



HUMAN RIGHTS DEFENDERS FOR FREE ELECTIONS

Republic of Belarus. 2020 Presidential Election

Weekly observation report: May 25-31

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

- as compared to the previous presidential election, this year’s campaign, despite the COVID-19 crisis, is characterized by widespread media and street activity of individual candidates. The deterioration of the socio-economic situation in the country and the authorities’ controversial policies in response to the pandemic became a catalyst for public discontent and led to a certain increase in election-related protests;
- in the Belarusian media, the topic of COVID-19 competes with the topic of the presidential election, and in a number of media outlets it predominates. Among the potential candidates and their nomination groups, most media attention has been received by the activism of Sviatlana Tsikhanouskaya’s nomination group, and more precisely, the speeches of the head of her group, blogger Siarhei Tsikhanouski, as well as the activities of Viktor Babaryka and Valery Tsapkala;
- the activity of the nominees and their representatives provoked negative statements from the incumbent about his rivals for the presidency;
- on May 29, during a picket to collect signatures for the nomination of Sviatlana Tsikhanouskaya in Hrodna, the head of her nomination group, YouTube blogger Siarhei Tsikhanouski, was arrested. The arrest took place after clearly illegal interference of police officers in communication between the voters and the head of the nomination group. The incident that preceded the arrest was broadcast by state-controlled media. On May 30, official sources said that a criminal investigation had been opened into an alleged act of violence against police officers, in which Siarhei Tsikhanouski and other detainees were allegedly involved;
- many officials actively commented on the incident in Hrodna, elaborating on the President’s negative assessments of the government’s opponents;
- following the events in Hrodna, attempts by police officers to prevent the holding of pickets to collect signatures were reported in different cities of the country. Such actions by police officers are an illegal obstacle to the exercise of the right to collect signatures in support of the nomination of presidential candidates;
- on May 31, numerous bloggers and activists were arrested across the country, including members of several nomination groups. These facts can be seen as attempts by the authorities to disrupt the conduct of pickets to collect signatures, which have become widespread;
- local executive and administrative bodies have named the places where collecting signatures for the nomination of presidential candidates is prohibited. The campaign’s experts believe that the list of forbidden places will not create serious obstacles to the

collection of signatures by nomination groups. At the same time, there is a lack of a unified approach of local authorities to prohibiting the collection of signatures in certain parts of the major cities. However, the absence of a ban on the collection of signatures on the territories of enterprises and institutions (in particular, educational and health care institutions) creates conditions for the use of their administrative resources in the interests of one of the presidential candidates;

- campaign observers report abuse of administrative resources in collecting signatures in support of Lukashenka at enterprises and educational institutions. Similar reports were also published by the media, social networks and popular Telegram channels;
- all appeals against the decisions of local councils of deputies and local executive committees on the formation of election commissions were dismissed. The courts limited themselves to verifying compliance with the formal requirements of the Electoral Code on the procedure for forming election commissions and avoided assessing violations of the principle of equality. As previously noted by experts of the campaign “Human Rights Defenders for Free Elections”, the absence of legal guarantees for the representation in the election commissions of all political entities participating in the elections results in an arbitrary and discriminatory approach to opposition parties and groups, while the envisaged judicial appeal procedure continues to be highly ineffective;
- the courts turned down all the appeals against the CEC’s decisions to deny registration to nomination groups. Just like the appeals against decisions to establish the TECs, these complaints were considered in an extremely formal manner, as the courts did not take steps to clarify all the circumstances of the case and establish the truth.

GENERAL SITUATION

According to the Electoral Schedule, from May 21 through June 19, voters’ signatures are being collected by members of the groups formed to support the nominations of presidential candidates.

The adverse socio-economic situation in the country and the authorities’ controversial policies in response to the COVID-19 pandemic became a catalyst for public discontent and led to a certain increase in election-related protests. Part of the Belarusian society linked positive changes with the new figures of the current election campaign.

In Minsk and in some regional and district cities, observers reported the activity of citizens at pickets to collect signatures for the nomination of Sviatlana Tsikhanouskaya representing YouTube blogger Siarhei Tsikhanouski, who was earlier denied registration by the CEC.

In the Belarusian media, the topic of COVID-19 competes with the topic of the presidential election, and in a number of media outlets it predominates. Among the potential candidates and their nomination groups, most attention is paid to the activism of Sviatlana Tsikhanouskaya, and more precisely, the speeches of Siarhei Tsikhanouski, as well as the activities of Viktor Babaryka and Valery Tsapkala. The state-owned media focus on the incumbent President. Independent media write about the pressure during the collection of signatures in his support.

