



HUMAN RIGHTS DEFENDERS FOR FREE ELECTIONS

Republic of Belarus. 2020 Presidential Election

Weekly observation report: June 1-7

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

- during the period of the report, the registered nomination groups continued to collect signatures to support the nomination of candidates for President of the Republic of Belarus. Among the potential candidates, the greatest attention of voters and the media, as before, was drawn by Viktor Babaryka, Valery Tsapkala, and Sviatlana Tsikhanouskaya;
- a particularly negative reaction of the authorities, including the head of state, was caused by the signature-collecting pickets held by the nomination group of Sviatlana Tsikhanouskaya, or rather by the team of blogger and head of this nomination group Siarhei Tsikhanouski;
- mass arrests and detentions of opposition activists, including members of Tsikhanouskaya’s nomination group, took place in different cities of the country during the week. They were accused of participating in unauthorized mass events, namely pickets to collect signatures, which took place in places not prohibited by the decisions of local executive bodies. Experts of the campaign “Human Rights Defenders for Free Elections” note that the pickets were held in accordance with Art. 61 of the Electoral Code and observed the ban on the distribution of printed and other campaign materials;
- blogger Siarhei Tsikhanouski and seven other people (including four members of Tsikhanouskaya’s nomination group) have been held in the pre-trial detention center in Minsk as suspects in a criminal case of alleged violence against a police officer, after they were arrested at an election picket in Hrodna on May 29. Active investigative actions are taking place within the case: interrogation of witnesses, searches in private and office premises of both Siarhei Tsikhanouski and his supporters. The criminal case has been widely covered in the government-owned media;
- on June 4, the head of state made another negative statement against his opponents. The speech was broadcast on state TV channels;
- the collection of signatures for the nomination of the incumbent President has been accompanied by numerous reports of abuse of administrative resources: including direct participation of administrations of organizations, enterprises and institutions (including health and education organizations), and collection of signatures in the workplace, including during working hours;
- the CEC rejected the complaint filed by the nomination group of Viktor Babaryka who reported violations of election laws during the collection of signatures by Lukashenka’s nomination group. At the same time, experts of the campaign “Human Rights Defenders

for Free Elections” note the formal nature of its consideration and the selective approaches of the CEC to interpret some rules of electoral law in favor of one of the potential candidates: the rules prohibiting participation of administrations in collecting signatures (para. 10 Art. 61 of the Electoral Code);

- experts of the campaign “Human Rights Defenders for Free Elections” note a radically different approach of the CEC to the possibility of campaigning before the registration of candidates during this year’s election as compared to previous presidential and parliamentary elections. The CEC should develop uniform rules for all candidates, regardless of their political views and power, in order to prevent discriminatory approaches in the assessment of election campaigning by different actors.
- in general, representatives of the campaign “Human Rights Defenders for Free Elections” note the continuing trend of increasing repression during the election period, including against the direct participants in the election, and the escalation of tensions and an atmosphere of fear in society.

GENERAL SITUATION

In the period from June 1 to 7, the registered nomination groups continued to collect signatures to support the nomination of candidates for President of the Republic of Belarus.

The nomination groups of Viktor Babaryka, Valery Tsapkala, and Sviatlana Tsikhanouskaya were the most active groups during the period. Their activities were widely covered in a number of independent media.

The collection of signatures for the nomination of the incumbent President Aliaksandr Lukashenka has been accompanied by numerous reports on the use of administrative resources and the collection of signatures with the direct participation of administrations of organizations, enterprises and institutions (including health and education organizations), in the workplace, including during working hours.

After the arrest of Siarhei Tsikhanouski, popular blogger and head of the nomination group of Sviatlana Tsikhanouskaya, at an election picket in Hrodna, the police arrested several other members of the nomination group and the blogger’s supporters throughout the country.

