

ELECTION OF THE PRESIDENT OF THE REPUBLIC OF BELARUS. 2015

Report on monitoring the formation of territorial election commissions

General conclusions:

- Territorial election commissions (hereinafter – TECs) are one of the basic mechanisms of the electoral process, which significantly affects the holding of free and democratic elections.
- In accordance with the electoral law, the formation of TECs is fully within the competence of the local executive and administrative bodies, which are part of the executive power branch.
- Existing legislation providing for certain guarantees in the formation of TECs, in particular, the requirement of representation of not less than one third of the members of the commission from among the members of public associations and political parties, in practice does not secure political pluralism of election commissions.
- Absence of statutory criteria for candidates to the commissions allows selective approach to their formation, as in most cases preference is given to representatives of political parties and organizations that support the incumbent. Absence of such criteria makes it meaningless to appeal against decisions to deny membership on election commissions.
- A small number of representatives of political parties on TECs reflects the specifics of the Belarusian political model in which key political actors in the election campaigns are the representatives of pro-government associations and labor collectives.
- Opposition political parties nominated 63 representatives to the TECs, of which only 10 were included in the commissions, which represents 15.8% of the total number of nominated candidates and 0.5% of the entire TEC members.
- Most members of TECs, as well as during previous election campaigns, are nominees from labor collectives (11.3%), citizens (33.4%) and NGOs (47.5%). At the same time, 81% of the selected representatives of public associations in TECs represent five major pro-governmental public organizations (the Belarusian National Youth Union, “Belaya Rus”, the Federation of Trade Unions of Belarus, the Union of Women, and the Belarusian Public Association of Veterans). Members of these organizations make up 38.8% of the TEC members.
- In general, observers of the campaign "Human Rights Defenders for Free Elections" had the opportunity to attend the meetings of the bodies that formed TECs, with only 20% of observers having been denied the opportunity.
- Most of the meetings lasted a short time, without any discussion of nominated candidates, voting was arranged for the entire list of candidates. Justification for the decision on the inclusion or non-inclusion of applicants in the committees was only posted on the websites of some regional executive committees and are virtually absent from the websites of district and city executive committees.

I. LEGAL FRAMEWORK

Formation of territorial election commissions during the 2015 presidential election is regulated by the Electoral Code (hereinafter – the EC) of 2000, as amended by the Law № 72-Z of November 25, 2013. The major changes in the procedure for the nomination to TECs and their formation took place in January 2010. The current version of the Code has not considerably changed this procedure, only clarifying certain terms.

In accordance with Art. 27 of the EC, the preparation and holding of presidential elections is run by territorial commissions – regional, Minsk city, district, city (in regional cities, except for cities with district division), district in cities and polling station commissions. According to Art. 34 of the EC, commissions for the election of the President shall be composed of representatives of political parties

and other public associations, labor collectives, as well as representatives of the citizens who are nominated to the commission by collecting signatures.

The right of nominating their representatives to the election commissions (one representative to each commission) is entitled to:

- governing bodies of regional, Minsk city, district, city (in regional cities), and city district organizational structures of political parties and other public associations – to the corresponding regional, Minsk city, district, city (in regional cities), and city district territorial commissions, as well as to polling station election commissions;
- meetings of labor collectives or collectives of their structural units, which are located in the district, city or district of the city and having at least 10 employees;
- no less than 10 citizens eligible to vote and resident in the territory; application on the nomination of the representative to the polling station commission, which is formed outside the Republic of Belarus, shall be signed by at least three citizens living on the territory of the precinct.

The procedure for delegating representatives of political parties and other public associations is set by Art. 35 of the EC.

TECs are formed by the following bodies:

- regional and Minsk city commissions – by the Presidiums of the Regional Councils and the Minsk City Council of Deputies, and the Regional Executive Committees and the Minsk City Executive Committee composed of 9-13 members of the commission;
- district and city commissions – by the Presidiums of the District Councils and the City Councils of Deputies, and the District Executive Committees and the City Executive Committees composed of 9-13 members of the commission;
- city district commissions – by the Presidiums of the City Councils of Deputies and the City Executive Committees composed of 9-13 members of the commission.

