.

Natalya Shumakova, head of the division of organizational work and personnel at the Administration of the Tsentralny District in Homel, read out at the sitting the criteria for inclusion into the PEC, namely: experience of participating in election campaigns, business qualities of the candidate and the number of employees in those organizations who had nominated the candidate.

According to Liudmila Urubleuskaya, head of the division of organizational work and personnel of the Administration of Peshmaiski District of Minsk, the reasons to reject some representatives of political parties were as follows: late submission of documents; absence of year of birth recorded in some protocol, and the like. According to her, the dominant approach was "the earlier submitted, the more likely to be included". She also did not allow observers to see the nomination materials, saying that this "requires permission from senior management of the administration."

At the Hrodna District Executive Committee, Mikalai Ulasevich and Ivan Kruk, rejected candidates for the PEC, were twice refused to be acquainted with the relevant materials in response to their requests.

#### IV. COMPOSITION OF FORMED COMMISSIONS

In total, the country has formed 6,390 PECs, including 280 – in stationary medical and health care institutions, 52 – in military units and 44 – at the diplomatic missions of Belarus abroad.

The 6,346 PECs located in the territory of Belarus have 70,815 members. Thus, the commissions include 84.3 percent of total candidates (84,024 persons).

The "passing rate" of the five parties loyal to the incumbent power (Communist Party of Belarus, Republic's Party of Labour and Justice, Agrarian Party, Republican Party and Belarusian Social and Sports Party) was somewhat higher than the average for the country. Out of 1,808 candidates nominated by these parties, 1,586 persons are now PEC members, or 87.7 percent.

The "passing rate" of candidates from the PA "Belaya Rus", PA "Belarusian Republic's Youth Union", the Federation of Trade Unions of Belarus, the Belarusian Women's Union and the Belarusian Public Association of Veterans was much higher than the average: out of 25,419 their candidates 23,689 persons (93.2 percent) became PEC members.

But out of 1,073 candidates nominated by five opposition parties, only 183 persons (17.1 percent) became PEC members. As a result, representatives of opposition parties make up only 0.25 percent of the total number of PEC members and will work in no more than 3 percent of all PECs.

Thus, the discriminatory attitude of the PEC-forming bodies towards candidates from the opposition political parties is obvious: on average, only one of six candidates from these parties got into PECs, while out of ten candidates from pro-government parties and public associations, nine became commission members.

The Minsk Region proved to be the most "non-alternative" one; out of 11,747 applicants, 11,253 persons became members of 1,085 PECs – that is, 95.8 percent of all the applicants. The "passing rate" of the candidates from the "Belaya Rus" and the Belarusian Women's Union was 100 percent (808 out of 808, and 869 out of 869, respectively). But out of 69 candidates nominated by four opposition parties only 7 persons (10.1 percent) became members of the PECs of the Minsk Region.

Over 99 percent of PEC members, irrespective of nomination methods, represent the incumbent power. Most of them had already been PEC members at least once at previous local, parliamentary or presidential elections. These are, first of all, employees of executive committees and other state bodies (primarily, of education and healthcare), as well as activists of pro-governmental public associations.

#### V. APPEALING AGAINST DECISIONS OF COMMISSION-FORMING BODIES

According to Article 34 of the Electoral Code, decisions of the bodies that form PECs may be appealed within three days, respectively, at the district or city court by the subjects that had nominated their candidates to respective commissions. The court shall consider the appeal within three days; and its ruling is final.

According to the campaign "Human Rights Defenders for Free Elections", all over the country district courts received 77 complaints filed by the subjects (political parties, public associations and citizens) who had nominated their representatives to commissions.

For example, Viktor Ivashkevich, a member of the Belarusian National Front (BNF), filed a complaint against the Administration of the Pershamaiski District of Minsk, which refused to include Siarhei Shynkevich, a candidate from the Minsk City Organization of the BNF, into the PEC. The Administration neglected the fact that Shynkevich had experience of working in election commissions and that the PEC of the Pershamaiski District had not a single

member from the BNF. Ivashkevich believes it to be a discriminatory refusal in relation to the BNF Party, which is fundamentally and sharply criticizing the incumbent power.

The Hrodna City Organization of the BNF Party filed a complaint against the decision of the Administration of the Lenin District of Hrodna on non-inclusion of Maksim Gubarevich into PEC No. 52. The reason for the complaint was that Gubarevich's application was not discussed; and the voting was conducted on a pre-compiled list. In addition, the administration bosses expressed dissatisfaction that the BNF had nominated candidates who earlier were brought to administrative responsibility, or were jobless.

As demonstrated by local elections in April 2010 and the then cases of appealing against decisions on non-inclusion into TECs, the absence in the Electoral Code of clearly defined selection criteria for PEC members allows the commission-forming bodies to make arbitrary decisions on the inclusion of those or other nominated persons into commissions.

It should be noted here that the courts have not considered the issues of discriminatory approach to representatives of opposition political parties by executive committees at formation of PECs. Meanwhile, observers of the campaign "Human Rights Defenders for Free Elections" have confirmed cases when local executive committees gave preference to certain persons nominated to election commissions based on their political affiliation and loyalty to the current power.

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*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 electoral 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>).*