



# HUMAN RIGHTS DEFENDERS FOR FREE ELECTIONS

## Republic of Belarus. 2020 Presidential Election

**Weekly observation report: May 8-17**

*Observation of the presidential election is carried out by the Belarusian Helsinki Committee and the Human Rights Center “Viasna” in the framework of the campaign “Human Rights Defenders for Free Elections”.*

### SUMMARY

- the 2020 presidential election in Belarus was announced against the background of an adverse geopolitical situation in the region, and in the conditions of certain progress in the relations between Belarus, the EU and the U.S.;
- the election was preceded by the process of negotiations between the leaders of Belarus and Russia on the ratification of the so-called “roadmaps for advanced integration”, which caused a crisis in relations between the two countries, hampered by problems with Russian oil and gas supplies to Belarus;
- the election is taking place against the background of the coronavirus pandemic, which is a serious challenge carrying enormous risks for lives of both the direct participants in the electoral process and other citizens of the country as a whole;
- the authorities have disregarded the WHO recommendations to take measures to minimize the spread of the pandemic in the country: no quarantine has been officially introduced, many public gatherings have not been banned, including sports events, the nation-wide social labor day and the military parade on May 9;
- proposals to amend electoral procedures aimed at minimizing the risks of the coronavirus disease during the election were ignored by the Parliament, the Central Election Commission and the Supreme Court. The proposals were prepared by experts of the campaign “Human Rights Defenders for Free Elections”;
- in the period leading up to the election, the authorities failed to demonstrate significant progress and systemic changes aimed at improving the human rights situation in the country. Basic civil and political freedoms are still hampered by significant legislative restrictions. Human rights activists report numerous facts of human rights violations; four people were called political prisoners;
- the authorities have not taken steps to implement the OSCE ODIHR recommendations made following the observation of the previous presidential election in 2015, as well as last year's parliamentary elections;
- the general human rights situation deteriorated shortly before the election. Between May 7 and 9, police arrested more than 120 people who took part in peaceful assemblies in various cities of Belarus. Of these, more than 50 were sentenced to short terms of detention for participating in unauthorized rallies, and 20 more were fined. Among them were journalists and human rights activists, including members of the Human Rights

Center “Viasna”. These events provoked a negative reaction from international human rights and journalistic organizations, as well as the OSCE and the EU;

- 55 people applied to the CEC to request the registration of their nomination groups. At the moment, 11 applications are known to have been rejected.

## **LEGAL FRAMEWORK**

The legal basis of the electoral system of the Republic of Belarus consists of the Constitution, the Electoral Code and other legislative acts, as well as Resolutions of the Central Election Commission (CEC).

The Electoral Code has remained unchanged since the previous presidential election. Thus, the OSCE ODIHR’s key recommendations made following the observation of the previous presidential election were not taken into account, and the shortcomings exposed by the mission were not addressed: voting (including early voting), the counting of votes and tabulation, including the absence of a rule for the mandatory publication of voting results at each polling station, which is contrary to para. 7.4 of the 1990 OSCE Copenhagen Document. As before, there are no sufficient legal safeguards against abuse of administrative resources, while restrictions on the rights of observers and other participants in the electoral process persist, and an ineffective system for resolving electoral disputes is still in place. In general, these shortcomings in the legal framework do not contribute to the transparency and integrity of the electoral process.<sup>1</sup>

## **POLITICAL BACKGROUND**

The presidential election is taking place in a difficult geopolitical situation in the region, primarily due to the ongoing Russian-Ukrainian conflict.

In 2019-2020, the process of improving international relations between the Republic of Belarus, the EU and the United States continued. The process resulted in the signing of a number of important agreements, including an agreement between the EU and Belarus on visa facilitation and readmission. A bilateral decision was also made to lift restrictions on the number of diplomats and staff of the Belarusian embassy in the United States, and of the U.S. embassy in Belarus, and the return of ambassadors.

At the end of 2019, the negotiation process was launched between the governments of Belarus and Russia on the ratification of roadmaps aimed at further development of the integration process (so-called “advanced integration”) within the Union State of Russia and Belarus. At the same time, the Russian authorities directly linked the signing of the roadmaps to providing various economic preferences to Belarus, including lower prices for Russian oil and gas. The Belarusian authorities refused to take part in the negotiations on a number of political issues, stating that the negotiation process was purely economic. The talks were not completed and led to the deterioration of relations between the two states.

The lack of transparency in this negotiation process has caused some concern in Belarusian society, and prompted protests against the “advanced integration”, both in Minsk and in other cities of Belarus. The authorities did not take measures to forcibly stop the demonstrations, but actively prosecuted their participants through administrative fines.