Typically, at least one third of the commission should be representatives of political parties and other public associations. Civil servants cannot exceed one third of the commission's composition. The commissions may not include judges, prosecutors, heads of local executive and administrative bodies. The meetings of the bodies that form the commissions can be attended by representatives of entities having the right to nominate their representatives to the commissions (political parties, public associations, labor collectives and citizens who have nominated a representative to the commission).

The decision on the formation of the commissions shall be published in the press within seven days from the date of its adoption.

The decision of the body in charge of forming the commissions may be appealed within three days of its adoption, respectively, to the Regional Court, Minsk City Court, District Court, and the City Court by the entities who nominated their representatives to the commission. The court shall consider the complaint within three days, its decision is final.

II. THE PROCEDURE OF NOMINATION TO ELECTION COMMISSIONS

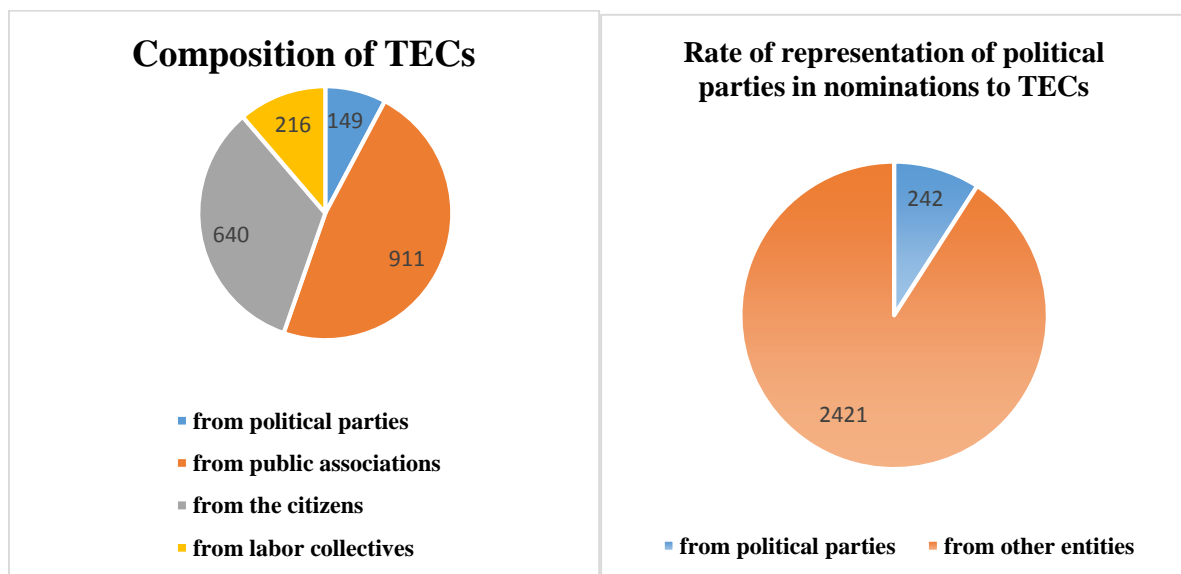
In accordance with the Schedule of arrangements for the preparation and conduct of the election of the President of the Republic of Belarus approved by Decree No. 17 of the Central Election Commission of 1 July 2015 (hereinafter – the Schedule), the nomination of representatives to TECs was to be completed no later than on 19 July 2015. Nomination procedures were completed in a timely manner.

Decree No. 22 of the Central Election Commission of 1 July 2015 "On informing the citizens about the work on the preparation and holding of elections of the President of the Republic of Belarus in 2015" obliged the local authorities to publish information about the time of receiving the documents for the nomination of representatives to TECs on the websites of Executive Committees the following day after the approval by the CEC of the Schedule, as well as in the next issue of the local newspaper. Communications on the joint meetings of the Presidiums of the Regional, Minsk City, District and City Councils of Deputies and the corresponding Executive Committees for the formation of territorial commissions should be published in local newspapers, permitting the release date of the next issue, and on the websites of the Executive Committees (specifying the location and time) in advance of the meeting.

