



# HUMAN RIGHTS DEFENDERS FOR FREE ELECTIONS

## Republic of Belarus. 2020 Presidential Election

### Report on the registration of nomination groups

*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

- 55 applications were submitted to the CEC to request the registration of groups formed to nominate future presidential candidates, which is an all-time record in the history of Belarusian presidential elections;
- in contrast to previous elections, this year, there were only 7 days to apply for the registration of nomination groups, which to some extent complicated the efforts of those who intended to run for President;
- one of the contenders, a well-known blogger Siarhei Tsikhanouski, was arrested and thus deprived of the opportunity to apply for the registration of his nomination group;
- CEC meetings were livestreamed, while observers were allowed to attend the sittings, which can be noted as a positive practice aimed at ensuring publicity in the activities of the commission during the COVID-19 pandemic;
- 15 nomination groups were registered to put forward presidential candidates: Aliaksandr Lukashenka, Aleh Haidukevich, Yury Hantsevich, Uladzimir Niapomniashchykh, Natallia Kisel, Viktor Babaryka, Valery Tsepkala, Siarhei Cherachen, Volha Kavalkova, Hanna Kanapatskaya, Andrei Dzmitryeu, Sviatlana Tsikhanouskaya, Aliaksandr Tabolich, Yury Hubarevich, and Mikalai Kazlou, which is 27% of the total number of submitted applications;
- the numerous refusals to register nomination groups citing violations of voluntary participation in elections are evidence of the Central Election Commission’s manipulations with provisions of the Electoral Code, which violates the principle of equality of candidates;
- the Supreme Court’s consideration of appeals filed to challenge the decisions testifies to the ineffectiveness of this remedy for election campaign participants.

#### LEGAL FRAMEWORK

In accordance with the Electoral Code, a person entitled to be elected President of the Republic of Belarus<sup>1</sup> should, no later than 85 days before Election Day, submit to the Central Election

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<sup>1</sup> According to Part 1 of Art. 57 of the Electoral Code, a citizen of the Republic of Belarus, born in Belarus, at least 35 years of age, who has the right to vote and has resided in the Republic of Belarus for at least ten years immediately before the election. According to Part 7 of Art. 60 of the Electoral Code, citizens who do not have the right to hold positions in state bodies and other state organizations in connection with the presence of a criminal record in accordance with the legislation of the Republic of Belarus may not be nominated as candidates for President of the Republic of Belarus.

Commission a written application for the registration of their nomination group, copies of passport pages confirming the citizenship and registration on the territory of the Republic of Belarus, a list of members of the nomination group specifying the head of the group and coordinators by regions. These documents can be submitted both personally by a citizen who intends to run for President and their representatives on the basis of a certified power of attorney. The CEC should consider the application within five days from the date of its receipt, register the nomination group and issue certificates and signature sheets to the members of the nomination group to collect voters' signatures in support of the person nominated for the presidency.

The CEC may deny the registration of a nomination group if the person nominated as a presidential candidate does not meet the requirements of the Electoral Code. The refusal to register the nomination group may be appealed within three days from the date of the decision to the Supreme Court of the Republic of Belarus by a person who intends to run for President. The Supreme Court shall consider the appeal within three days.

## **SUBMISSION OF REGISTRATION DOCUMENTS**

According to the Electoral Schedule<sup>2</sup> approved by the Central Election Commission's Resolution No. 12 of May 8, applications and related documents had to be submitted to the CEC no later than May 15. The peculiarity of this campaign was that only 7 days had passed from the moment of calling the election by the House of Representatives (May 8) until the deadline for submitting applications for the registration of nomination groups to the CEC (May 15). In the 2015 presidential election, 17 days were allotted for this phase, and 10 days during the 2010 election.

The authorities initially announced that the presidential election would be held in late August. Therefore, the appointment of the vote on August 9 was a surprise to many electoral actors.

Observers of "Human Rights Defenders for Free Elections" note that popular blogger Siarhei Tsikhanouski was arrested to serve a term of administrative detention imposed in January just two days before the election was called. The day before the announcement of the election date, a post on his YouTube channel announced his decision to run for President. As a result of his detention, he was deprived of the opportunity to personally apply for registration of his nomination group.

The rest had the opportunity to apply to the CEC for registration of their nomination groups. Some of the nominees used the right to make adjustments to the previously submitted lists of members of their nomination groups, including by adding new members. This right, in particular, was used by Mikalai Statkevich's supporters.

