



HUMAN RIGHTS DEFENDERS FOR FREE ELECTIONS

Final analytical report of the expert mission to assess the national referendum of 2022 on the issue of amendments and additions to the Constitution of the Republic of Belarus

May 24, 2022

The expert mission of observation of the 2022 referendum was carried out by the Belarusian Helsinki Committee and the Human Rights Center “Viasna” within the campaign [“Human Rights Defenders for Free Elections”](#).

CONTENTS

SUMMARY	1
INTRODUCTION.....	4
OBSERVATION CONDITIONS.....	4
FORMATION OF COMMISSIONS.....	6
CAMPAIGNING.....	11
VOTING.....	14
COUNTING OF VOTES AND TABULATION	15
RECOMMENDATIONS	16

SUMMARY

Preparations for the referendum took place against the backdrop of a profound socio-political crisis triggered by the presidential election of August 2020 and the pervasive atmosphere of repression targeting those disloyal to the authorities, as well as a tense international situation caused by the Russian-Belarusian military exercises and the subsequently Russian military aggression in the neighboring Ukraine, including from the territory of Belarus.

The authorities failed to take any steps to eliminate the factors in the legal regulation of electoral procedures that led to the onset of the post-election crisis in August 2020.

The text of the draft amendments to the Constitution, which was first announced by the authorities more than two years ago, became available to the public less than a month before the referendum was called. During this period, the authorities organized discussions of the presented draft, mainly at government-owned businesses and organizations, and as part of the so-called “dialogue platforms” involving government officials and pro-government organizations. Such discussions were not transparent and constituted campaigning in support of the project proposed by the authorities.

The process of discussing changes and additions to the draft Constitution and considering the submitted proposals failed to take into account critical opinions and was another example of the bogus practice of “nationwide discussion” designed to replace a transparent and inclusive debate on proposals from various groups of society. As a result, the proposed changes to the Constitution caused fair criticism from the expert community and regular voters.

The preparation and conduct of the referendum did not meet a number of basic international standards for conducting democratic and fair elections, as they were marred by numerous violations of both these principles and national legislation. This was primarily due to the atmosphere of fear on the eve of and during the referendum caused by the repression against citizens, civil society organizations and independent media, the absence of impartial commissions, unequal access to state media for supporters and opponents of changes to the Constitution, the use of administrative resources in order to support the text of amendments to the Constitution submitted for the referendum, the arbitrary deprivation of the right to vote of citizens staying outside the Republic of Belarus, numerous facts of coercion of voters to participate in early voting, and the lack of transparency of electoral procedures for observers.

The ongoing repression of civil society, the preparation and conduct of the referendum in an atmosphere of total fear, as well as the introduction by the CEC of restrictions on the number of observers at polling stations, led to the absence of independent monitoring of all types of voting (early voting, voting on voting day and home voting), as well as the counting of votes. These important stages of the referendum were completely non-transparent. The presence of pro-government observers at the polling stations and in the commissions was unable to change this assessment.

Significant violations of national legislation and the fundamental principles of holding fair and democratic elections during the referendum, including depriving observers of the opportunity to witness the vote count, does not give grounds to trust the election results announced by the CEC or consider them as reflecting the true will of the citizens of the Republic of Belarus.

Referendum commissions

When forming commissions, the authorities used a discriminatory approach to representatives of opposition parties: none of the 20 candidates from the opposition parties was elected member of the territorial election commissions and none of the 42 nominees was elected member of the precinct election commissions. For the first time in the history of sovereign Belarus, the opposition was not represented in the election commissions.

Most members of the commissions were representatives of the five largest pro-government organizations, Belaya Rus, Youth Union, Women’s Union, Association of Veterans, and Fund of Peace, together with various branches of the government-controlled trade unions. For the first time, in violation of the electoral legislation, the composition of precinct election commissions was not published.

The absence of legal guarantees for the representation in the election commissions of all political actors participating in the elections, as before, led to an arbitrary and discriminatory approach towards opposition parties and independent nominees.

Campaigning

In fact, campaigning in support of the draft amendments to the Constitution submitted for the referendum was not limited to the official timing, as it began long before the referendum was

called. At the same time, the authorities used all available resources of the government-controlled media, pro-government Telegram channels, ideology officials, pro-government experts and other officials to support the draft amendments to the Constitution.

During the preparation and conduct of the referendum, the authorities widely used administrative resources to campaign in support of the draft amendments. At the same time, equal conditions for campaigning were not provided for opponents of the amendments. Moreover, opponents of the referendum and the draft amendments were persecuted by the authorities and faced the forms of repression typical of the past 18 months: arrests, administrative imprisonment, video confessions of arrested opponents of the referendum in pro-government Telegram channels, smear campaigns in the government-owned media, etc.

Legislative restrictions on campaigning events, as well as the traditional problems with the exercise of the right to peaceful assembly, made it practically impossible to widely use meetings for campaigning purposes during the referendum.

Early voting

According to the CEC, 42.93% of eligible voters took part in early voting, making it the largest number for the entire period of election campaigns in Belarus. In fact, early voting in Belarus has become the norm, running counter to the requirements of the Electoral Code, which proceeds from the fact that such voting is provided for voters who are unable to be at their place of residence on the day of the referendum.

During the early voting, “Human Rights Defenders for Free Elections” documented numerous facts of organized forced voting of certain categories of voters: students, employees of state-owned enterprises, teachers, military personnel, civil servants, etc.

The practice of holding early voting continues to be one of the systemic problems of the electoral process, creating wide opportunities for the abuse of administrative resources and other manipulations.

Voting at polling stations and counting of votes

The lists of voters at polling stations are still closed to observers. A single register of voters has not been created, which creates conditions for manipulations with voter turnout.

The legislation does not prescribe the method of counting ballots by precinct commissions. For the counting of votes, there is no clear procedure in which the mark on each ballot is announced aloud and the ballot is demonstrated to all PEC members and observers present.

Due to the fact that on the eve of the referendum the authorities of Belarus created conditions excluding the possibility of free and safe observation of the elections, many organizations that had previously sent their observers to polling stations, including “Human Rights Defenders for Free Elections”, as well as observers of other civil initiatives and opposition political parties, were effectively deprived of the opportunity to observe the vote count. Therefore, it can be argued that the process of tabulation was completely non-transparent. The absence of a real opportunity to carry out observation is a violation of one of the fundamental principles of any electoral process, the transparency of its conduct.

