



HUMAN RIGHTS DEFENDERS FOR FREE ELECTIONS

Analytical report on the formation of territorial election commissions

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

SUMMARY

- territorial election commissions (hereinafter - TECs) are one of the key mechanisms for holding a referendum in accordance with international principles of free and democratic elections and national electoral law;
- under current electoral legislation, the formation of the TECs is within the competence of local authorities;
- entities eligible to nominate their representatives to the TECs were given an extremely short period of time, only one working day, which could seriously affect the nomination process;
- the bulk of nominees to the TECs are representatives of the five largest pro-government organizations, Belaya Rus, Youth Union, Women's Union, Association of Veterans, and Peace Foundation, together with various branches of the government-controlled trade unions. All of them nominated a total of 964 representatives, or 95.5% of the total number of nominations by public associations and almost 50% of all candidates for seats in the commissions. The role of nominees from political parties remains low – 120 people or 6.2% of all nominees;
- the majority of TEC members are representatives of public associations – 1,010 persons, or 54.39%. The TECs offered seats to 99.17% of the representatives nominated by the five pro-government associations and trade unions;
- of the 20 nominees from the opposition parties, none was authorized. At the same time, 74.16% of the total number of persons nominated by the pro-government political parties became TEC members; 90% of them are members of the Communist Party of Belarus. This demonstrates the persistence of discriminatory treatment of opposition political parties and independent NGOs in the formation of election commissions.

I. LEGAL FRAMEWORK

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

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.

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

- governing bodies of regional, Minsk city, district, municipal (in cities of regional subordination) and district (in cities) branches of political parties, other public associations – to a territorial commission of the corresponding tier;
- meetings of labor collectives or the staff of their subdivisions, which are located on the territory of the district, city, district in the city and which have at least 10 employees;
- at least 10 citizens who have the right to participate in the referendum and reside in the corresponding territory;

The local branches of political parties and other public associations, working collectives of organizations, and the staff of subdivisions in organizations nominate representatives to commissions from among their members.

The TECs consisting of 9-13 members are formed by the following bodies:

- regional and Minsk city commissions – by presidiums of regional and Minsk city councils of deputies and regional and Minsk city executive committees;

- district and city commissions – by presidiums of district and city councils of deputies and district and city executive committees;
- district commissions in cities – by presidiums of city councils of deputies and city executive committees.

The territorial commissions shall be formed no later than a month before the referendum.

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. The CEC has not yet adopted a decision regulating 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 have been defined on using the official websites of the executive committees and of local district administrations in cities to inform about the referendum.

II. NOMINATION OF REPRESENTATIVES TO TERRITORIAL ELECTION 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: the decree calling the referendum was signed on January 20, the CEC approved the Schedule at 3 pm of the following day and the deadline for submissions was set for January 22. Thus, the entities had one full day left to nominate representatives and submit documents. Nine full days were allotted for this in the presidential election of 2020, 24 days in the 2019 parliamentary elections, and five days during the 2004 referendum.

The Central Election Commission did not determine the procedure for informing about the time and place of receipt of nomination documents. This information was posted on the websites of local authorities, but not all of them. In particular, this information was available in the Minsk, Hrodna, Mahilioŭ and Homieĺ regions. In the Viciebsk region, there was no information on the sites of the Hlybokaje, Rasony, Talačyn and Ušačy districts; in the Brest region – on the site of the Kamianiec district; in the Minsk region, the data were published only by the Minsk regional executive committee and the Krupki district executive committee. In the Homieĺ region, the websites provided additional information about the time of meetings of the bodies in charge of forming the commissions.

According to the CEC¹, 1,934 people were nominated to 153 territorial commissions.