At a meeting of the Central Election Commission on May 20, the CEC chairperson Lidziya Yarmoshyna stressed that the nominees had abused their right to amend the documents submitted for the registration of nomination groups. In essence, some of them provided new lists, and the documents were difficult to be reviewed properly. In this regard, Yarmoshyna promised to propose changes to the Electoral Code, which would only allow making technical changes to the documents submitted for the registration of nomination groups.

## **REGISTRATION OF NOMINATION GROUPS**

A total of 55 people applied to the CEC for the registration of their nomination groups, 30 of whom represented a group of supporters of opposition leader Mikalai Statkevich. In the 2015 presidential

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<sup>2</sup> <http://www.rec.gov.by/sites/default/files/pdf/2020/post12.pdf>

election, 15 applications were submitted for the registration of nomination groups<sup>3</sup>; in the 2010 election — 19<sup>4</sup>; in 2006 — 8; and in 2001 — 27 applications<sup>5</sup>. Thus, this year's election is marked by a record number of applications for the registration of nomination groups.

Applications submitted for the registration of nomination groups were considered at the CEC's three meetings. All the meetings were livestreamed, which can be assessed as a positive practice of ensuring publicity in the activities of the CEC during the COVID-19 pandemic. The same practice should be adopted by the lower election commissions.

15 nomination groups have been registered to nominate presidential candidates: Aliaksandr Lukashenka, Aleh Haidukevich, Yury Hantsevich, Uladzimir Niapomniashchych, Natallia Kisel, Viktor Babaryka, Valery Tsepkala, Siarhei Cherachen, Volha Kavalkova, Hanna Kanapatskaya, Andrei Dzmitryeu, Sviatlana Tsikhanouskaya, Aliaksandr Tabolich, Yury Hubarevich, and Mikalai Kazlou, which is 27% of the total number of submitted applications. In the 2015 presidential election, 8 groups were registered to nominate presidential candidates or 53% of the total number of applications; in the 2010 election — 15 (79%); in 2006 — 8 (100%); in 2001 — 23 groups (85%).

40 nomination groups were denied registration, in particular, almost all the associates of Mikalai Statkevich<sup>6</sup>.

An analysis of the reasons for the denial of registration to the 40 nomination groups reveals several reasons used by the CEC:

*1. Violation of the principle of voluntary participation of voters in the groups formed to nominate presidential candidates*

On this basis, the CEC refused to register the nomination groups of numerous supporters of Mikalai Statkevich. The decisions affected A. Zhalezniakova, V. Mishchanka, A. Hrachyshnikava, V. Nikalaichyk, V. Khatenka, I. Kliashchuk, V. Fralou, A. Vishniakova, A. Ashykhmina, D. Kudravets, P. Karabanava, M. Salianik, T. Patotskaya, U. Neumiarzhytski, S. Statkevich, A. Abramovich, N. Strelchanka, and A. Zuyevich.

On May 15, the Central Election Commission considered applications submitted by Zhalezniakova, Mishchanka, Hrachyshnikava, Nikalaichyk, Khatenka, Kliashchuk, Fralou, and Vishniakova. The CEC justified the consideration of all the applications as one agenda item by the fact that almost the same set of people appeared in the lists of members of the nomination groups submitted by these applicants. This raised doubts about the voluntary participation of voters, and the CEC ordered an inspection.

During the inspection, the CEC sent inquiries to the Department of Citizenship and Migration of the Ministry of Internal Affairs. As a result, as reported at the CEC meeting, it was established that the lists of the nomination groups of these applicants contained numerous inaccuracies in the passport data of voters. In addition, CEC staff tasked local authorities to phone the voters who were included in the nomination groups.

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<sup>3</sup> <http://rec.gov.by/sites/default/files/pdf/Elections-PRB2015-Sved2.pdf>

<sup>4</sup> <http://rec.gov.by/sites/default/files/pdf/Elections-PRB-sved1.pdf>

<sup>5</sup> <http://rec.gov.by/sites/default/files/pdf/Archive-Elections-PRB2001-Inic.pdf>

<sup>6</sup> Uladzimir Niapomniashchych is the only supporter of Statkevich whose nomination group was registered by the CEC

According to the CEC staff, many citizens were surprised by the fact that they were on the lists, and some citizens could not explain for whom they would collect signatures. These circumstances prompted the CEC to conclude that the principle of voluntary participation in the elections was violated during the formation of these groups. At the same time, some applicants interviewed at the meeting of the Central Election Commission reported that during the telephone conversations, employees of local executive committees intimidated and misled people specified on the lists. As a result, the CEC ruled to refuse to register the nomination groups of Zhalezniakova, Mishchanka, Hrachyshnikava, Nikalaichyk, Khatenka, Kliashchuk, Fralou, and Vishniakova.