Some of the nominees admit that they will not be able to collect the required number of signatures, but want to use the legal opportunity for political campaigning during the collection of signatures. Individual candidates state that they are collecting signatures online in order to find out how many people would be willing to support them if the conditions were different.

7 out of 14 persons whose nomination groups were registered by the CEC have opened special election accounts to form their own election funds. These are Andrei Dzmitryeu, Viktor

Babaryka, Aliaksandr Tabolich, Hanna Kanapatskaya, Sviatlana Tsikhanouskaya, Valery Tsapkala, and Siarhei Cherachen. The incumbent President is among those who have not yet opened an account.

The CEC obliged the members of the nomination groups to follow the recommendations on wearing masks and gloves when collecting signatures. When participating in pickets to collect signatures, citizens are required to keep a distance of 1.5-2 meters. This requirement is mostly observed.

DESIGNATION OF RESTRICTED LOCATIONS

In accordance with the Electoral Schedule, no later than May 18, local executive and administrative authorities published the lists of places where activists cannot stage pickets in order to collect signatures in support of presidential nominations. The analysis of the decisions shows that in general they do not differ significantly from the similar decisions of the previous presidential election, as well as the parliamentary elections of 2019.

The only novelty is that some decisions contain a reminder that in order to minimize the risk of COVID-19 infection, members of nomination groups must comply with anti-epidemic measures and recommendations of the Ministry of Health, sanitary and epidemiological services.

Some observers report improved conditions for collecting signatures at pickets compared to the previous presidential election. For example, in the city of Maladziečna and the district, there has been some liberalization of the collection of signatures. A decision of May 12¹ only prohibited collecting signatures at railway facilities (platforms of stations and public transport stops). Observer Ales Kaputski notes that the list of forbidden places was bigger in the last presidential election. Signatures could not be collected at a distance of less than 20 meters from railway facilities, buildings of representative, executive and administrative bodies, courts, prosecutor's offices, territories of organizations in charge of defense, state security, and human lives and activities. During the last presidential election, places that "endanger the lives and health of citizens, as well as where it is possible to interfere with the work of organizations and traffic" were banned without specifying these locations. The ban has been lifted. Observers in Hrodna, Lida, Viliejka, Mahilioŭ, Svietlahorsk and Biaroza also report a decrease in the number of places where signature-collecting pickets cannot be held, as compared to the 2015 presidential election.

In a number of districts, the ban on collecting signatures on the territory of educational and healthcare institutions, which existed during the last presidential campaign, was lifted. According to the campaign's analysts, the lifting of the ban on collecting voters' signatures on the territory of enterprises and institutions (in particular, educational and healthcare institutions) creates conditions for illegal use of administrative resources — collecting signatures by employees of these institutions to support the nomination of the incumbent.

¹ <http://molodechno.minsk-region.by/images/14-05-2020-5.pdf>

COLLECTION OF SIGNATURES

In the context of this year's election, the collection of signatures for the nomination of presidential candidates, with the exception of Lukashenka, takes place mainly at pickets in places not prohibited by local authorities. One of the reasons for this is that pickets provide better physical distancing rather than door-to-door campaigning. Opportunities to collect signatures directly at the place of residence are used to a lesser extent. Only one nomination group, that of the current head of state, has an opportunity to collect signatures at the voters' place of work.

The epidemiological situation in the country has led to the search for new forms of electoral activity, including a preliminary arrangement by phone and a later meeting with a particular citizen in the event of their consent to support the nomination. It is also known that some nominees can be supported by sending an advance request via Google Forms, a message on social media or a text message with the voter's address and phone, after which members of the nomination group offer to sign during a personal meeting. Geolocation technologies are used for efficient communication with the voters.

On May 25, at a meeting on urgent socio-economic and political issues, Aliaksandr Lukashenka said: "To date, I am informed that, in fact, we have collected a sufficient number of signatures — round 200 thousand. But we should not stop."² The nomination group of the incumbent President is traditionally the largest. Its size, according to analysts, has been growing from election to election: this year — 11,480 people, in 2015 — 10,577 people, in 2010 — 8,403 and so on. Members of Aliaksandr Lukashenka's nomination group work in public receptions of the Belaya Rus pro-government NGO located in each district of the capital and in all regional cities. At the same time, observers of the campaign "Human Rights Defenders for Free Elections" report that there are only a few pickets held to collect signatures for the nomination of Aliaksandr Lukashenka across the country.