However, not all executive committees met these requirements: the Minsk Regional Executive Committee and the district executive committees of the Minsk region (with the exception of the Minsk regional executive committee) did not publish information on the reception of documents for the nomination of representatives to TECs. In connection with this, obviously, it is not accidental that on July 17 a representative of the BPF Party in Maladziechna brought documents of the party's nomination to the TEC, but could not find the responsible person to whom they should be submitted.

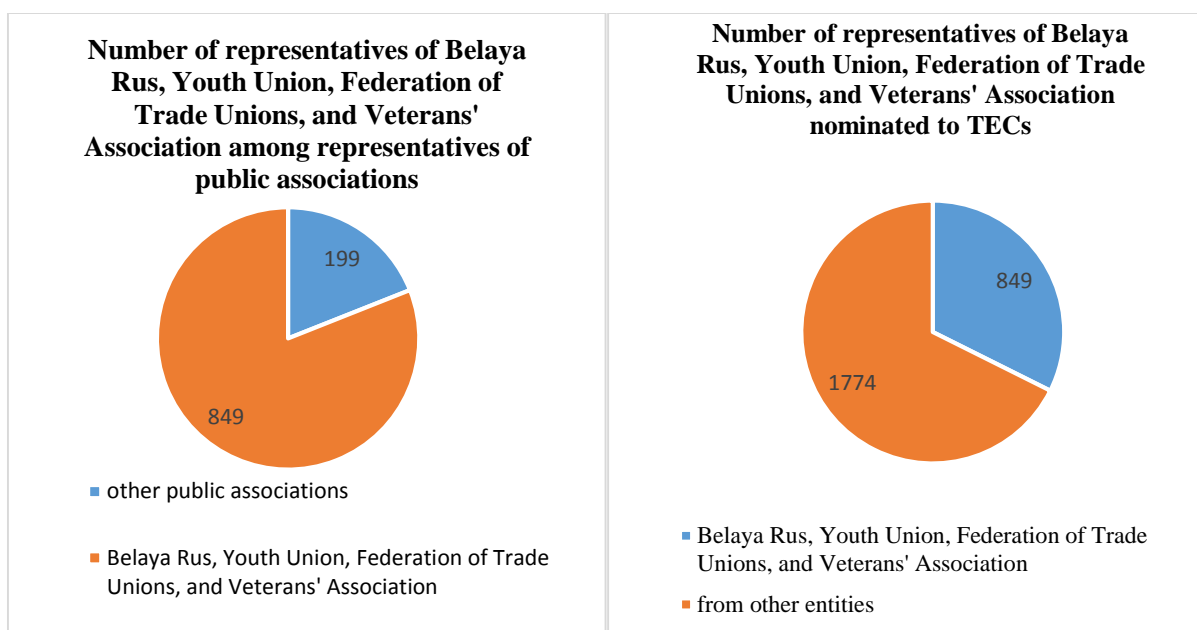
63 representatives of opposition parties were nominated to a total of 153 TECs. The nomination process was complicated by the fact that according to the EC, the right to nominate their representatives is only enjoyed by the governing bodies of the regional, Minsk city, district, city (in regional cities), city district organizational structures of political parties. Since 2003, many organizational structures of political parties have been eliminated in connection with their registration in residential properties.

According to the CEC, out of the 15 registered political parties in the country, nine parties nominated their representatives to territorial commissions, including four of the opposition: the Belarusian Party of the Left "Fair World" (39), the United Civil Party (10), the Party of the Belarusian Popular Front (11), and the Belarusian Social Democratic Party (Hramada) (3). A total of 242 representatives were nominated from the parties, representing only 9.2% of the total number of applicants. This situation indicates a low-key role of parties in the political life of the country. Pro-government parties were actively involved in the nomination to TECs; none of them, however, has nominated a candidate in the presidential election.