On May 19, on the same grounds, the CEC denied registration to other applicants associated with Mikalai Statkevich: Alena Ashykhmina<sup>7</sup>, Dzmitry Kudravets, Piotr Karabanau, Mikalai Salianik, Tamara Patotskaya, Uladzimir Neumiarzhytski, Rehina Berkus, Aliaksandr Yakushkou, Alena Davydava, Siarhei Statkevich, Aliaksandr Abramovich, Natallia Strelchanka, and Aliaksei Zuyevich.

On May 20, the CEC denied registration to the nomination groups of Mikhail Valynets<sup>8</sup>, Pavel Spiryn, Siarhei Skrabets<sup>9</sup>, Andrei Mazheika, and Uladzimir Pravalski<sup>10</sup> for violating the principle of voluntary participation in the group.

Experts of “Human Rights Defenders for Free Elections” believe that these refusals violate both national electoral law and international standards in the field of fair and free elections.

The CEC found violations of the principle of voluntary participation in elections on the basis of information provided by local executive committees, which conducted inspections on behalf of the CEC itself by phoning the members of the nomination groups. During the CEC meetings, the applicants did not have the opportunity to dispute such information. It follows from the decisions of the Supreme Court adopted in the hearings of appeals against the refusals to register the nomination groups that the court failed to assess the issue of proof of violation of the principle of voluntariness, and the ruling was solely based on information from the CEC<sup>11</sup>.

In addition, of great concern is the selective application of inspections, which only affected part of the applicants. The Central Election Commission failed to explain why no similar inspections were conducted in relation to the nomination groups of other applicants, whose lists consisted of a large number of voters. It is not reported whether such inspections were carried out at all.

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<sup>7</sup> The decision to deny registration to Alena Ashykhmina's nomination group was justified by a lack of information about district coordinators (there was information only about regional coordinators). According to CEC chairperson Yarmoshyna, this is not just a technical violation, but a gross abuse of the Electoral Code, as this group would be deprived of the opportunity to submit signature sheets, which can be submitted only by district coordinators or the candidates themselves.

<sup>8</sup> Mikhail Valynets was also denied registration due to lack of information about the coordinators (he specified identified as the only coordinator).

<sup>9</sup> Siarhei Skrabets's refusal was explained by other violations of the Electoral Code: inclusion of the names of deceased people in the list of members of the nomination group, insufficient number of members of the nomination group after checking and expelling those not confirmed by actual information.

<sup>10</sup> Uladzimir Pravalski's refusal was also justified by the lack of information on district coordinators and dates of birth of almost all the members of the nomination group (only the year of their birth was specified).

<sup>11</sup> See the Supreme Court's ruling in case No. 03π-3/2020, appeal by Anzhalika Zhalezniakova

(<http://court.gov.by/ru/sudebnie/postanovleniya/c3d919bf4dd44191.html>)

The Supreme Court's ruling in case No. 03π-5/2020, appeal by Ihar Kliashchuk

(<http://court.gov.by/ru/sudebnie/postanovleniya/cedd9c7e4f85416c.html>);

The Supreme Court's ruling in case No. 03π-4/2020, appeal by Veranika Mishchanka

(<http://court.gov.by/ru/sudebnie/postanovleniya/d17b8788e35e4368.html>) and others.

During the previous presidential election, the CEC used a different approach to registering nomination groups. In particular, at one of the meetings, the CEC chairperson Lidziya Yarmoshyna noted that the Central Election Commission had not interviewed members of the nomination groups for their consent to participate in the collection of signatures for potential candidates, so that there were no issues with pressure on members of the nomination groups. Then the CEC focused on checking the formal grounds for the nomination of presidential candidates (compliance with all the requirements set out in the Constitution and the Electoral Code, eligibility and the authenticity of passport data of members of the nomination groups)<sup>12</sup>.

The selective approach to the registration of nomination groups demonstrated by the CEC in this year's election is evidence of manipulations with the provisions of the Electoral Code and does not promote confidence in the commission's impartiality.