The campaign's observers report the use of administrative resources in collecting signatures in support of Lukashenka at enterprises and educational institutions.

In the schools of the Belarusian capital, representatives of the administrations are forcing teachers to sign for the nomination of the current head of state. They are also ordered to collect signatures themselves, or to provide passport data of students' parents for this purpose. In case of a failure to follow the orders, they are threatened with dismissals or revocation of bonuses, etc. In many respects, similar abuse is taking place in the country's universities.

Students of the Mahilioŭ State University were summoned to the administration (vice-rector for academic affairs A. Dzyiachenska, Dean of the Faculty of Mathematics and Natural Sciences N. Sakovich) to be forced to sign in support of the incumbent President. According to the students, the dean of the Faculty of Economics and Law D. Rahautsou only agrees to start an examination after they have signed for Aliaksandr Lukashenka.

A collection of signatures for the nomination of Lukashenka has been organized in Hrodna's major enterprises Azot, Khimvalakno, and the Construction Materials Plant. This happens during working hours with the use of pre-arranged lists. A similar situation exists at Brestenerha, Shklozavod Nioman, in the local branches of Belarusnafta in Rečyca, Homiel' region, and others.

² <https://www.belta.by/president/view/my-sdaem-ekzamen-narodu-lukashenko-poruchil-proanalizirovat-voprosy-s-kotorymi-obraschajutsja-ljudi-392182-2020>

In Mahilioŭ, in the production premises of the Olsa enterprise, security guards collected signatures during working hours, carrying pre-arranged lists of voters, after the managers ordered the workers to do so. People signed for fear of layoffs.

Employees of the Kalinkavičy Dairy Factory said that in the shops of the enterprise chairperson of the trade union branch L. Maroz collected signatures during working hours, having prepared signature sheets with the employees' personal data. Nobody inquired whether she was a member of Lukashenka's nomination group and whether she had a valid certificate.

Observers have been receiving phone calls from residents of the Babrujsk district reporting on local executive officials forcing them to sign for the incumbent President. People do not wish to make public statements for fear of consequences, so the facts are reported on the condition of anonymity.

On May 29, during an election picket organized in Hrodna to collect signatures for Sviatlana Tsikhanovskaya, the head of her nomination group, a popular YouTube blogger Siarhei Tsikhanouski, and at least 10 other participants of the picket, were arrested by the police. On May 30, a spokesperson for the Interior Ministry said in a Telegram post³ that a criminal investigation had been opened into alleged violence against police officers. The events that preceded the arrest — public statements by incumbent President Aliaksandr Lukashenka targeting Tsikhanouski, attempts by several women to disrupt the picket, illegal interference of police officers and arrest of Tsikhanouski following a blatantly prearranged fall of a police officer, and the pro-government media's reaction to the incident — suggest that Siarhei Tsikhanouski may have become a victim of a provocation aimed at isolating the active blogger and reducing the street activity at pickets.

Following the incident in Hrodna, police officers attempted to disrupt signature-collecting pickets in various Belarusian cities. This happened, in particular, in Minsk, Viciebsk and other cities. Police officers used megaphones to tell the voters queueing to sign in support of a candidate that their presence at the location amounted to participation in an illegal gathering. Voters and members of nomination groups were warned that if they did not disperse, they could be subjected to physical force. In this regard, we stress that the collection of signatures, in accordance with para. 11 of Art. 61 of the Electoral Code, can be carried out through picketing. The organizers are under no obligation to seek permission to hold pickets for these purposes, provided they are held in places not prohibited by local executive and administrative bodies. Such actions of police officers, in our opinion, are an illegal obstacle to the exercise of the right to collect signatures of voters for the nomination of presidential candidates.

On May 31, numerous bloggers and activists, including members of presidential nomination groups, were arrested throughout Belarus. Such facts show that the authorities are trying to reduce the level of public activity, intimidate voters, while the election is gaining momentum and is increasingly attracting people's attention.

MEDIA COVERAGE OF THE ELECTION

According to the Belarusian media, the brightest events of the election campaign were the activity of citizens at pickets held to collect signatures for Sviatlana Tsikhanouskaya in Sluck, Baranavičy, Mahilioŭ, Homieĺ and other cities, violations during the collection of signatures for the incumbent, Viktor Babaryka's claim that he was offered to become Prime Minister and

³ <https://t.me/pressmvd/1592>

Lukashenka's reaction to it, withdrawal of Aleh Haidukevich and the President's speech during his visit to the MTZ plant.