There were also cases of administrative prosecution, including resulting in short terms of detention, under Art. 23.34 of the Administrative Code (organization or participation in mass events), of participants in pickets held to collect signatures in support of the presidential nomination of Sviatlana Tsikhanouskaya, including members of her nomination group. On June 5, one of the presidential nominees, Uladzimir Niapomniashchykh, was briefly detained by police and later released in Homiel. An administrative case was instituted against him under Art. 23.34 of the Administrative Code.

Law enforcement agencies became particularly active after a series of public statements by high-ranking officials, including incumbent President Lukashenka, in which they attacked the allegedly illegal and inadmissible nature of the election pickets held by Tsikhanouskaya’s nomination group.

Siarhei Tsikhanouski and seven other people, including four members of Tsikhanouskaya’s nomination group, were arrested as part of a criminal case. They are currently being held in the pre-trial detention center in Minsk. According to available information, none of them has yet been formally charged, and they continue to remain suspects in the case.

Active investigative actions are underway within the case. These include interrogations of witnesses, searches in private premises and offices of Tsikhanouski's supporters, including in the blogger's private premises. In particular, on June 4, it became known that during a search at Tsikhanouski's summer house near Homieĺ, the investigators reportedly found \$ 900,000 in cash.

On June 4, during his speech, which was broadcast on state television, President Lukashenka once again sharply criticized his opponents, noting that "they will not have the country."

TEC AND CEC MEETINGS

Despite the COVID-19 pandemic, all the meetings of territorial commissions have been held as usual, without livestreams. Observers were allowed to attend the meetings.

Observers note that in some commissions most of the work is done between the meetings in the absence of observers: in the Lieninski district election commission in Brest, the Lieninski district election commission in Mahilioŭ, the Kryčaŭ district election commission, and the Kastryčnicki district election commission in Hrodna.

As a rule, members of the commissions comply with the requirements of the Ministry of Health on social distancing.

On June 4, the CEC met to consider several complaints and adopt resolutions No. 85 "On clarification of the application of the provisions of the Electoral Code of the Republic of Belarus on the procedure for declaring income and property in the 2020 presidential elections", No. 86 "On approval of the regulations on the procedure for the use of mass media in the preparation and conduct of the 2020 presidential election" and No. 87 "On the Supervisory Board for monitoring the procedure and rules of campaigning in mass media".

The procedure for declaring income and property during the 2020 presidential election has remained largely the same and amounts to filing income and property declarations under a prescribed form by a nominated candidate for the presidency and his (her) spouse and adult close relatives who live together with him (her) and run a common household. The CEC continues to verify this information with the involvement of regulatory and registration authorities.

Compared to the declaration procedure in force in the 2015 presidential election, the notion of the severity of inaccurate information has changed. As before, a severe violation is failure to declare more than 20 percent of the total amount of annual income; absence of information about real estate, shares in the ownership of property; absence of information on vehicles in property, with the exception of stolen vehicles. It is also a severe violation to underreport the amount of owned shares.

The new rules have expanded an earlier provision allowing not to declare legal entities in the process of liquidation: it is not a violation not to indicate information about stakes in a legal entity transferred for trust management.

Under the new rules, overreporting on income and the number of shares is no longer considered a severe violation.

The current rules were earlier applied by the CEC in the 2019 parliamentary elections.

The procedure for using mass media in the preparation for and conduct of the presidential election provides for the right of a candidate to a free-of-charge publication of their election program in the print media; the CEC resolution lists 10 nation-wide and regional newspapers.

Compared to the previous presidential election in 2015, the list was reduced by one outlet (Narodnaya Hazeta).

Presidential candidates are entitled to two free appearances on the Belarus 1 TV channel and two free appearances on the First National Channel of Belarusian Radio of no more than 30 minutes each. In addition, it is possible to hold TV debates lasting up to 60 minutes (up to 90 with more than 5 participants). The candidates' appearances and televised debates should be aired live if the presidential candidate does not want their address to be aired through delayed broadcasting. The candidates are not allowed to use audio and video materials in the appearances.