*2. Insufficient size of the nomination group (less than 100 people) as a result of exclusion of persons whose information does not meet the requirements of the Electoral Code*

Maryna Adamovich<sup>13</sup>, Yury Chudzinovich, Yury Novikau, and Uladzimir Kiyko were denied registration on these grounds (the registration of their nomination groups was denied because the new lists submitted by them did not contain passport data of most members of the groups). This gave the CEC grounds for invalidating them). Similarly, the CEC disqualified the groups of Aleh Niaveika and Zhanna Ramanouskaya. After excluding several members, their lists lacked the required number of people.

*3. Non-compliance of nominated candidates with the requirements of the Electoral Code*

Due to this reason, the CEC disqualified the nomination groups of Mikalai Statkevich, Yury Kasach (both have criminal convictions on their records), Aliaksandr Shkolnikau, Valery Peravoshchykau, and Andrei Ivanou (who are not citizens of the Republic of Belarus by birth; they were born in Ukraine and Russia, respectively).

As during the 2015 presidential election, the nomination group of Mikalai Statkevich was denied registration with reference to Articles 60 and 61 of the Electoral Code, which prohibit citizens with a criminal record to run for President of the Republic of Belarus.

It is worth mentioning that the conviction of Mikalai Statkevich in 2011 in the "case of mass riots" was recognized by both international and Belarusian human rights organizations as unfounded and inconsistent with Belarus's international human rights obligations.<sup>14</sup> International and Belarusian human rights organizations have repeatedly called on the country's authorities to rehabilitate participants in the "riot case", including to restore Mikalai Statkevich's right to be elected.

*4. Failure to meet nomination procedure*

This ground was used to deny registration to the nomination group of Siarhei Tsikhanouski. As Tsikhanouski was serving a sentence of administrative detention, the application was signed and

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<sup>12</sup> 2015 Presidential Election. "Human Rights Defenders for Free Elections". Analytical weekly report on results of observation: July 13-19: <http://elections2015.spring96.org/en/news/78565>

<sup>13</sup> Maryna Adamovich's nomination group was not registered because her amended list of group members did not feature passport data of most members of the group, which gave the CEC grounds to invalidate them. After the exclusion of such members, the number of people in the group was not sufficient for registration.

<sup>14</sup> See Communication No. 13/2011 by the UN Working Group on Arbitrary Detention: <https://www.unwgadatabase.org/un/Document.aspx?id=2757>

submitted to the CEC by his wife and the head of his nomination group. The Central Election Commission considered this a violation of the electoral law.

On May 15, at a CEC meeting, Halina Mkrtychan, head of the CEC's law, analytics and methodology department, said that according to the election law, the application for registration of a nomination group had to be signed by the person intending to run for President. The power of attorney only gives the right to submit a package of documents to the Central Election Commission. As the application for registration was not submitted by Tsikhanouski himself, the CEC ruled to deny registration to his nomination group.

Having studied and analyzed the circumstances that preceded the announcement of the election, experts of "Human Rights Defenders for Free Elections" conclude that the refusal to register this nomination group violates the voting rights of Siarhei Tsikhanouski.

On May 6, Siarhei Tsikhanouski was arrested to serve a sentence of 15 days of administrative detention ordered by the Saviecki District Court of Homiel under Part 1 of Art. 23.34 of the Code of Administrative Offenses (violation of the order of organizing or holding mass events). The court ruling was issued on January 10 for covering an unauthorized protest against the government's integration plans with Russia, which took place in Minsk on December 20, 2019. On February 7, after the appeal was lost, the court ruling became final.

Experts of "Human Rights Defenders for Free Elections" believe that administrative conviction for the very fact of participating in a peaceful assembly is a violation of Belarus's international human rights obligations. The right to peaceful assembly is enshrined in Art. 21 of the International Covenant on Civil and Political Rights. The exercise of this right is not subject to any restrictions other than those imposed by law and necessary in a democratic society in the interests of state or public security, public order, public health and morals, or the protection of the rights and freedoms of others. In Tsikhanouski's case, and in the cases of other participants of the protest, the authorities had no grounds to apply the restrictions of Art. 21 of the Covenant.

According to Art. 25 of the Covenant, every citizen has the right and the opportunity, without any distinctions and without unreasonable restrictions, to "vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors."

3 months had passed since Siarhei Tsikhanouski's sentence became final, and the authorities had every opportunity to execute the sentence earlier. Tsikhanouski's isolation through the execution of an earlier ruling two days before the calling of the election, as well as a ban on his lawyer's access to the detention center deprived him of a real opportunity to apply for registration of his nomination group. These facts give grounds to believe that the authorities purposefully created a situation in which Siarhei Tsikhanouski lost the opportunity to exercise his right to become a presidential candidate.