Copies of the final protocols with the results of the vote count were not published at a significant number of polling stations, which, coupled with the lack of transparency in the vote count, indicates the desire of the authorities to conceal the falsification of the voting results and the actual

numbers. This gives every reason to doubt the validity of the voting results established by precinct commissions.

Appeals against electoral violations

During the preparations for the referendum, there were significantly fewer appeals and complaints about violations of the Electoral Code as compared to previous elections, which can be explained by the low level of trust in the electoral authorities and courts, especially after the 2020 presidential election. In addition, practice shows that appeals do not resolve problems during the conduct of electoral procedures and, thus, are not an effective means of protecting the violated rights of voters and participants in the electoral process.

No appeals were filed in the courts to challenge the formation of election commissions. On March 30, CEC Chairperson Ihar Karpenka said that no complaints had been filed to contest the results of the referendum. However, one complaint is known to have been filed in the Supreme Court, in response to which the Court refused to initiate a case due to lack of jurisdiction, and two more filed in the district courts, which were turned down due to missing the deadline.

In total, according to official data from the CEC, 860 complaints were submitted, including 716 to the CEC, 98 to election commissions of all tiers, and 46 more to local executive and administrative bodies. Information about the content of these complaints and the results of their consideration has not been published.

The Electoral Code, as before, contains a limited list of decisions and actions subject to judicial review. Among other things, the decision of the CEC to establish the results of the referendum is not subject to judicial appeal.

INTRODUCTION

The campaign of observation “Human Rights Defenders for Free Elections” is a non-partisan joint initiative of the Human Rights Center “Viasna” and the Belarusian Helsinki Committee. The purpose of the campaign is to observe elections, assess the electoral process in terms of compliance with the Belarusian electoral legislation and international standards for free and democratic elections, inform the Belarusian public, state bodies and the international community about the results of the observation, prepare recommendations and proposals for improving the electoral legislation and the practice of its application.

OBSERVATION CONDITIONS

In accordance with Art. 13 of the Electoral Code, elections in the Republic of Belarus are held publicly. Observers have the right to be present at meetings of election commissions, at polling stations and during the counting of votes. The rights and obligations of observers are regulated by Art. 13 of the Code. The procedure for their nomination and accreditation is regulated by a CEC resolution.

In the absence of the opportunity to organize, as before, full-scale observation, most importantly by sending its observers to election commissions and polling stations, “Human Rights Defenders for Free Elections” announced the launch of an expert mission to observe the referendum process. The purpose of the mission was to assess the compliance of the referendum with international standards regarding the conduct of a genuine, free and democratic election.

Pro-government observation was organized by sending 45,701 observers to election commissions, of which 44,540 observers were delegated to the precinct commissions. More than 70% of the

observers were nominated by the five largest pro-government public associations and the government-controlled trade unions. It should be noted that these same public associations and parties traditionally make up the majority of members of election commissions at all levels. Such a high number of pro-government observers could be due to the need to create an insurmountable barrier for independent observers, as it was in 2020: in accordance with the Regulation on the procedure for sending and operating of observers in the preparation and conduct of the republican referendum in 2022, no more than five observers may be present at the same time at meetings of precinct commissions and in voting premises. During the period of early voting, no more than three observers were allowed to the polling station at the same time. If the number of members of the precinct commission does not exceed seven, no more than half of the composition of the precinct commission may be present at its meetings and in the voting premises. The right of presence of observers is determined by the sequence of their accreditation.

The Belarusian Popular Front and other democratic parties did not conduct a joint observation of the constitutional referendum. The decision was announced in a statement signed by the United Civil Party, the Belarusian Green Party, the Belarusian Social Democratic Party (Hramada) and the Belarusian Popular Front Party.

In previous years, with more election commissions, there were fewer observers: 38,878 people were accredited in the 2019 parliamentary elections, and 39,619 were accredited in the 2010 presidential election, including independent observers. The exception was 2020, when 53,868 observers were registered with the commissions, and the authorities first tested a mechanism to limit the admission of independent observers to polling stations by sending a large number of observers from pro-government parties and organizations.

The referendum was not observed by an international mission of the OSCE/ODIHR, after the organization failed to receive an appropriate invitation. The European Union also did not send observers to Belarus. The absence of such plans was announced on February 16 by Peter Stano, spokesperson for the EU's External Action Service (EEAS). "We have noted that the Belarusian authorities have not invited the OSCE Office for Democratic Institutions and Human Rights to deploy an observation mission in Belarus. The EU, for its part, does not plan to send any official mission for monitoring of the voting in Belarus," he said.

International observation was provided by 145 observers from the Commonwealth of Independent States (CIS), of which 37 were from the Interparliamentary Assembly of CIS Member States (IPA CIS); this was the largest mission. Also accredited were 14 observers from the Shanghai Cooperation Organization (SCO), from the Parliamentary Assembly of the Collective Security Treaty Organization (CSTO PA), 12 from electoral bodies of foreign countries (Armenia, Azerbaijan, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, and Uzbekistan), and 22 "independent observers" (the names were not published). A total of 195 international observers were accredited as of February 24.

Persecution of observers

Attempts by citizens to take part in independent monitoring were severely suppressed. For example, Mikalai Sushkou, a resident of the village of Čonki in the Homiel region, announced his intention to register as an observer with the local precinct commission (polling station No. 45). After collecting the required number of support signatures from fellow villagers, on February 18, he took them to the village council, where the district commission was located. Some time later, Aliaksei Kabzarou, chairperson of the village council, invited him to a meeting to discuss "local issues". After Sushkou arrived at the council, his phone became unreachable. Later, it was reported

that Sushkou was arrested and convicted in an administrative trial for subscribing to “extremist” channels and disseminating information. The observer was sentenced to 12 days of administrative imprisonment.

Aliaksei Yeliseyeu, who was nominated as an observer in Kalinkavičy, was arrested on charges of “disorderly conduct” and accused of trying to take possession of the observers’ accreditation register.