In general, in 2019-2020, the Belarusian authorities have not shown any significant progress in improving the human rights situation in Belarus, as civil and political rights are still extremely

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<sup>1</sup> <https://www.osce.org/odihr/elections/belarus/218981>

limited, there are numerous cases of human rights violations, and four people held in prison were called political prisoners by the Belarusian human rights community.

Shortly before the House of Representatives announced the election, a wave of peaceful protests swept across the country on May 7-9, including as a result of the arrest of critical blogger Siarhei Tsikhanouski. The blogger and more than 120 others were arrested, more than 50 of them were sentenced to up to 15 days of detention for participating in unauthorized mass events, and more than 20 were fined. Among them were several journalists and human rights activists, including members of the Human Rights Center “Viasna”. These events provoked a negative reaction from international human rights and journalistic organizations, as well as the OSCE and the EU.

Another peculiarity of this year’s election is the background of the coronavirus pandemic. The COVID-19 crisis sparked a public debate about the need to postpone the election. According to Art. 71 of the Constitution, this is only possible in the event of a state of emergency. However, the government did not take the opportunity to postpone the election taking into account the epidemiological situation.

According to the Law of the Republic of Belarus “On the State of Emergency” No. 117-3 of June 24, 2002, epidemics that caused (or may cause) human casualties and harm public health are among the grounds for imposing a state of emergency. According to Art. 5 of the Law, the President should issue a decree to specify an exhaustive list of temporary restrictions on the rights and freedoms of citizens and organizations imposed in a state of emergency. The period of validity of the state of emergency is 30 days; and in some regions, it may last 60 days. The President has the right to extend the state of emergency if the purposes for which it was imposed have not been achieved.

It should be noted that from the very beginning of the pandemic, the Belarusian government has not sought to implement the WHO recommendations aimed at minimizing its spread. No quarantine was announced in the country, including in educational institutions, cafes and restaurants, sports events were not cancelled, and public events were not restricted, including a nation-wide social labor day and a military parade and other festive events held on May 9. Meanwhile, during May, the number of coronavirus cases, according to official statistics from the Ministry of Health, increased by 900-950 daily.

It is obvious that holding the election in such conditions poses a serious danger to all direct participants in the electoral process, as well as to all citizens of the country as a whole. Based on this, the experts of the campaign "Human Rights Defenders for Free Elections" have developed proposals to change some electoral procedures aimed at minimizing the threat of the pandemic. However, these proposals were ignored by the House of Representatives, the CEC and the Supreme Court.

## **ANNOUNCEMENT OF ELECTION AND ELECTORAL MANAGEMENT**

According to the Constitution of the Republic of Belarus (Article 81) and the Electoral Code (Article 56), presidential election is called by the House of Representatives no later than five months and are held no later than two months before the expiration of the previous president’s term.

The election was called on May 8, 2020 at a sitting of the House of Representatives of the National Assembly of the Republic of Belarus. The election of the President of the Republic of Belarus is scheduled for August 9, 2020.

Two weeks before the announcement of the election, on April 20, the CEC held a meeting to consider the preparation of the presidential election, including to approve sample forms of some documents, the Guidelines for precinct election commissions, training agendas, and the Handbook for territorial commissions.

On May 8, the CEC approved:

Resolution No. 12 “On approval of the schedule of organizational measures for the preparation and conduct of the election of the president of the Republic of Belarus”;

Resolution No. 13 “On explaining the application of the provisions of the Electoral Code of the Republic of Belarus on the procedure for forming commissions during the election of the President of the Republic of Belarus in 2020”;

Resolution No. 14 “On explaining the application of the provisions of the Electoral Code of the Republic of Belarus on the procedure for nominating candidates for President of the Republic of Belarus during the 2020 election”;

Resolution No. 15 “On approval of the Regulation on the procedure for delegating and the activities of observers in the preparation and conduct of the election of the President of the Republic of Belarus in 2020”;

Resolution No. 16 “On informing citizens by election commissions and local executive and administrative bodies on the work for the preparation and conduct of the election of the President of the Republic of Belarus in 2020”;

Resolution No. 17 “On the procedure for participation of citizens of the Republic of Belarus staying outside the Republic of Belarus in the election of the President of the Republic of Belarus in 2020”;

Resolution No. 18 “On creating additional conditions for citizens with disabilities during the election of the President of the Republic of Belarus in 2020”;

Resolution No. 22 “On the extra-budgetary fund for additional financing of expenditures for the preparation and conduct of the election of the President of the Republic of Belarus in 2020”;

Resolution No. 23 “On approval of the Regulation on the electoral fund of a person nominated as a candidate for President of the Republic of Belarus, of a candidate for President of the Republic of Belarus in the election of the President of the Republic of Belarus in 2020”.