40% of applicants for membership in TECs were nominees from public associations and trade unions. At the same time, only five organizations – NGO "Belaya Rus", the Belarusian National Youth Union, the Federation of Trade Unions of Belarus, the Belarusian Union of Women, and the Belarusian Veterans'

Association – nominated 81% of all the applicants from public associations and trade unions and, accordingly, a third of the total number of applicants for membership in TECs.



In accordance with para. 3 of the CEC decision No. 22, it is recommended that publications in local newspapers and on the websites of local executive and administrative bodies of the decisions on the formation of territorial and district commissions specified brief reports of the meetings held by the bodies in charge of forming the commissions and argumentation of the decisions taken.

In their reports on the composition of election commissions, the Viciebsk and Homiel Regional Executive Committees did not provide argumentation for the decisions taken.

The Minsk Regional Executive Committee based the discussion of candidates on their business and professional qualities, reviews from employers and active participation in public life, respect for the public, as well as previous experience in the electoral commission.

The Brest Regional Executive Committee said that “discussing the candidates was based on work experience in the election commissions, their business qualities, as well as the scale of the organization or the party they represent.”

In a communication about the formation of the Homiel Regional TEC posted on the website of the Homiel City Executive Committee, head of the main organizational and personnel work of the Regional Executive Committee, Dzmitry Razhkou said that the “commission for the elections of the President of Belarus has been formed of a number of the most experienced representatives.”

The Minsk City Executive Committee’s head of organizational and personnel work Artsiom Tsuran said that “the main criteria for inclusion in the commissions was the experience of social, political activities, organizational skills, ability to work with people, listening to them.”

The Mahilioŭ Regional Executive Committee’s head of organizational and personnel work Henadz Herasimenka said that “in the selection of candidates their professional qualities were assess, as well as professional and labor activity, reputation among the population, as well as experience in election campaigns.”

These examples indicate that the local authorities do not have a common approach to membership in TECs. This is confirmed by a recommendation of the observers to amend the EC with clear criteria for selecting candidates to electoral commissions.

III. MEETINGS OF BODIES IN CHARGE OF FORMING COMMISSIONS

The joint meetings of the Presidiums of the Regional, Minsk City, District, City (cities of regional subordination) and District Councils in a city of Deputies and the corresponding executive committees were held in accordance with the Schedule, no later than July 22.

Observers did not document any cases of lack of quorum at the meetings. All representatives of the entities that nominated their candidates to TECs had the opportunity to attend the meetings. In some cases, observers documented low activity of representatives of the entities: they were either not present at the meetings or showed little interest in reading the documents on the nomination of candidates to the commissions.

As in previous election campaigns, the meetings were of a formal nature. In most cases, TEC members were approved within 10-20 minutes. In nearly 80% of the cases, the proposed candidates were not discussed, and no information about them was announced (73% of the cases). As a rule, those present voted for a pre-drafted list of candidates (68% of the cases). Of all the observed meetings, in 64% of the cases concerned persons were not able to access the materials on the nomination to TECs (minutes of the meetings of relevant structures of political parties, public organizations and labor collectives, citizens' applications).

The meetings in the Homiel' region lasted for an average of 25 minutes. In the town of Dobruš the meeting took 10 minutes: all the 13 candidates nominated for the 13 seats in the commission were included in its composition. The candidates were not described, and the decisions were not discussed. In Saviiecki district of Homiel', the meeting lasted 53 minutes. It should be noted that in most cases decisions of the inclusion in the commissions were not discussed (5 of 7 cases observed).

In the Mahilioŭ region and in Minsk, according to observers of the campaign "Human Rights Defenders for Free Elections", the meetings of the bodies that formed the TECs, lasted for 5-30 minutes. All the observers and representatives of the entities were able to attend the meetings. As a rule, the candidates were not discussed, chairpersons of the executive committees offered to vote for a list of applicants, which had been pre-determined by members of a "working group." The composition of this group was not disclosed.