Vadzim Kuzmin was registered as an observer to represent the Just World party. When visiting several polling stations in the Čyhunačny district of Viciebsk on the first day of early voting, he noticed violations: lists of members of election commissions were not published, and ballot boxes were not properly sealed. While Kuzmin was writing complaints to the district commission and the prosecutor’s office, he was informed that he would not be able to observe the electoral process due to restrictions related to the coronavirus and due to the fact that three observers were already accredited at the polling station. Soon the observer received a phone call from the prosecutor’s office and was invited to arrive for a “conversation”. In case of failure to appear, the prosecutor’s office threatened him with arrest.

FORMATION OF COMMISSIONS

The preparation and conduct of the referendum was carried out by the CEC in an updated composition. On December 13, 2021, Ihar Karpenka was appointed chairperson of the Central Commission for Elections and Republican Referendums. In addition to him, a number of new members were appointed. Thus, compared to the presidential election of 2020, half of the composition of the CEC was changed.

In accordance with Art. 31 of the Electoral Code, the preparation and holding of the referendum is administered by territorial commissions – regional, Minsk city, district, and municipal (in cities of regional subordination, except cities with district division), district in cities, and precinct commissions.

Referendum commissions are formed one month before the referendum from representatives of political parties, other public associations, labor collectives, as well as representatives of citizens who are nominated to commissions by collecting signatures.

According to Art. 34 of the Electoral Code, the bodies that form the commission are expected to provide at least one third of the seats to members of political parties and other public associations. Civil servants may not make up more than one third of the commission. These provisions do not apply to 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 TECs are formed according to the rules established by the Electoral Code. Certain issues of formation of the TECs are regulated by Decision No. 2 of the Central Election Commission “On clarification of the procedure for applying the provisions of the Electoral Code of the Republic of Belarus” of January 21, 2022.

According to the Electoral Code, the decisions to form the commissions shall be published in the press within seven days from the moment of their issuance. During the 2022 referendum, the CEC failed to adopt a decision to regulate the procedure for informing the public by election commissions and local executive and administrative bodies about the preparation and conduct of the referendum. Thus, no rules were defined on using the official websites of the executive

committees and of local district administrations in cities to inform about the referendum, which affected the volume and quality of information published there.

Territorial commissions

In accordance with the Referendum Schedule, the nomination of representatives to the TECs was to be completed no later than January 22, 2022. A distinctive feature of this year's referendum was the extremely short deadline for nominating representatives to the commissions. According to the Electoral Code, territorial commissions should be formed no later than a month before the referendum.

A distinctive feature of the 2022 referendum was an extremely short period for the nomination of representatives to the commissions. A decree calling the referendum was signed on January 20. The CEC meeting, which approved the Schedule, was held at 3 pm the following day. And the last deadline for the submission of documents was set for January 22. Thus, there was only one full day left to nominate representatives and submit documents.

Unlike previous elections, during the 2022 referendum, the CEC did not determine the procedure for informing about the time and place of receiving documents for nominating representatives to the territorial commissions. This information was not posted on all websites of local authorities.

According to the CEC, 1,934 people were nominated to 153 territorial commissions. Out of 15 registered political parties in the country, eight submitted nominations to the territorial commissions, including three opposition ones: the Belarusian Green Party (one representative), the Belarusian Party of the Left "Just World" (18 representatives) and the Belarusian Social Democratic Party (Hramada) (one representative). Two more opposition parties, the United Civil Party and the BPF, did not send their representatives to the territorial commissions. A total of 120 representatives were nominated from political parties, which made up only 6.2% of the total number of candidates. This situation testifies to the preservation of the low role of parties in the political life of the state. Separately, it should be noted that the activities of most pro-government parties in the inter-election period were hardly noticeable.

The share of nominees from labor collectives constituted 6.72% (130 representatives), and from citizens – 34.33% (664 representatives).

Most of the candidates for the TECs were nominated by pro-government public associations and the branches of the Federation of Trade Unions. The number of representatives of public associations and trade unions nominated to the commissions was 52.74%, but this did not result in a greater public influence on the election process: the core of the nominees were representatives of the five pro-government organizations, Belaya Rus, Youth Union, Women's Union, Association of Veterans and Fund of Peace, as well as the branches of the Federation of Trade Unions, which together nominated 964 representatives – 94.5% of the representatives of public associations and 49.8% of all applicants.

Meetings of the bodies tasked to form the commissions were held in accordance with the Schedule, i.e. by January 25. In accordance with the CEC's decision No. 2, the bodies that formed the commissions were expected to announce information on the persons nominated to the commissions. A separate vote for each candidate was only allowed in cases where the number of candidates exceeded the number of seats in the commission.

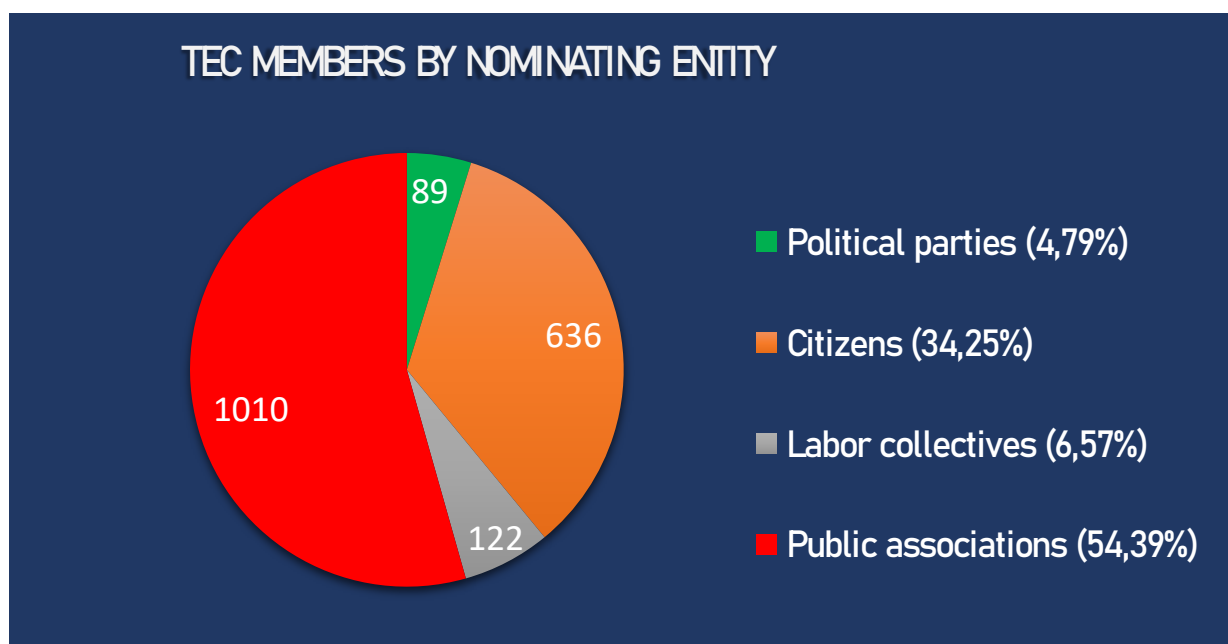
In accordance with the above resolution, meetings of bodies in charge of forming the commissions can be attended by the persons specified in part 5 of Article 34 of the Electoral Code