The Supervisory Board for monitoring the observance of the procedure and rules for conducting election campaigning in the mass media (hereinafter referred to as the Supervisory Board) was established for the period of preparation and holding of the presidential election; it is made up of professionals in the field of editorial and publishing activities, representatives of the media and public associations of journalists.

Decisions of the Supervisory Board are taken by open voting by a majority vote of the total number of members. Compared to the 2015 presidential election, the voting procedure was supplemented by a rule allowing a casting vote by the presiding member after a split vote has been reached.

The control over the equal charge and conditions for the appearance of all presidential candidates in the media has extended to online publications.

The CEC's Regulation on the Supervisory Board, compared to that in force in the 2015 presidential election, was supplemented by a rule stressing that members of the Supervisory Board exercise their powers as a collegial body and have no right to act on its behalf unless authorized to do so by the Supervisory Board or its chairperson. The Regulation was also supplemented with a clause on the possibility of early termination of the powers of a member of the Supervisory Board: upon a written application; in case of their nomination as a candidate for President of the Republic of Belarus; when committing actions that hinder the work of the Supervisory Board or exceed the powers of a member of the Supervisory Board, on the basis of a decision of the Central Election Commission adopted on the proposal of the chairperson of the Supervisory Board.

COLLECTION OF SIGNATURES

All the 14 groups registered by the CEC continue to collect voters' signatures.

The nomination groups of Viktor Babaryka, Valery Tsapkala, and Sviatlana Tsikhanouskaya were the most active groups in collecting signatures at election pickets. Babaryka and Tsapkala have been traveling around the country to meet with voters in different cities.

Pickets of independent candidates often gather large numbers of people wishing to sign.

The pickets by the nomination groups of Sviatlana Tsikhanouskaya caused a particularly negative reaction of the authorities, including the head of state.

In particular, during a meeting with the KGB Chairman Valery Vakulchyk, President Aliaksandr Lukashenka said that there would be no Euromaidans in Belarus.¹

¹ <https://news.tut.by/elections/687175.html>

In a special statement, members of the standing commission on state-building, local self-government and rules of procedure of the House of Representatives criticized collecting signatures “in order to manipulate people’s minds, fuel social tensions and speculate on the difficult economic and sanitary-epidemiological situation.”

During the June 4 meeting of the Central Election Commission, the CEC chairperson Lidziya Yarmoshyna said that Siarhei Tikhanouski’s campaigning activities (holding pickets to collect signatures) resembled “mob methods of the 90s” and announced her decision to write to the Investigative Committee asking to prosecute Tsikhanouski and his associates under Art. 191 of the Criminal Code (creating obstacles to the exercise of suffrage or the work of the Central Election Commission and other election commissions).²

On May 30, chairperson of the Minsk City Executive Committee Anatol Sivak said that Tsikhanouski’s activities were unacceptable and promised repression against participants in pickets attended by “crowds”.³

Following these statements, the police arrested numerous participants in pickets held by Sviatlana Tsikhanouskaya’s nomination group, including members of her nomination group. In particular, on May 7 in Minsk and Homiel, police officers detained people who took part in the pickets held by the nomination groups of Sviatlana Tsikhanouskaya and Volha Kavalkova.

The nomination group of President Aliaksandr Lukashenka has made little use of street pickets as a means of collecting signatures. According to observers, signatures in favor of the incumbent president have been mainly collected among co-workers, often using the administrative resource of members of the nomination group and heads of enterprises and organizations. During the CEC session on June 4, Mikhail Orda, head of Lukashenka’s nomination group and chairman of the pro-government Federation of Trade Unions of Belarus (FTUB), said that half of the signatures had been collected at people’s place of residence.

On June 5, the FTUB, Belaya Rus and the BRYU (Belarusian Republican Youth Union) held their first public picket to collect signatures for Lukashenka’s nomination near the Dana Mall shopping center in Minsk. The picket attracted a lot of attention from both state-controlled and independent media. The picket was attended by the head of the nomination group Orda, who said that a million signatures had already been collected for Lukashenka’s nomination.