¹ <https://rec.gov.by/uploads/folderForLinks/elect1.pdf>

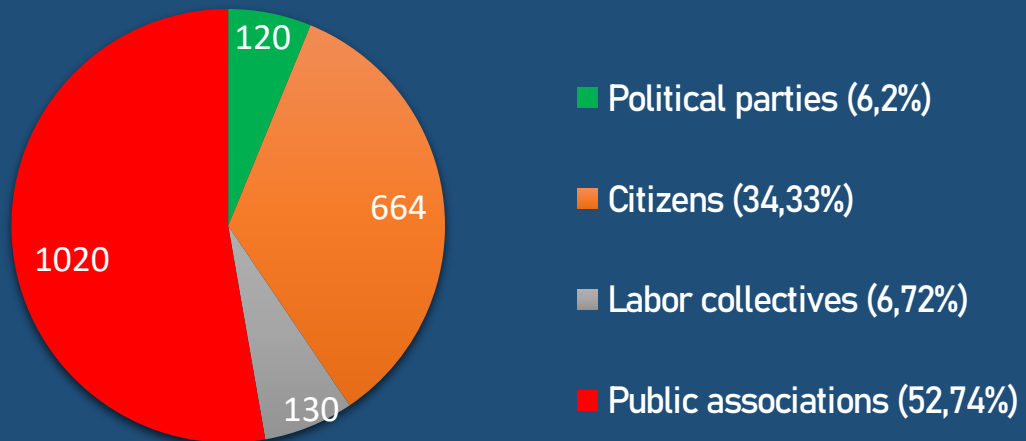
Out of 15 registered political parties in the country, eight submitted nominations to the territorial commissions, including 3 opposition ones: the Belarusian Green Party (1 representative), the Belarusian Party of the Left “Just World” (18 representatives) and the Belarusian Social Democratic Party (Hramada) (1 representative). The opposition United Civil Party and the BPF party did not send their representatives to the territorial commissions. As before, the process of nominating representatives of opposition parties and other public organizations is complicated by the fact that, according to the Electoral Code, only the governing bodies of their local branches are entitled to nominate their representatives. Since 2003, many local offices of political parties have been ordered to close due to registration in residential buildings. On October 8, 2021, the Supreme Court, at the suggestion of the Ministry of Justice, ruled to deregister the public association “Havary Praudu” (“Tell the Truth”), and on November 19, 2021, it deregistered the Movement “For Freedom”, which had previously actively participated in election campaigns.

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.

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 does 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 Peace Foundation, 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.

NOMINATIONS TO TECs BY TYPE OF ENTITIES



The remaining 56 nominees are also members of pro-government NGOs, e.g. the Union of Soviet-Afghan War Veterans.

III. MEETINGS OF BODIES IN CHARGE OF FORMING THE COMMISSIONS

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 voice information on the persons nominated to the commissions. A separate vote for each candidate is only allowed in cases where the number of candidates exceeds the number of seats in the commission.

The CEC has repeatedly changed its position on the selection of commission members. In particular, in the 2016 parliamentary elections, it was proposed to discuss the issue of "professional and political qualities of persons nominated to the commission." In the 2020 presidential election, these qualities were discussed before deciding on the establishment of the commission, and if the number of candidates exceeded the number of commission seats, information on each candidate was announced and each nominee was put on a separate vote.

In accordance with the CEC resolution, meetings of bodies in charge of forming the commissions can be attended by the persons specified in part five 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).

Such a rule of the Electoral Code does not comply with the principle of publicity, and observers interested in this stage of the electoral process have regularly faced obstacles from local authorities. In particular, in the local elections of 2014, 43% of observers could not attend the meetings, and in the presidential election of 2015 – 20%. Later, the situation improved: in the 2016 and 2019 parliamentary elections, the CEC ruled that international observers accredited by the Central Election Commission, as well as representatives of political parties and other national non-governmental organizations accredited to the CEC, could attend the meetings. In order to attend the meeting, they had to present an official letter of delegation issued by a political party or another national public association and signed by its head.

During the 2020 presidential election, the CEC tested and applied for the first time the practice of organizing livestreams of the meetings that set up the commissions in order to prevent the spread of coronavirus infection. Despite the various shortcomings noted by observers, the practice was generally progressive and could provide a basis for greater publicity in the work of bodies and commissions. This year, the livestreams were, however, abandoned.

