



# HUMAN RIGHTS DEFENDERS FOR FREE ELECTIONS

## Republic of Belarus. 2020 Presidential Election

### Report on the formation of territorial election commissions

*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

- territorial election commissions (hereinafter TECs) are one of the key instruments in the administration of elections in accordance with the international principles of free and democratic elections and national electoral legislation;
- according to the current election legislation, the formation of TECs falls within the competence of local authorities and their executive committees;
- a peculiarity of this year's election is the context of the coronavirus pandemic, which affected the process of nominating representatives of parties and public associations and the procedure for holding meetings of the bodies that formed the TECs;
- CEC Resolution No. 13 (as amended) provided for the possibility of either livestreaming the meetings convened to establish TECs (without inviting representatives of entities that nominated their representatives to commissions or the media) or publishing the full video recording of the meeting later; alternatively, the meetings could be attended physically and no livestream was organized;
- unlike in previous elections, CEC Resolution No. 13 did not provide for the possibility of attending meetings that formed election commissions by representatives of public associations whose observers were accredited with the CEC;
- most representatives of “Human Rights Defenders for Free Elections” had the opportunity to observe the meetings that formed TECs: through livestreams of meetings (40%), video records of meetings (13.6%), or in person (13.6%). There were difficulties in monitoring this phase of the election either due to the inability to attend meetings directly or due to the poor quality of livestreams (20%);
- in some cases, the lack of the right of representatives of public associations to attend the meetings that formed the election commissions, as well as absence of a uniform approach to holding these meetings, enshrined in the CEC Resolution, led to the observers' failure to monitor this important phase of the election;
- as in previous elections, the bulk of the TEC nominees were representatives of six pro-government organizations: Belya Rus, Belarusian Republican Youth Union, member organizations of the Federation of Trade Unions of Belarus, Belarusian Women's Union, Belarusian Public Association of Veterans and the Belarusian Peace Foundation, which nominated 989 representatives, which is 86.7% of the representatives of public associations and 45.6% of all candidates for seats on the commissions. The role of nominees from political parties remained low — 179 people or 8.25% of all the nominees;

- the majority of TEC members are representatives of public associations — 1,095 people, or 55%. 97.7% of the six pro-government NGOs nominated by these entities were included in the TECs;
- of the 25 candidates from opposition parties, only two representatives became TEC members — activists of the BPF Party and the BSDP Hramada, which is 8% of the nominees. At the same time, 97.4% of the total number of nominated members of pro-government political parties were included in TECs. Compared to the previous presidential election, the number of representatives of opposition parties in TECs has decreased by 15 times, and the “success rate” has halved. This testifies to the persistence of discriminatory approaches in the formation of election commissions.

## **LEGAL FRAMEWORK**

The formation of territorial election commissions for the conduct of presidential elections (hereinafter TECs) takes place in accordance with the rules established by the Electoral Code. Certain issues of TEC formation are regulated by the Central Election Commission’s Resolution No. 13 of May 8, 2020 “On clarification of application of provisions of the Electoral Code of the Republic of Belarus on the procedure for establishing election commissions in the presidential election of 2020”.

In accordance with Art. 27 of the Electoral Code, the preparation and conduct of presidential elections are provided by territorial commissions: regional, Minsk city, district, city (in cities with regional subordination, except for cities with district division), district in cities, and precinct commissions.

Election commissions formed for presidential elections consist of representatives of political parties, other public associations, labor collectives, as well as representatives of citizens nominated to the commissions by collecting signatures.

As a rule, at least one third of the commission members should be representatives of political parties and other public associations. Civil servants may not occupy more than one-third of the commission seats. These provisions are not used in the formation of precinct commissions outside the Republic of Belarus. The commission may not include judges, prosecutors, heads of local executive and administrative bodies.