Long-term observers of the “Human Rights Defenders for Free Elections” campaign continue to report on the active use of administrative resources in collecting signatures for the nomination of the incumbent. These are mainly cases of organized collection of signatures by the administrations of organizations, enterprises and institutions (including health care and education organizations) among their subordinate employees on the territory of organizations, including during working hours. Experts of the “Human Rights Defenders for Free Elections” campaign have repeatedly called to include the territories of enterprises and organizations in the list of places prohibited for collecting signatures, which are allocated by the decisions of local executive authorities.

Alena Masliukova, an observer with the “Human Rights Defenders for Free Elections” campaign in Sviethlahorsk, complained to the prosecutor’s office about the use of administrative resources in collecting signatures for the incumbent.

² <https://news.tut.by/elections/687390.html>

³ <https://minsk.gov.by/ru/news/new/2020/06/02/1076/>

During the last week, the observer received several reports of potential voters and employees of local enterprises being pressurized by their managers, including at Khimvalakno and the pulp and cardboard factory. They were forced to sign for Lukashenka's presidential nomination.

She was also told that employees of the city's enterprises were forced to sign for Lukashenka after chairman of the Svietlahorsk district election commission, Kanstantsin Piatrouski, visited the factories.

Several students of the Department of Mathematics and Natural Sciences of the Mahilioŭ State University complained about the use of administrative resource by the university administration when collecting signatures for Aliaksandr Lukashenka's presidential nomination.

According to them, the department dean, Natallia Sakovich, asked the students to bring their passports to an exam scheduled for May 29.

The students were awarded the exam without sitting it. But before leaving the room, they were invited to an adjoining office where vice-rector Aleh Dziachenka, who is also a member of the Council of the Republic of the National Assembly, offered the students to sign for the nomination of Aliaksandr Lukashenka.

A long-term observer of the campaign says that Dzmitry Ihnatchyk, head of the education department of the Drahicyn district executive committee, was collecting signatures for the nomination of Aliaksandr Lukashenka at school No. 2, as reported by a local online newspaper Pieršy Rehijon.

School principal Siarhei Senkavets told the newspaper's reporter that the official had collected signatures from teachers during lunch break. The official himself refused to talk to the journalist.

COMPLAINTS AND APPEALS

As of June 4, the CEC received 465 complaints from citizens; 236 of them were considered by the CEC chairwoman Lidziya Yarmoshyna as a group address "concerning media statements insulting women." The CEC website said⁴ that the Commission had received numerous appeals disagreeing with the statements by presidential nominee Aliaksandr Lukashenka, which are discriminatory against Belarusian women" and violate Article 47 of the Electoral Code. According to the CEC, Article 47 of the Electoral Code, which establishes restrictions on campaigning, does not apply to presidential nominees, as it stipulates requirements for campaigning of presidential candidates after their registration. Moreover, according to the CEC, the election legislation does not contain the notion of early campaigning. Thus, the CEC did not find legal grounds to issue a warning to Lukashenka, as requested by the applicants.

At the same time, analysts of the campaign "Human Rights Defenders for Free Elections" note that during the 2019 parliamentary elections, election commissions regularly issued warnings over electoral violations by the nomination groups of opposition candidates for their use of campaign materials and speeches. In particular, the election commission of electoral district No. 98 issued a warning to Andrei Voinich, a nominee from the European Belarus opposition group. The penalty stemmed from his nomination materials, which covered not only the applicant's biographical data, but also socially significant issues (salaries in certain areas, etc.). The commission issued a warning to BSDP activist Valiantsin Trotski, who was collecting signatures in electoral district No. 105 in Minsk, for using the phrase "Lukashenka Must Leave" and a short

⁴ <http://rec.gov.by/sites/default/files/pdf/2020/otvet1.pdf>

political platform during his pickets. The nominee subsequently lost his appeal to the Minsk city election commission. Andrei Pukanau, who was collecting voters' signatures in electoral district No. 35 in Homiel, was warned by the election commission for using "early campaigning" at his pickets, which is only legal after the candidate's registration.