At the meeting on July 22, the Chairman of the Mahilioŭ Regional Executive Committee Uladzimir Damaneuski proposed to vote individually for each name on the list of applicants. However, as at other meetings, the reason for the non-inclusion in the TEC was not announced. Before the vote, without announcing the names, it was stressed that "the number of seats is limited", some applicants' "lacked experience" or were of "advanced age."

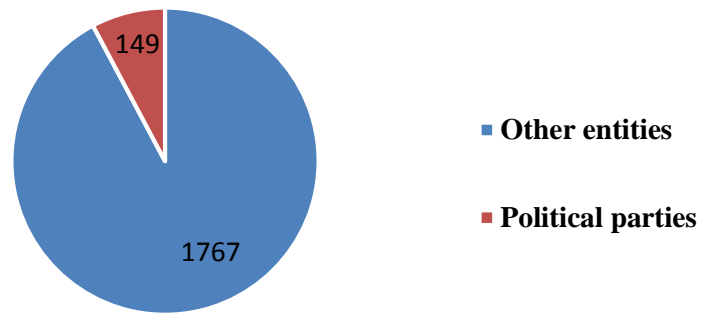
When announcing the list of commission members in Minsk, only the names of political parties, public associations and labor collectives, which had nominated their representatives to the TEC, were specified. Occupations of the commission members were not announced.

A meeting to form the TEC in Brest, which was held at the Brest Regional Executive Committee, was broadcast on-line, which can be noted as a positive experience to ensure transparency in the electoral process.

IV. COMPOSITION OF FORMED COMMISSIONS

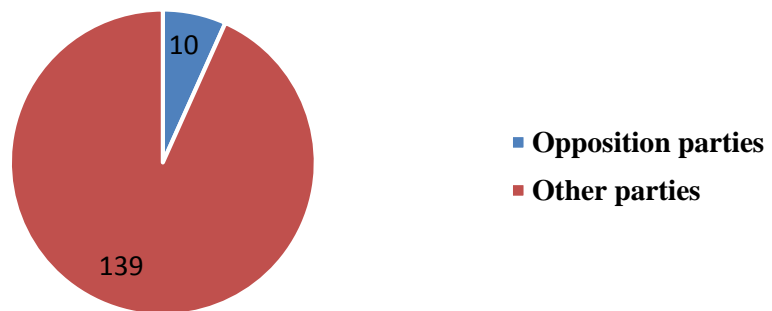
A total of 153 territorial commissions were formed, which included 1,916 members, of which – 149 representatives of political parties (7.8% of the total amount).

Number of representatives of political parties on TECs



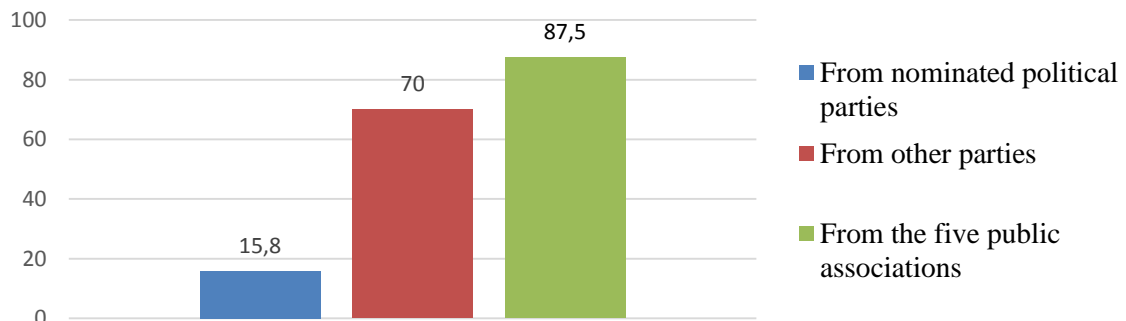
Of the 63 candidates from the opposition parties, the TECs includes 10 members (15.8% of the nominated amount). From the other parties – 139 people (70% of the nominees).