(representatives of local branches of political parties and other public associations, labor collectives of organizations, the staff of subdivisions of organizations, and citizens who nominated their representatives to the corresponding commission). The participation of observers in these meetings was not envisaged, in contrast to previous elections.

Meanwhile, “Human Rights Defenders for Free Elections” have repeatedly criticized the procedure of establishing election commissions as lacking certainty in legal regulation, non-transparency of the process of selection of nominees and absence of guarantees for equal representation of different political and social forces. The formation of the commissions was marred by selective and discriminatory approaches to the nominees depending on their affiliation to a particular political party, public association, etc. The latter circumstance is clearly manifested when calculating the ratio between the number of nominated representatives and those elected to the commissions. It is extremely high for pro-government entities, and marginal for the opposition or non-partisan actors. During this referendum, the latter number reached zero for the first time.

In total, 153 territorial election commissions were formed, which included 1,857 people, of which 89 were representatives of political parties (4.79% of the total number). Of the 20 nominees from the opposition parties, none was elected. 80 out of the 89 party representatives (90%) were members of the Communist Party of Belarus, who in the 2020 presidential election accounted for 58% of the members of territorial commissions nominated by parties, and in the 2019 parliamentary elections – 34% of party-nominated members of district commissions.

956 representatives of the five largest pro-government public associations and trade unions secured seats in the territorial commissions, which is 54.39% of the total number. 636 people represented “groups of citizens” (34.25% of the total), 122 – “labor collectives” (6.57%).



An objective indicator of fair representation of various political forces in the commissions is the ratio of the number of selected representatives to the number of nominated members.

For opposition political parties, this figure is zero. For the five pro-government public associations and trade unions – 99.17%, pro-government political parties – 74.16%, groups of citizens – 95.78%, and for labor collectives – 93.85%.

Precinct commissions

In accordance with the Schedule, the nomination of representatives to the PECs was to be completed no later than February 3, 2022.

Just as in the case of territorial election commissions, the CEC failed to determine the procedure for informing about the time and place of receiving nomination documents. This information was posted on the websites of only some local authorities.

According to the CEC, 59,176 people were nominated to 5,510 precinct election commissions.

The authorities refused to set up precinct commissions outside Belarus (there were 44 in the 2020 election). Among the stated reasons for such a decision were “the epidemiological situation, the inability to provide a sufficient level of security in organizing voting, as well as the lack of the required number of citizens on consular records.” Given the many restrictions and bans on crossing the border of Belarus and other countries officially related to anti-epidemic measures, a huge number of compatriots were deprived of the opportunity to participate in the referendum and, accordingly, to exercise their right to participate in solving the most important issues of state and public life. At the same time, no understandable and acceptable arguments were given for depriving hundreds of thousands of Belarusians of the right to vote. The government’s reference to the small number of Belarusian citizens on consular records was also untenable, since after the events of August 2020 the number of Belarusians who left for other countries increased significantly. It should be noted that earlier polling stations housed by Belarusian embassies abroad were opened in every election and referendum.

Out of 15 registered political parties, 11 nominated their members to the PECs, including five opposition ones: the Belarusian Green Party (two representatives), the Belarusian Left Party “Just World” (30 representatives), the Belarusian Social Democratic Party (Hramada) (seven representatives), the Belarusian Social Democratic Hramada (one representative) and the United Civil Party (two representatives). The opposition BPF Party did not send its representatives to precinct commissions.

A total of 2,601 representatives were nominated to the PECs from political parties, which is only 4.4% of the total number of nominees.

In general, it should be noted that opposition parties were not active across the country, while many party members and activists were forced to leave Belarus. The activity of the opposition was also greatly affected by the numerous police raids and arrests that targeted activists during and after the 2020 election campaign, including election observers. At the same time, there is information about the nomination of independent representatives nominated by groups of individuals: three representatives of the democratic forces applied for seats on three different PECs of the Slonim district, but none of them was eventually selected. An independent nominee also collected signatures and submitted them to the administration of the Maskoŭski district of Brest, but was not allowed to join the local commission.

The share of nominees from labor collectives is 11% (6,509 representatives), citizens – 33.7% (19,945 representatives), and other public associations – 50.9% (30,121 representatives).