Thus, the observation of the process of establishing election commissions was again closed for observers from those entities that did not nominate their representatives. At the same time, for example, Aliaksandr Lukashenka's regional representative Yury Karayeu was present at a meeting in Hrodna.

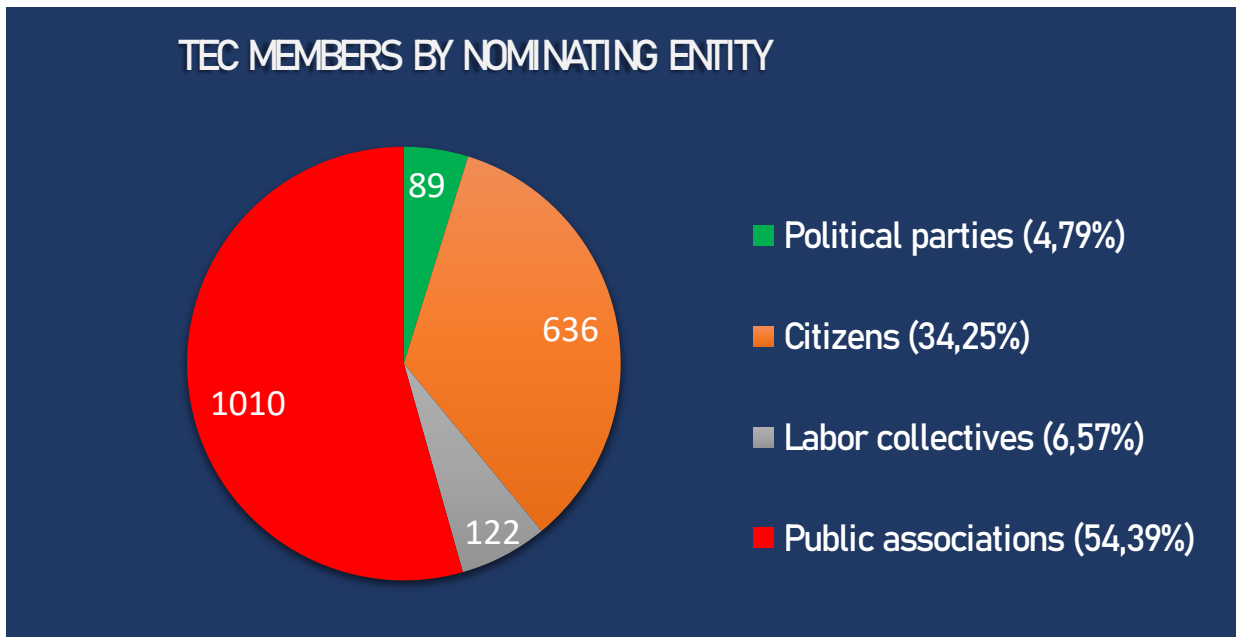
Meanwhile, “Human Rights Defenders for Free Elections” have repeatedly criticized the procedure of establishing election commissions as lacking certainty in legal regulation, non-transparency of the process of selection of nominees and absence of guarantees for equal representation of different political 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.

IV. COMPOSITION OF COMMISSIONS

A total of 153 territorial commissions were formed² to offer seats to 1,857 members, including 89 representatives of political parties (4.79% of the total number). Of the 20 candidates from the opposition parties, none was allowed to join the TECs. 80 out of 89 party representatives (90%) are 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.

² <https://rec.gov.by/uploads/folderForLinks/elect3.pdf>

956 representatives of the five largest pro-government public associations and trade unions secured seats in the commissions, which is 54.39% of the total number. 636 people represent 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%.

V. APPEALS AGAINST DECISIONS ON THE ESTABLISHMENT OF COMMISSIONS

Entities that have nominated their representative to a commission 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, or city courts. The court shall consider the complaint within three days; its decision is final.

However, as evidenced by the practice of monitoring during the previous elections, the absence of legally established criteria for selecting nominees makes this rule ineffective. When considering appeals, the courts cannot assess whether the candidates nominated to the commission met certain requirements or assess the reasons why one particular nominee was prioritized over the others.