The following have the right to nominate their representatives to election commissions (one representative to each commission):

- governing bodies of regional, Minsk city, district, city (in cities with regional subordination), and district (in cities) offices of political parties, other public associations — from among their members to the corresponding regional, Minsk city, district, city (in cities of regional subordination), and district (in cities) territorial commissions;
- meetings of labor collectives or collectives of their structural subdivisions, which are located on the territory of the district, city, district (in cities) and which have at least 10 employees;
- at least 10 voters residing in the relevant territory;
- the procedure for delegating representatives of political parties and other public associations is established by Art. 35 of the Electoral Code.

TECs are formed by the following bodies:

- regional commissions and the Minsk city commission — by presidiums of regional councils and the Minsk City Council of deputies and regional executive committees and Minsk city executive committee — consisting of 9-13 members;
- district and city commissions — by presidiums of district and city councils of deputies and district and city executive committees — consisting of 9-13 members;
- district commissions in cities — by presidiums of city councils of deputies and city executive committees — consisting of 9-13 members.

These commissions for the election of the President of the Republic of Belarus shall be formed no later than 80 days before Election Day: in accordance with the Electoral Schedule<sup>1</sup> — no later than May 20, 2020.

According to the Electoral Code, representatives of entities that have nominated their representatives to commissions (political parties, public associations, labor collectives and citizens who have nominated their representatives) have the right to attend meetings of bodies that form commissions. Thus, the issue of the presence of observers at these meetings has not been resolved by the Electoral Code. As a result, in the previous presidential election of 2015, 20% of the observers of “Human Rights Defenders for Free Elections” were not able to attend the meetings that formed territorial commissions. This deficiency was corrected by CEC Resolutions adopted after the 2016 parliamentary elections: it was established that international observers accredited by the CEC have the right to be present at a meeting of the body forming the commission; representatives of political parties, other republican public associations and CEC-accredited observers are also eligible to attend.

In addition, the CEC ruled that it was necessary to discuss the issue of “professional and political qualities” of persons nominated to the commission before approving the formation of the election commission, and if the number of candidates to the election commission exceeds the number of seats, information on each candidate should be announced and a candidate-by-candidate vote should be organized.

The CEC Resolution No. 13 of May 8, 2020 “On clarification of application of provisions of the Electoral Code of the Republic of Belarus on the procedure for establishing election commissions in the presidential election of 2020” changed the previously established procedure: in order to prevent the spread of the COVID-19 virus, the commissions were planned to be formed in the absence of representatives of political parties, other public associations, labor collectives, citizens, the media and other invited persons. The authorities, however, were obliged to provide a livestream of the meetings on the websites of the executive committees or arrange the publication of a full video of the meeting.

Following a complaint by Yury Hubarevich, chairman of the Movement “For Freedom”, who drew the CEC’s attention to the fact that the ban on the presence of representatives of entities entitled to nominate their representatives to commissions violated Article 34 of the Electoral Code and deprived them of the opportunity to respond to questions from members of the bodies forming the commissions, the Resolution was changed three days before the meetings of the bodies charged with forming the commissions. The updated version of the Resolution allowed the bodies in charge of forming territorial commissions to decide whether to livestream their meetings (or posting a video record) or to hold meetings in the presence of representatives of political parties, other public associations, labor collectives, citizens, media and other guests. This decision did not contain any

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<sup>1</sup> <http://www.rec.gov.by/sites/default/files/pdf/2020/post12.pdf>

specific rules on the admission to the meetings of NGO representatives who delegated their observers to the CEC. Thus, the CEC did not avoid interfering in the content of the Electoral Code, but reduced the positive effect of introducing new practices that could increase the openness and transparency of elections.

According to the Electoral Code, the decision on the establishment of a commission should be published in the press within seven days of its adoption. In accordance with the CEC Resolution No. 16 of May 8, 2020 “On informing the public by election commissions and local executive and administrative bodies on the preparation for and conduct of the presidential election in 2020”, the information should be published in local newspapers (founded by regional, Minsk city, district, and city executive committees), and posted on the official websites of these executive committees and of district administrations in cities in a thematic section “2020 Election”.

The decision of the body that formed the commission may be appealed within three days from the moment of its adoption to the regional, Minsk city, district, and city court, respectively, by the entities that nominated their representatives to the commission. The court shall consider the appeal within three days; its decision is final.