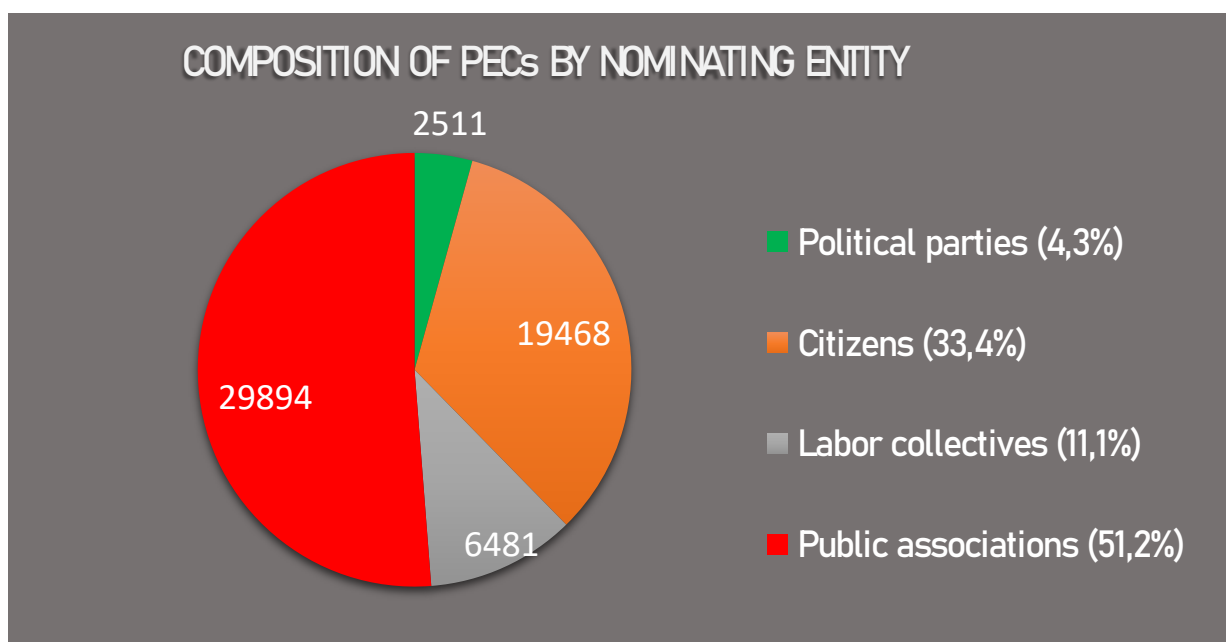
The majority of candidates for the PECs were nominated by pro-government public associations: Belaya Rus, Youth Union, Women’s Union, Association of Veterans and Fund of Peace, together with the government-controlled trade unions. Together, they nominated 28,811 persons, which is 95.6% of all representatives of public associations and 48.7% of all nominees. The rest of the

nominees from public associations also represented the pro-government community, being sent to commissions from various organizations, such as the Union of Soviet-Afghan War Veterans, the Union of Officers, etc.

The meetings of district and city (cities of regional subordination) executive committees, and local administrations in city districts took place on February 4-6.

As during the formation of territorial commissions, the process of forming precinct commissions was characterized by low media coverage. The absence of independent observers at executive committee and administration meetings definitely affected the amount of information available on how precinct commissions were formed, including voting procedures and discussing their personal and professional qualities.

A total of 5,510 precinct election commissions were formed, which included 58,354 members. Among them were 2,511 representatives of political parties (4.3% of the total). Of the 42 candidates from the opposition parties, none was selected. The PECs included 28,584 representatives of the five pro-government public associations and trade unions, which is 49% of the total number of commission members. 19,468 people represented “groups of citizens” (33.4% of the total), and 6,481 – “labor collectives” (11.1% of the total).



For the opposition political parties, the figure is zero, while for the five pro-government public associations and trade unions – 98.9%; pro-government political parties – 98.1%, groups of citizens – 97.6%, and labor collectives – 99.6%.

It is worth noting that in the previous elections, the authorities included in the commissions an insignificant part of the nominated representatives of the opposition from among registered parties and public associations, which was aimed to appear as proof of their participation in the political process, although it did not affect the final balance of power in the election commissions. In the presidential election of 2020, the selection ratio of representatives of the opposition parties was at the level of 1.1%, in the parliamentary elections of 2019 – 4.2%.

Thus, for the first time in the history of independent Belarus, the opposition was not represented in any of the election commissions.

Information about the composition of the established precinct commissions was ambiguous: in some commissions, almost half of the members were new, while others consisted of “old proven personnel.” Obviously, this is due to the results of the 2020 presidential election, when the commissions fulfilled their tasks in different ways: in some, the election results were calculated in accordance with the will of the voters, some habitually confirmed the “victory” of the incumbent, and some commissions showed loyalty only after exerted pressure. The territorial commissions retained the core of their former members, with only one or two new people in each of them.

Entities that nominated their representative to the PECs have the right to appeal the decision of the corresponding body within three days from the date of its adoption to the regional, Minsk city, district, and city courts. The court shall consider the appeal within three days, and its decision is final.

It should be noted that, unlike previous elections, during the preparation and holding of the 2022 referendum, not a single complaint was filed with the courts against the decision of the bodies that formed the commissions. And this clearly demonstrates the total distrust of the justice system in the context of the current legal default.

For the first time in the history of electoral campaigns in Belarus, the lists of precinct election members were not published on the websites of local executive committees immediately after the formation of commissions and were not published in the local media within the period specified by the Electoral Code.

This is a direct violation of the Electoral Code. In particular, Part 7 of Art. 34 of the Code stipulates that the decision on the formation of a commission shall be published in the press within seven days from the date of its adoption. The decision shall indicate the name of each member of the commission, the method of nomination, and the location and telephone numbers of the commission.

For example, on February 10, the city newspaper Vestnik Mogilyova only published the names and addresses of precinct commissions, referring to Art. 34 of the Electoral Code.

The Central Election Commission’s hotline explained to a journalist from the Zerkalo website that “the CEC recommended not to publish the lists of members of precinct commissions to ensure their safety, since in 2020 they received a lot of threats, information about them was in the public domain. Everyone who wanted to, being in Belarus or abroad, considered it necessary to write something, some kind of threat. However, when you come to the polling station, you will naturally be able to see all the employees.”

As it became known to the experts of “Human Rights Defenders for Free Elections”, the composition of the precinct commissions remained secret until the very end of the campaign: the lists of members were not published at the polling stations, and in many polling stations, electoral officials wore badges saying “member of the election commission” or “chairman of the precinct commission”, etc.

Summing up the results of the referendum, CEC chairperson Ihar Karpenka said that “there were some unpleasant moments when there were attempts by destructive forces to get personal data of members of election commissions.”

CAMPAIGNING

According to Part 3 of Article 45 of the Electoral Code, citizens, political parties, other public associations, and “labor collectives” have the right to freely campaign for a referendum proposal,

for the adoption of a proposal submitted to a referendum, as well as against a referendum proposal, and the adoption of a proposal submitted to a referendum. Campaigning events are subject to the legislation regulating regular public events. This means that a simplified procedure used for campaigning events during other types of elections is not applicable, and the organizers of events during the referendum must submit an application for holding a mass event at least 15 days before the intended date of the rally.

Thus, the above-mentioned legislation, as well as general restrictions on holding events by opposition movements and ordinary citizens, make it impossible to extensively use rallies to campaign during the referendum.