Thus, the CEC should develop uniform rules for all candidates, regardless of their political views and power, in order to avoid discriminatory approaches to the election campaigns of different actors.

The CEC chairperson also unexpectedly supported the dubious position⁵ of the executive branch and stressed that it was illegal to hold pickets to collect signatures with long queues of voters and members of nomination groups displaying posters with slogans of socio-political nature and talking to people. According to Yarmoshyna, signature-collecting pickets are "not meant for public speeches."

Analysts of the campaign "Human Rights Defenders for Free Elections" note that the procedure for collecting signatures by members of nomination groups is set out in Article 61 of the Electoral Code: "Collection of signatures of electors may be conducted in the form of picketing. Permission to hold picketing for the said purposes shall not be required provided it is held in places not prohibited by the local executive bodies." The concept of picketing is not contained in the electoral legislation, therefore, it is defined in accordance with the Law "On Mass Events in the Republic of Belarus": "Picketing is public expression by a citizen or a group of citizens of socio-political, collective, personal and other interests or protest (without a procession), including by hunger strike, on any issues, with or without the use of posters, banners and other means. Picketing is equated with the joint mass presence of citizens in a predetermined public place (including out of doors) at a specified time to perform a predetermined action organized (including through online or other information networks) to publicly express their socio-political interests or protest." The electoral legislation does not contain any restrictions on the number of participants, topics or forms of expression. Article 61 of the Electoral Code and CEC Resolution No. 14 "On clarification of the application of the provisions of the Electoral Code of the Republic of Belarus on the procedure for the nomination of candidates for President of the Republic of Belarus in the 2020 presidential election" set additional requirements and restrictions on pickets held to collect signatures. The picketers have the right to display information materials with biographical data of persons in support of whom signatures are collected; these information materials, as well as other printed materials, however, should not be given to voters. In addition, in a pandemic, members of nomination groups should follow the recommendations of the Ministry of Health on the prevention of the coronavirus infection (use face masks, hand sanitizers, etc.).

Any other restrictions on holding peaceful pickets are unacceptable both in terms of national law and in accordance with Belarus's international obligations.

Also on June 4, the CEC considered a complaint by presidential nominee Viktor Babaryka, who reported the involvement of government employees in the collection of signatures for the nomination of Aliaksandr Lukashenka, including through providing the employees' passport data and by exerting pressure on them. Babaryka also argued that Lukashenka insulted and slandered officials and other nominees, and used propaganda of social, racial, national, religious or linguistic superiority. The nominee further accused the incumbent of abusing his official position in the interests of his re-election: Babaryka said that government officials subordinate or

⁵ <https://www.belta.by/society/view/sivak-prizyvaet-ne-putat-sbor-podpisej-i-massovyje-meroprijatija-392892-2020>

otherwise dependent on the President were involved in activities that promoted Lukashenka's nomination during working hours, as well as with the use of premises occupied by government bodies and organizations.

The complaint was refused. The decision, however, directly contradicted the provisions of para. 10 of Article 61 of the Electoral Code, which prohibits the participation of administrations in the collecting of signatures along with coercion in the process of collecting signatures and rewarding voters for signing. Violations of these requirements may be grounds for denial of registration or cancellation of the decision on the registration of a candidate for President of the Republic of Belarus. It should be noted that the Electoral Code contains a ban on all related activities by the administrations of organizations and does not exclude from the ban their collection of signatures outside working hours. This prohibition is imperative and complements the ban on the candidates' use of their official position, which, in particular, means the involvement of persons in subordination or other official dependence in activities held during working hours to promote the nomination and (or) election of the candidate.