## **PROCEDURE OF NOMINATION TO ELECTION COMMISSIONS**

According to the Electoral Schedule, the nomination of representatives to TECs was to be completed no later than May 17. Nomination of representatives to TECs was carried out in due time. The CEC Resolution No. 16 of May 8 obliged local authorities to publish information on the time and place of receipt of nomination documents on the day after the CEC approved the Electoral Schedule (in accordance with Annex 2 to the Resolution — on the day of the opening of the section “2020 Election”, no later than three days after the official publication of the resolution of the House of Representative of the National Assembly on the announcement of the president election) — on the websites of executive committees, as well as in the next issue of local newspapers.

According to the CEC<sup>2</sup>, 2,171 people were nominated to 153 territorial commissions.

Of the 15 registered political parties in the country, 8 nominated their members to territorial commissions, including 3 opposition parties: the United Civil Party (3), the BPF Party (6), and the Belarusian Social Democratic Party Hramada (16). Unlike in the previous elections, the Belarusian Left Party “Fair World” refused<sup>3</sup> to participate in the election. Members of the Belarusian Party “Greens” also refused to run<sup>4</sup>. The statements by the parties, in particular, noted that holding the election during the COVID-19 pandemic is an “irresponsible decision that endangers people’s lives”.

Thus, opposition parties nominated 60% fewer representatives than in the previous presidential election.

As before, the process of nominating representatives of opposition parties and other public organizations was complicated by the fact that in accordance with the Electoral Code, the right to nominate their representatives is only enjoyed by the governing bodies of regional, Minsk city, district, city (in cities of regional subordination), and district (in cities) offices of political parties and other public associations. Since 2003, many local offices of political parties have been liquidated due to their registration in residential buildings.

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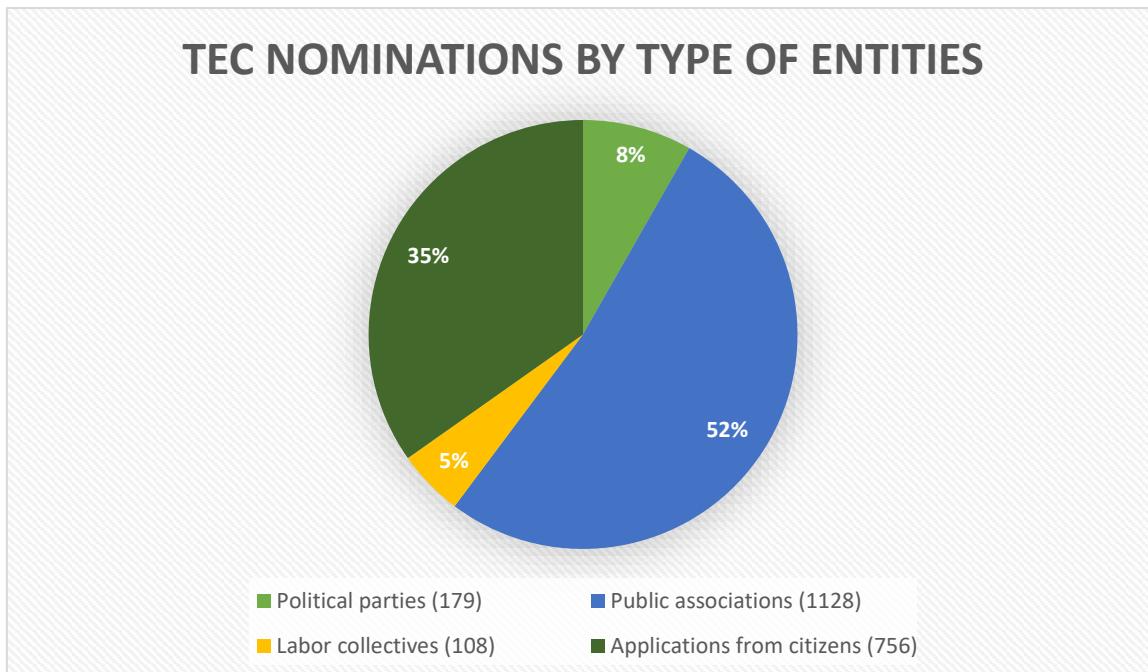
<sup>2</sup> <http://rec.gov.by/sites/default/files/pdf/2020/stat1.pdf>