When holding a referendum, local executive and administrative bodies, in agreement with the corresponding commissions, shall allocate convenient places at polling stations for posting campaign materials. With the permission of the head of the organization, printed materials can also be posted in other spots. If the head of the organization has allowed one candidate to post printed campaign material on the premises of the organization, they have no right to refuse another candidate to post the printed campaign material under the same conditions. Executive and administrative bodies may prohibit the posting of printed campaign materials in unauthorized locations. The state media are obliged to provide equal opportunities for publishing questions, texts of bills submitted to the referendum, and campaigning for the referendum.

According to Article 47 of the Electoral Code, campaigning that advocates war, contains calls for violent change of the constitutional system, violation of the territorial integrity of the Republic of Belarus, insults and slander of Belarusian officials, as well as calls that encourage or aim to encourage disruption, cancellation or postponement of elections, referendums, appointed in accordance with legislative acts of the Republic of Belarus, are prohibited. It is prohibited to promote social, racial, national, religious, or linguistic superiority, to produce and distribute messages and materials that incite social, racial, national, or religious hatred. When campaigning, citizens and organizations are prohibited to distribute money, gifts, and other material values, to sell goods on preferential terms, to provide any services and goods free of charge, except for printed campaign materials specially produced in compliance with the requirements of the Code. When campaigning for a referendum, it is forbidden to affect citizens by promising to give them money or material values. In case of a violation of this provision, the corresponding commission shall take measures to stop violations, and the CEC, or territorial and district election commissions shall also have the right to cancel the candidate's registration.

The authorities arranged a widespread coverage of the draft Constitution. Campaigning was carried out across Belarus by the apparatus of executive committees, the ideology services of enterprises, organizations and institutions, teachers, medical and cultural workers, numerous pro-government organizations, and trade unions. Numerous meetings were held with pro-government experts and officials. Most events were held behind closed doors. They were attended by employees of state organizations, enterprises and courts, teachers, university and college students. Such events took place only formally, without any active discussion or debate. Deans were present at meetings with university students to address uncomfortable questions. It was claimed that participation in the referendum was a civic duty of students.

It is known about numerous facts of the use of administrative resources for campaigning. For example, workers were brought to campaigning events in companies' vehicles to ensure their attendance. Meetings at state organizations were held during working hours.

Due to the ongoing repressions in Belarus, it is impossible to speak about equal campaigning conditions for proponents and opponents of the referendum. The opponents, opposition activists and participants in the 2020 protests, were arrested on a regular basis ahead of the referendum. If campaigning against participation in the referendum or the draft Constitution, people were arrested and subjected to administrative liability. There were at least 38 similar cases documented. After arrest, the persons were sentenced to terms of administrative imprisonment ranging between 7 and 15 days. As a rule, these were people who had previously been persecuted for political reasons. Arrests were also observed during early voting.

In addition, at least 11 people faced criminal charges related to the referendum.

On January 14, a 68-year-old pensioner and former member of the village council Mikalai Vistikau was arrested in the village of Cierucha, Homiel region. The reason for the detention was his letter to the *Mayak* newspaper regarding the discussion of amendments to the Constitution. The investigators qualified the letter as a crime under Part 1 of Art. 130 of the Criminal Code, “inciting social hostility or discord”. At the time of writing, Vistikau remained in detention awaiting trial.

On January 31, security officers arrested Anatol Latushka, Liliya Ananian and Alena Malinouskaya for allegedly stenciling the Pahonia coat of arms on mailboxes in a residential building. It is known that after the arrest Latushka was severely beaten. Later, the Investigative Committee reported that they allegedly “painted protest inscriptions”, “burned the state flag”, “damaged banners depicting police officers” and “printed leaflets about the referendum”. It was reported that they were charged with hooliganism, desecration of state symbols, and obstruction of participation in the referendum.

On February 16, the police arrested Viachaslau Dashkevich, Mikhail Khamitsevich, Raman Karpuk, Tatsiana Zayats, Mikalai Karobka and Katsiaryna Kupryianava for distributing leaflets among commission members calling for an honest count of votes. The six persons were charged under Art. 191 of the Criminal Code (obstruction of the exercise of electoral rights, the right to participate in a referendum, or the exercise of the right of legislative initiative of citizens, or the work of the Central Commission of the Republic of Belarus for elections and holding republican referendums, election commissions, referendum commissions, commissions for voting on the recall of a deputy). All six were in custody awaiting trial at the time of writing.

On February 20, the Interior Ministry announced nine criminal cases initiated in connection with the referendum. The pro-governmental TV channel ONT aired footage of persons arrested for mailing leaflets to members of election commissions. The leaflets read: “Teachers! Count the votes in the referendum honestly. Otherwise, be afraid! We will come to you and hold you accountable”.

On February 23, a 60-year-old kindergarten teacher Larysa Mikalayeva was arrested on charges of committing a crime under Part 2 of Art. 191 of the Criminal Code (impeding the exercise of the right to participate in a referendum, the work of the Central Commission of the Republic of Belarus for elections and holding republican referendums, referendum commissions) for printing 16 leaflets urging voters to put “two crosses” on their ballots. On April 4, the court of the Frunzienski district of Minsk sentenced her to three years of restricted freedom (“home confinement”).

At the same time, pro-government representatives violated the electoral legislation with impunity: for example, on February 11, the regional newspaper *Vitebskiye Vesti* published an “appeal by members of the Viciebsk Regional Coordinating Council of Public Associations and Political Parties”. 19 leaders of non-governmental organizations and political parties called on the residents of the Viciebsk region to come to the polling stations and vote for changing the Constitution. Three

of the signatories are members of the regional election commission: Valeryian Matskevich, chairperson of the regional branch of the Belarusian Union of Soviet-Afghan War Veterans, Tatsiana Tumanava, chairperson of the regional branch of the Belarusian Fund of Peace, and Siarhei Aisevich, chairperson of the regional branch of the Belarusian Public Association of Veterans.

The society was paralyzed by a profound lethargy and an atmosphere of fear owing to possible reprisals for criticizing the referendum, the draft amendments to the Constitution or the actions of the authorities. State media covered only the activities of supporters of the draft amendments to the Constitution and expressly supported this position.