Representatives of opposition political parties among TEC members nominated by political parties



The rate of the five pro-government associations that were included in the TECs was 87.5% of the nominations.

Percentage of representatives of entities that nominated their representatives to TECs of the total number of candidates proposed by the entities



V. APPEALS AGAINST DECISIONS OF BODIES THAT FORMED THE COMMISSIONS

The entities that nominated a representative to the commission have the right to appeal against the decision of the corresponding authority in court. However, the practice of the previous elections shows that the lack of statutory criteria for the selection of applicants to TECs makes this provision meaningless. When considering appeals, the courts cannot assess whether the nominated applicant

complied with specific requirements and criteria, and why preference was given to another applicant for a position in the election commission.

At the time of writing, the campaign "Human Rights Defenders for Free Elections" learned about three cases of appeals against decisions to refuse membership in TECs.

On July 23, the Homieĺ Regional Court considered an appeal by Uladzimir Siakerka, local leader of the Belarusian Party of the Left "Fair World", against the Presidium of the Regional Executive Committee and the Regional Council of Deputies who refused to include in the regional election commission a representative of the party Viktor Khomich. The Court dismissed the appeal. It should be noted that Viktor Khomich has extensive experience of public activity, he was member of the Supreme Soviet of the 13th convocation, deputy of the Regional Council and previously worked on various commissions.

On July 23, the Kastychnicki District Court of Viciebsk heard an appeal against a decision to reject the nomination of local human rights defender Pavel Levinau to the Pieršmajski district election commission. The Court dismissed the appeal. The same decision was made that day by the Viciebsk Regional Court in an appeal of a group of citizens who nominated Pavel Levinau to the Viciebsk regional election commission.

VI. MONITORING THE PROCEDURE OF FORMATION OF ELECTION COMMISSIONS

Monitoring the meetings of local executive and administrative authorities, which decided on the formation of territorial election commissions, in most cases was carried out without interference by the authorities. Activists of the campaign involved in long-term election observation had the opportunity to attend the meetings, were informed in advance about the date and place of their conduct or could obtain this information on the websites of executive committees.

A representative of the Homieĺ Regional Executive Committee phoned local observer of the campaign "Human Rights Defenders for Free Elections" and invited him to a meeting of the executive committee. Representatives of local political entities were invited in the same manner.

At the same time, it should be noted that, as during previous election campaigns, local authorities did not show a uniform approach to the issue of access to the monitoring of meetings that established the TECs. There were documented refusals to representatives of the campaign "Human Rights Defenders for Free Elections". They were not allowed to attend the meetings of bodies that formed the commissions in Viciebsk, Viciebsk district, Dubroŭna, Orša, Vierchniadzvinsk, Hlybokaje, and Baranavičy. Of the 55 long-term observers of the campaign involved in monitoring all of its stages, 11 people (20%) were not allowed to attend meetings of the bodies in charge of forming the TECs. These facts suggest that in some cases the formation of the TECs was held behind closed doors.

The refusals were motivated by the fact that in accordance with Art. 34 of the EC, the right to attend meetings of bodies on the formation of commissions is exclusively enjoyed by representatives of entities that nominated their representatives to the election commissions. Such groundless refusals were faced in several regions of the country by representatives of the campaign "Human Rights Defenders for Free Elections", who were delegated to the meetings by the Belarusian Helsinki Committee. However, as repeatedly emphasized before, the scope of the BHC's authorized activity includes election observation. In accordance with Art. 20 of the Law "On Public Associations", public associations have the right to freely receive information concerning their activities.

Formation of territorial election commissions is one of the key stages of the election campaign. Meetings of the bodies in charge of forming the TECs should be held publicly, in the presence of all concerned parties, including representatives of public associations and citizens involved in monitoring all stages of the elections.