<sup>3</sup> <http://spravmir.org/2020/05/10/statement-elections2020/>

<sup>4</sup> <https://www.facebook.com/belorusiagreens/posts/2595529590712782>

A total of 179 representatives were nominated by political parties, which is only 8.25% of the total number of candidates. This situation indicates the low role of parties in the political life of the country: the number of party nominees is a quarter less than in the previous presidential election; in contrast, pro-government parties took an active part in the TEC nomination, despite failing to nominate (except for the LDPB) their presidential candidates.

Compared to the previous presidential election, the number of nominees of labor collectives decreased — from 11.7% to 5%, and citizens — from 39.1% to 34.8%.



The majority (52%) of TEC candidates were nominated by public associations and trade unions. The number of representatives of public associations nominated to the commission has increased by 13% compared to the previous presidential election, but this does not indicate an increase in public influence on the election process: the core of nominees were representatives of six pro-government organizations: Belyaya Rus, Belarusian Republican Youth Union, member organizations of the Federation of Trade Unions of Belarus, Belarusian Women's Union, Belarusian Public Association of Veterans, and the Belarusian Peace Foundation, which nominated 989 representatives, or 86.7% of the total number of representatives of public associations and 45.6% of all applicants.

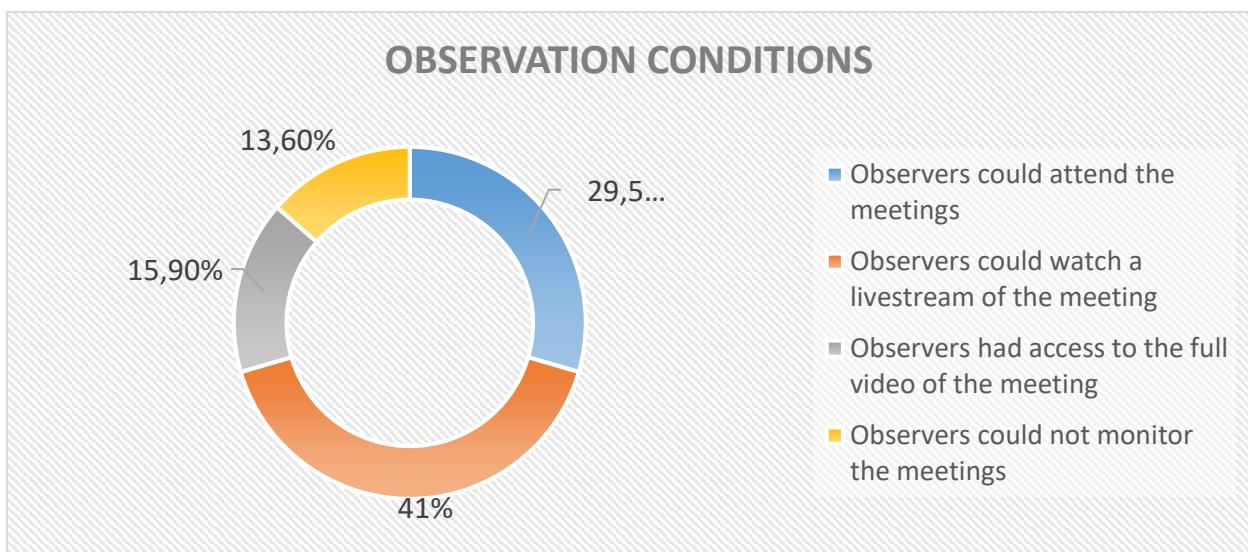
## MEETINGS OF BODIES THAT FORMED THE COMMISSIONS. OBSERVATION CONDITIONS

Joint meetings of the presidiums of regional, Minsk city, district, city (cities of regional subordination) and district (in cities) councils of deputies and the corresponding executive committees were held in accordance with the Electoral Schedule, no later than May 20.