Despite the fact that, according to the legislation, during the referendum, local executive and administrative bodies were expected to allocate adequate places on the premises of polling stations to accommodate printed campaign materials, this provision of the Electoral Code was largely ignored. Local governments failed to regulate the issue (at least such decisions were not published). Moreover, the Referendum Schedule did not provide for the need to make such decisions.

VOTING

Early voting

According to the official data of the CEC, 42.93% of the voters included in the voter lists (in the Homiel region – 49.02%), or 55% of all those who took part in the referendum, cast their ballots during the five days of the early voting phase, which is an all-time record for the history of Belarusian elections and referendums.

“Human Rights Defenders for Free Elections” received numerous reports of organized early voting involving employees of government-owned institutions, law enforcement officers, military personnel, and students. At some enterprises, employees were encouraged to participate in early voting: they were provided with 2-3 hours of paid time during working hours to vote early, while at others their participation in early voting was controlled by their superiors.

According to reliable information in the possession of the observers, in contrast to the announced figures, voters did not actively participate in early voting. In this context, it seems that the number of those who voted early, according to the CEC, has nothing to do with reality.

The authorities reacted painfully to the protest voting: in Viciebsk on February 26, a man was arrested at a polling station for putting two marks on the ballot. He was accused of unauthorized picketing. Since the voting was carried out in booths without curtains, police officers on duty noticed that the man was photographing the ballot. According to the police officers, by putting two marks instead of one, the voter held an illegal picket, which is certainly legal nonsense.

Main voting day

Voting on the main voting day begins at 8 am and ends at 8 pm and is organized in two formats: voting at the polling station and voting at home.

In general, campaign experts received information about low voter turnout, with few voters coming to the stations, few signatures in the lists of voters who received ballots and the low general interest of citizens in participating in the voting. However, on the main voting day on February 27, various types of protest activity were observed, including putting two marks on the ballot, standing near the polling stations after 2 pm, as well as numerous anti-war pickets. On the day, 908 people

were arrested throughout Belarus. According to the Human Rights Center “Viasna”, at least 616 people were later sentenced to short terms of administrative imprisonment. The vast majority of those detained were participants in peaceful protests against Russia’s military aggression against Ukraine and Belarus’s participation in it. However, it was not uncommon for referendum participants to be arrested for attempting to photograph ballots. For example, in Navapolack, Viktor Akasevich, a member of the Naftan striking committee, and his son, Artsiom Akasevich, were arrested at a polling station. According to eyewitnesses, Viktor was detained after photographing his ballot.

In accordance with Art. 54 of the Electoral Code, the precinct commission is obliged to ensure the opportunity to vote of those who, for health reasons or for other valid reasons, are not able to come to the polling station on the day of the referendum. The precinct commission, at the request of the voter, expressed in writing or orally, instructs at least two members of the commission to organize voting at home on the day of the referendum. At the same time, according to the experts of “Human Rights Defenders for Free Elections”, this provision was not fulfilled by precinct commissions. In particular, there were examples when members of the election commission travelled around the villages with a ballot box and asked to vote those who did not even declare a request to vote at home. In Homiel, members of precinct commissions walked through the yards of residential buildings and persuaded passers-by to cast ballots. In Viciebsk, people who introduced themselves as members of a precinct commission visited several residential buildings and offered to vote on the spot, i.e. outside the apartment. In Svietlahorsk, members of a commission knocked on the doors of all the apartments in one of the residential buildings, inviting those who wished to vote. In the villages of the Smarhoń district, the commission members visited all houses, regardless of the presence or absence of a corresponding request for voting at home.

COUNTING OF VOTES AND TABULATION

According to the Electoral Code, the counting of votes at polling stations begins after the end of voting at 8 pm.

The counting procedures remain one of the central subjects of criticism by both international and domestic observers. One of the key related problems is the absence of an established step-by-step description of the method and procedure of counting in Art. 55 of the Electoral Code. This article only establishes the rule of separate counting of votes by type of voting (early voting, home voting, and voting on the main polling day), counting of ballots for each candidate separately, and counting of ballots directly by members of the commission, without a break until the final result is established. Article 55, however, does not specify the exact way of counting the ballots and the roles of PEC members. This is the main systemic problem of the current legislation, which results in the absence of transparency in vote counting, manipulations with the figures, and rigging voting results.

The OSCE/ODIHR has repeatedly sent recommendations to the Belarusian authorities asking to improve the legal regulation of this procedure and to bring it into line with international standards for free and democratic elections.

Traditionally, election commissions used the so-called simultaneous and collective counting of votes, when the ballots are counted by all members of the commission at the same time, and the ballots are not displayed. This method of counting votes is not established by Article 55 of the Electoral Code, is non-transparent to observers and other PEC members, and allows for falsification of the vote count.

Experts of the campaign “Human Rights Defenders for Free Elections” learned that the earlier practice of non-transparent vote counting remained widespread. Also, there is information that separate counting from the boxes for different types of voting was not carried out, which is a direct violation of the requirements of the Electoral Code.

In the absence of independent observation and representation of all political forces in the election commissions, it can be argued that the voting results were not transparent. This is a violation of publicity as one of the fundamental principles of elections. In addition, campaign experts are aware that the final protocols with the results of the counting of votes were not published at a significant number of polling stations.

RECOMMENDATIONS

Legislative framework

It is necessary to revise the electoral legislation taking into account the previous recommendations of the OSCE/ODIHR and the Venice Commission, including on the composition and formation of election commissions, the rights of candidates, the rights of observers and the proper organization of voting, counting of votes and the establishment of voting results. Legislation should be interpreted and applied in such a way as to ensure a level playing field for candidates, genuine competition, the free expression of the will of the voters and the integrity of the electoral process.

Legislation governing freedom of association, assembly and expression needs to be reformed to bring it into line with international human rights standards. Any restrictions on fundamental rights and freedoms must be of an exceptional nature, imposed only when necessary in a democratic society, and be proportionate to the legitimate aims provided for by law.

Voter lists

While positively evaluating the adopted amendments to the Constitution, which lifted restrictions on voting for persons in custody, at the same time we note that the Constitution retains an unreasonable prohibition of the right to vote for all citizens imprisoned by a court sentence. This constitutional provision should be revised, retaining restrictions on the right to vote only for persons convicted of serious crimes against the state, against the peace and security of mankind. At the same time, conviction for crimes against the state should not become an instrument for restricting voting rights.