The topic of the COVID-19 pandemic is steadily competing with the 2020 election campaign as a newsworthy event. The news feeds of the Nasha Niva and Radio Svaboda portals are dominated by COVID-19. Regarding the coverage of the candidates' personalities, it was noted that Nasha Niva mainly publishes materials about the campaigns of candidates Tsikhanouskaya, Babaryka, and Tsapkala. It also mentioned an attempt of the head of the Lukashenka's campaign headquarters Mikhail Orda to challenge the facts of violations during the collection of signatures for the incumbent President. The position of the BPF party on the election campaign is also covered.

The naviny.by portal, in contrast to the above-mentioned media, devotes more information space to the topic of election, rather than the epidemic. Analytical materials about the collection of signatures are published, as well as news about Sviatlana Tsikhanouskaya's campaign in connection with Siarhei Tsikhanouski's speeches.

Tut.by offers many publications on the election campaign, with news, interviews and comments of the candidate Valery Tsapkala prevailing. Aliaksandr Tabolich's interview was also published. Electoral violations were covered in a story about the pressure during the collection of signatures for the nomination of A. Lukashenka and the Q&A publication "What you need to know about the collection of signatures".

The portal of the Belsat TV channel actively covers the current events of the election campaign and organizes livestreams of Siarhei Tsikhanouski's speeches at pickets in support of Sviatlana Tsikhanouskaya. Belsat wrote about a joint statement of members of the European Parliament criticizing the detention of Siarhei Tsikhanouski's supporters.

The government-owned sb.by portal does not highlight the news of the election campaign among ordinary news, and no thematic section has been created on the site. The election is mentioned only in connection with the comments of the head of state given during a meeting at the Palace of Independence on May 25 and a visit to the MTZ plant on May 29. Following the latter, sb.by published Lukashenka's comments about his potential rivals in the election, but without any personal details.

Other contenders are almost never mentioned in the media. These are Aliaksandr Tabolich, Hanna Kanapatskaya, Andrei Dzmitryeu, Volha Kavalkova, Yury Hubarevich, Yury Hantsevich, and Uladzimir Niapomniashchykh.

The events of the election campaign are widely covered on a number of Telegram channels. In particular, the Belarus Golovnogo Mozga channel (with more than 130,000 subscribers) published materials about pickets for the nomination of Sviatlana Tsikhanouskaya and violations of the Electoral Code in collecting signatures in support of A. Lukashenka. The Sidim Doma S Otchisleno channel reported on the facts of forced involvement of students by university administrations in the nomination group of one of the main contenders.

The publication of interviews with the chairman of the Federation of Trade Unions of Belarus (FTUB) Mikhail Orda, who is also the head of the nomination group of the incumbent President, can be assessed as early campaigning and abuse of administrative resources. On the official FTUB portal, Orda spoke in support of Aliaksandr Lukashenka, while criticizing other candidates. The statement was reprinted by a number of district media outlets run by local

executive committees and funded from local budgets.⁴ This fact is considered as a violation of the principle of equal conditions for all participants in the presidential election.

COMPLAINTS AND APPEALS

According to the CEC⁵, 10 appeals were filed against local authorities' decisions to form territorial election commissions. All of them were dismissed. The Mahilioŭ Regional Court ruled in case No. 3-14/2020⁶, an appeal by the regional office of the Belarusian Social Democratic Party (Hramada) against the decision of the Presidium of the Mahilioŭ Regional Council of Deputies and the Mahilioŭ Regional Executive Committee of May 19, 2020 "On the establishment of the Mahilioŭ Regional Commission for the election of the President of the Republic of Belarus", that the "question of why, under equal conditions, some candidates were elected to the election commission and others were rejected falls within the exclusive competence of the body that formed the election commission." The court has no right to discuss the preferences of one candidate over another, as it is not within the competence of the court, the judge said. The same conclusion was made by the Mahilioŭ Regional Court after hearing an appeal by the regional office of the United Civil Party⁷.

In its decision of May 26 on the appeal of the Minsk city office of the Belarusian Social Democratic Party (Hramada) against the decision of the Presidium of the Minsk City Council and the Minsk City Executive Committee of May 19, 2020 No. 32/1540 "On the establishment of the Minsk City Commission and the district election commissions in the city of Minsk for the election of the President of the Republic of Belarus", the Minsk City Court concluded: "The issue of including or not including specific persons in election commissions is not in itself the subject of evidence in the case."