According to the CEC Resolution No. 13, meetings could be held either online with a livestream of the meeting or with the subsequent publication of a video record of the meeting, or, as before, in the presence of invited representatives of the entities who nominated their representatives to the commissions, without a livestream or a video record.

41% of the campaign observers noted that the meetings were livestreamed, while 15.9% were not livestreamed, but followed by a full online video; 29.5% said that, like before, the entities that

nominated their representatives to the commissions were invited to the meetings, while the meetings were not livestreamed and no video of the meeting was posted.



The CEC Resolution No. 13 did not specify the possibility of the presence of representatives of other public associations and the procedure for sending them to the meetings, which were held offline, rather than online.

It should be noted that during the previous elections, including the 2019 parliamentary elections, CEC resolutions provided for the right of representatives of public associations whose observers were accredited by the CEC to attend the meetings that formed election commissions. To do this, the observers had to apply to the bodies that formed the commissions through an official request signed by the association's head.

In some cases, the lack of the right of representatives of public associations to attend the meetings that formed the election commissions, as well as absence of a uniform approach to holding these meetings, enshrined in the CEC Resolution, led to the observers' failure to monitor this important phase of the election.

In particular, in reply to a request by the campaign's long-term observer Leanid Svetsik about the possibility to attend the meeting of the executive committee that formed local TECs, the Viciebsk regional executive committee said that in accordance with Art. 34 of the Electoral Code, representatives of political parties, other public associations, labor collectives, and citizens who nominated their representatives to the commissions had the right to be present at the meeting, while Svetsik did not belong to these entities. The observer received a similar answer from chairman of the Viciebsk city executive committee Zarankin.

In some cases, the campaign's observers did not have enough time to prepare delegation letters after many executive committees changed the previously announced mode of the meetings from online to offline just one day before the meetings.

However, in most cases, the campaign's observers were able to attend the meetings following an invitation.

40% of the observers monitored the meetings via livestreams, of which 20% noted their poor quality. 13.6% of the observers attended the meetings in person, and 13.6% observed them by watching videos of the meetings.

According to Aleh Matskevich, an observer of “Human Rights Defenders for Free Elections”, the livestream of the meeting of the Barysaŭ district council and the district executive committee started in due time, but was only available for viewing for 10 minutes and 50 seconds. Afterwards, the livestream froze and was interrupted. No record of the meeting was published, either. The formation of TECs was, therefore, non-transparent and secret.

Often, when watching the livestreams and videos of the meetings, the observers found it difficult to identify everyone present: participants were not introduced, the camera did not cover everyone present, and so on. This made it difficult for observers to assess the quorum at the meeting and to see the voting process and its results.

A joint meeting of the presidium of the Maladziečna council of deputies and the district executive committee was livestreamed on May 19. According to Aliaksandr Kaputski, an observer of the campaign, the livestream of the meeting started on time, but the sound was a few seconds ahead of the picture, the camera covered the whole room, but only from one angle. Some of those present could not be seen and identified, as a result. None of those present, except the speaker, introduced themselves.

According to the campaign’s observer Leanid Markhotka, none of the members of the Salihorsk executive committee and the presidium of the district council was introduced during the online meeting, except for A. Audzei, prosecutor of the Salihorsk district, who was present at the meeting.

As in previous elections, observers noted a rather formal approach to the establishment of TECs by the responsible bodies.

54.2% of the campaign’s observers noted that during the meetings there were no discussions when deciding on the inclusion of nominees in the commissions, but in most cases (81.3%) proposed persons were introduced and their brief biographies were announced.