We recommend creating a State Register of Voters to ensure a comprehensive record of citizens who have the right to participate in elections and referendums. The formation of the Register and its functioning should be subject to public control, including by the subjects of the electoral process. The creation of the Register will require changes to the Electoral Code, as well as the adoption of a corresponding legal act.

Formation of election commissions

It is necessary to revise the procedure for appointing members of the CEC established by the amendments to the Constitution, according to which the chairperson and members of the Central Electoral Commission are elected and dismissed by the All-Belarusian People’s Assembly. Based on the practice of its work in previous years, the process of election and dismissal of the CEC members by the Assembly is likely to be completely non-transparent. Meanwhile, the process of forming the CEC, as an important element for a democratic election, should be clear, transparent and inclusive and provide guarantees for its independence and impartiality, which will ultimately help increase public confidence in the electoral process.

It is necessary to legislate the pre-emptive right of political parties to delegate their representatives to election commissions, while providing for a rule allowing representatives nominated by citizens and public associations to occupy seats on the commissions if a political party does not use its right to send representatives. At the same time, the participation of “labor collectives” in the formation of election commissions should be excluded. Such a procedure for the formation of election commissions will increase the role of political parties as the main participants in the electoral process, create a higher level of trust in election commissions, and also make the work of such commissions transparent for the entire Belarusian society. In addition, this norm will create confidence in the voting results approved by such commissions. Assignment to citizens and public associations of the right to nominate their representatives to the commissions if the parties failed to nominate a sufficient number of their representatives will ensure the necessary staffing of the election commissions.

Campaigning

It is necessary to ensure the application of uniform approaches to campaigning both for supporters of the issue submitted to the referendum, and for its opponents. Representatives of the current government should not abuse their official position and use state resources, including material and human resources, to promote the issue initiated for a referendum.

Unreasonable prohibitions and restrictions on conducting campaigning in support of or against the issue put to a referendum should be eliminated by extending the rules for campaigning to the period of collecting signatures in support of the proposal to hold a referendum.

In addition, the practice of persecuting citizens who express their opinion on an issue put to a referendum should be abandoned.

It is necessary to provide for a simplified procedure for holding public events, the purpose of which is to campaign for a referendum, by analogy with the election of the President and members of legislative bodies at all levels. The general procedure for holding events, when the organizers must submit an application no later than 15 days before the expected date, makes it practically meaningless to use events during a referendum, which has a shorter timeframe than elections.

All artificial restrictions on the use by both supporters of a question put up for a referendum and its opponents of equal opportunities for publishing and promulgating questions put up for a referendum, and campaigning for a referendum must be removed.

It is necessary to extend the legislative regulation of the issues of campaign financing during the referendum.

It is also necessary to stop any intimidation, threats and pressure on the media and journalists by government officials, including during the referendum and any other election. The state must recognize the high role of independent journalism in a democratic society and take all measures to protect the media and journalists from attacks in connection with the exercise of their professional activities.

Early voting

It should be legislated that citizens who cannot be present at the polling station on voting day may vote early upon presentation to the precinct election commission of documents confirming the circumstances preventing them from voting on the main voting day. Such documents may be travel certificates, long-distance (international) tickets, medical referrals for treatment or rehabilitation,

or other documents stipulated by law or resolutions of the Central Election Commission. This will bring back the true meaning of early voting as an exclusive form of voting.

It is also necessary to take additional measures to ensure the safety of ballot boxes and ballots during early voting.

Vote counting

The following principles of vote counting procedures should be enshrined in law: vote counting is carried out publicly, in the presence of observers who can monitor the correctness of the count of the will of voters in each ballot (i.e., see the contents of each ballot); the counting of votes is carried out by one of the members of the commission, who reads out and demonstrates each ballot to all members of the commission and observers; the counting of votes is carried out separately for each ballot box, and the results of such a separate count of votes are reflected in the final protocol. A copy of the final protocol, certified by the chairperson and secretary of the precinct election commission and sealed, is issued to an observer at their request. The introduction of a transparent vote count will restore confidence in the results of elections, and, along with the implementation of other recommendations, create conditions for the recognition of the results of referendums and elections by both the international community and domestic public. This will help restore confidence in the election commissions and in the electoral process as a whole.

It is necessary to legislate the right of observers to be directly present and observe the procedure for the transfer of ballots and protocols with the results of voting from polling stations to superior election commissions.

In order to strengthen confidence in the results of elections, a provision should be introduced into the electoral legislation obliging local executive authorities to post on their websites (in special sections) and in the printed publications they run or co-run information on the voting results for the corresponding territorial unit (constituency, district, district in the city, region) with a breakdown by polling stations. Information on voting results, broken down by polling stations throughout the country, should also be posted on the website of the Central Election Commission.

Judicial disputes

The right to judicial review of any decisions by election commissions of all levels that affect the rights of participants in the election campaign should be legislated. The introduction of this rule will create a civilized system for the consideration of electoral disputes, increase confidence in judicial decisions, and strengthen general respect for the legal institutions of the state.

In order to implement the principle of transparency of the electoral process, all court decisions on electoral disputes should be made public.

At the same time, judicial reform should be carried out to strengthen the independence of judges in order to guarantee the adoption of judicial decisions free from any influence.

It is also necessary to clearly regulate the calculation of procedural deadlines for filing complaints and appeals during the election period, including the beginning and end of the period, and the conditions for their restoration.

Observation conditions

Observers should be allowed to observe all aspects of the electoral process and no artificial obstacles should be created to the work of observers.

To ensure true transparency and openness of elections, it is also necessary to amend Article 13 of the Electoral Code, providing that an observer accredited with the election commission has the right to observe all phases and aspects of the electoral process in the corresponding constituency, territory or precinct, all the actions of the corresponding election commission, as well as have unrestrained access to all of its decisions, while not allowing interference in the activities of the commission, without violating the voting procedure and other generally accepted prohibitions. It is necessary to provide for the right of an observer to receive a copy of the protocol of counting the results of voting at the polling station, certified by the commission, to take photographs, record audios and videos of the voting process (without violating the secrecy of the vote) and counting of votes at the polling stations.