As before, none of the CEC regulations or guidelines explains the vote counting procedure. Thus, the most sensitive point, which provoked special criticism from observers, remained unchanged, and this shows the CEC’s lack of interest in organizing a transparent vote count.

On April 29, 2020, participants of the independent election observation campaign "Human Rights Defenders for Free Elections" sent a proposal to the CEC, the House of Representatives and the Supreme Court to develop and adopt a set of legislative and organizational measures to ensure safe implementation of all voting rights, lift disproportionate constraints in a pandemic and offset proportionate constraints by providing new opportunities, while expressing a willingness to participate in the development of such measures.<sup>2</sup>

The domestic observers called on the Central Election Commission to:

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<sup>2</sup> <https://elections2020.spring96.org/en/news/96687>

- take into account the risks of the spread of COVID-19 in the development and adoption of resolutions governing certain stages of the election process;
- instruct the territorial commissions to provide opportunities for the electronic submission of documents to the commissions by election participants and observers;
- provide for the possibility of holding online meetings of collegial bodies;
- provide accredited observers, proxies of candidates and media representatives with the opportunity to observe all stages of the election process by videoconference, followed by the online publication of an electronic copy of the protocol;
- lift the ban on the distribution of information materials about presidential nominees during the period of collecting signatures;
- provide the candidates with extra free air time on state-owned television channels;
- count the ballots by videoconference or through other safe means, announcing and displaying the voter's choice in each ballot.

CEC chairperson Lidziya Yarmoshyna said there was “too little time” to change the legislation. She also noted that “the use of information technology and other remote methods for the implementation of electoral procedures requires not only legal but also infrastructural prerequisites, as well as a preliminary assessment of their cost, efficiency, reliability and security” and that “the law does not oblige a commission to have an e-mail address”.

The Central Election Commission also said that measures to prevent the spread of the coronavirus infection in the preparation and conduct of the presidential election, including the organization of meetings and observation by videoconference, would be addressed with respect to the epidemiological conditions during the election campaign.

The CEC partially took into account the problem of COVID-19 in its Resolution No. 13 of May 8, noting that in order to prevent the spread of the coronavirus disease, meetings of bodies in charge of forming territorial commissions “should be held in the absence of representatives of political parties, other public associations and labor collectives, citizens, media and other guests. At the same time, the meeting will be livestreamed on the website of the executive committee or a full video of the meeting will be published on its website.” Taking into account the epidemiological conditions during the formation of the precinct commissions, the CEC noted, meetings of bodies that will form the precinct commissions may be held in the same manner.

However, on May 15, shortly before the formation of the territorial commissions, the CEC changed its decision and set out this rule differently: the issue of whether or not to allow representatives of entities that sent their representatives to the commissions, media representatives and “other invited persons” to attend the meetings or to livestream the meeting (publish a full record of the meeting) via the Internet should be decided by the bodies that form the commissions.

Another document mentioning the dangers of the pandemic was Resolution No. 15 on the procedure for delegating and the activities of observers: “When observing the meetings of election commissions and the work of the polling stations, observers should follow the recommendations of the Ministry of Health on the prevention of the coronavirus infection.” However, there are no specific recommendations of the Ministry of Health that take into account the peculiarities of election commissions, while the general recommendations on social distancing<sup>3</sup> posted on the

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<sup>3</sup> Recommendations on social distancing during the registration of cases of the COVID-19 infection (coronavirus infection),

<http://minzdrav.gov.by/upload/dadvfiles/letter/%D0%9F%D0%B0%D0%BC%D1%8F%D1%82%D0%BA%D0%B0%20%D0%BF%D0%BE%20%D1%81%D0%BE%D1%86%D0%B8%D0%B0%D0%BB%D1%8C%D0%BD%D>

Ministry of Health website cannot effectively protect commission members and observers from the risk of virus transmission.

## **REGISTRATION OF NOMINATION GROUPS**

According to the Electoral Schedule approved by the CEC's Resolution No. 12 of May 8, the deadline for the submission of documents for the registration of groups to support nominations for President of the Republic of Belarus was May 15.

In total, 55 people submitted their registration documents. At the moment, the observers are aware of 11 cases when nominations groups were denied registration by the CEC.

According to the Electoral Schedule, the CEC will finalize the registration of nomination groups five days after the submission of the registration documents. Therefore, the deadline for making a decision is May 20.