## **COMPOSITION OF ESTABLISHED COMMISSIONS**

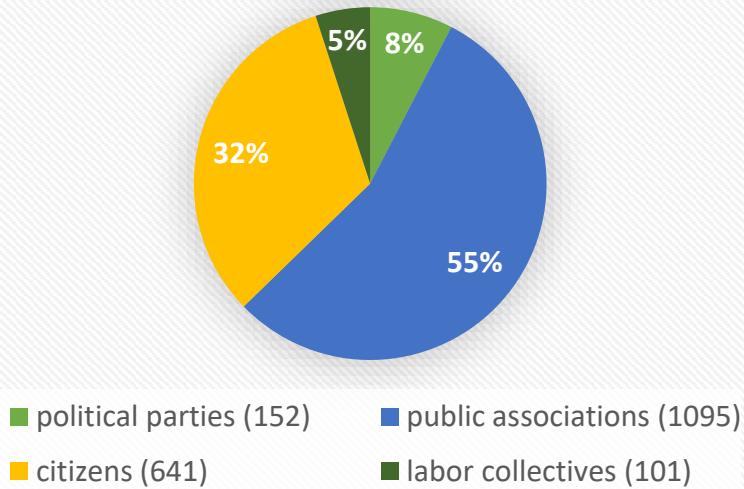
According to the CEC<sup>5</sup>, 1,989 persons became members of 153 territorial commissions; this means that all the commissions included the maximum possible number of members.

The commissions included 641 representatives of citizens nominated by applications (32.2% of the commissioners) and 101 representatives of labor collectives (5% of the commissioners). It should be reminded that in the 2001 presidential election, more than 43% of TEC members were representatives of citizens nominated by applications, and 30% were representatives of labor collectives.

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<sup>5</sup> <http://rec.gov.by/sites/default/files/pdf/2020/stat3.pdf>

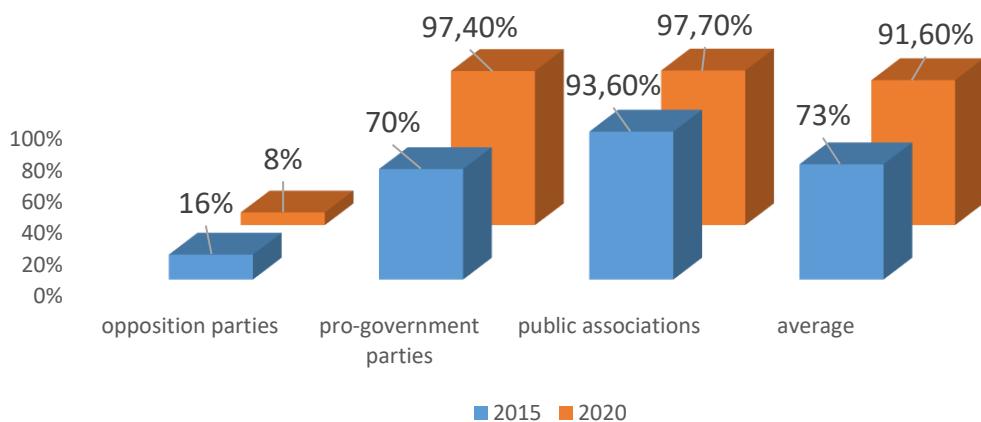
## COMPOSITION OF TECs



The TECs included 152 representatives of political parties (7.6% of the total number). Of the 25 candidates from opposition parties, only two representatives became TEC members: activists of the BPF Party and the BSDP Hramada, which is 8% of those nominated. Compared to the previous presidential election, the number of representatives of opposition parties in TECs has decreased 15 times, and the “success rate” has halved. 150 people representing other political parties were included in the commissions (97.4% of those nominated).

Most of the members of the commissions are representatives of public associations — 1,095 people, or 55%. Of these, 967 represented the five pro-government NGOs and the pro-government trade unions. The share of representatives of the six pro-government organizations that joined the TECs is 97.7% of the nominations.

### TEC MEMBERSHIP AFFILIATION VS NUMBER OF NOMINATIONS ("SUCCESS RATE")



Thus, the lack of legal guarantees for the representation of political parties in the commissions has led to the fact that only two TEC have representatives of the political opposition, which is 0.1% of the total number of TEC members; the current situation is evidence of the low level of confidence in the activities of these commissions among various political and civil society structures.