In this regard, we note that the courts unreasonably avoided assessing violations of the principle of equality before the law during the establishment of territorial election commissions. It is the exclusive competence of the court to consider issues of discriminatory treatment of individual candidates. This underscores once again that Belarusian citizens do not have effective means of protection against discrimination, including during elections. Meanwhile, according to Art. 2 of the International Covenant on Civil and Political Rights, the Republic of Belarus has undertaken to provide any person whose rights and freedoms have been violated with an effective remedy.

The courts mainly examined the following circumstances: whether the ban on the inclusion of judges, prosecutors, heads of local executive and administrative bodies was violated, as well as the requirement that civil servants could not make up more than one third of the commission; whether at least two-thirds of the presidium of the local council of deputies and the executive committee participated in the joint meeting of these bodies; whether all candidacies submitted by a separate political party or public association were discussed during the meeting⁸; whether separate voting was held for each candidate⁹, etc.

This approach undermines the meaning of the judicial procedure for the protection of the rights of election participants. The absence of legal guarantees for the representation in the election commissions of all political entities participating in the elections results in an arbitrary and

⁴ See for example: <https://gzt-akray.by/osipovich/2020/05/mihail-orda-my-podderzhivaem-nashego-prezidenta>, <http://www.pridvinje.by/2020/05/mixail-orda-my-podderzhivaem-nashego-prezidenta> and others.

⁵ <http://rec.gov.by/sites/default/files/pdf/2020/stat8.pdf>

⁶ <http://court.gov.by/ru/sudebnie/postanovleniya/mogilev/bel/6d37e1f5bace4245.html>

⁷ <http://court.gov.by/ru/sudebnie/postanovleniya/mogilev/bel/b38c5480f9074632.html>

⁸ <http://court.gov.by/ru/viboriprezidentarb2020/gorodminsk/bel/14a59cec56ae4a18.html>

⁹ <http://court.gov.by/ru/viboriprezidentarb2020/gorodminsk/bel/802828d1ce944883.html>

discriminatory approach to opposition parties and groups, while the envisaged judicial appeal procedure continues to be highly ineffective.

In the above-mentioned decision of May 26 on the appeal of the Minsk city office of the Belarusian Social Democratic Party (Hramada), the Minsk City Court wrote: “The Electoral Code does not contain a list of motives for including certain representatives in the commission, so the arguments of the complaint alleging violations of the rights of the Belarusian Social Democratic Party (Hramada) owing to the failure of BSDP representatives to be included in the Minsk City Commission for the election of the President of the Republic of Belarus and the district commissions in the city of Minsk for the election of the President of the Republic of Belarus shall be also dismissed”¹⁰.

During the week, the last 8 appeals against the CEC’s decision to deny registration to certain nomination groups were also considered. When hearing the complaints of Mikhail Valynets, Aleh Niaveikau, Alena Ashykhmina, Aliaksandr Abramovich, Aliaksandr Yakushkou, and Alena Davydava, the Supreme Court sided with the CEC’s arguments that the documents submitted for the registration of these nomination groups contained inaccurate information about its members. The court also supported the fact that the principle of free participation in elections was violated during the creation of the nomination groups.

It should be noted that the Supreme Court did not call as witnesses those members of the nomination groups whose right to freely participate in the elections, in the opinion of the CEC, was violated. In all cases, the court relied on materials provided by the CEC. In only one case, when considering the complaint of Alena Ashykhmina, the Supreme Court heard the testimony of witnesses, whose data, in the opinion of the CEC, were invalid. The persons who were mentioned in the list of Alena Ashykhmina’s nomination group confirmed that they agreed to be on the list, but made mistakes in information about themselves. However, the court sided with the CEC’s arguments about other violations of the registration procedure.

In Mikalai Statkevich’s appeal, the Supreme Court also upheld the CEC’s argument that Statkevich was not eligible to run for President due to an active criminal conviction.

Considering Andrei Ivanou’s complaint, the Supreme Court rightly agreed with the CEC’s arguments that Ivanou was not eligible to run for President because he is not a citizen of the Republic of Belarus by birth (born in Russia).

In total, the Supreme Court considered 23 appeals of individuals who applied for the registration of their nomination groups, all of which were dismissed. Two more complaints were rejected without consideration¹¹.

Noteworthy is the positive practice of publishing court rulings in election-related cases, which has been observed since the previous elections.

On May 29, the CEC published statistics¹² on citizens’ complaints submitted to local representative, executive and administrative bodies, as well as to election commissions, relating to the preparations for and the conduct of the election. According to the CEC, a total of 29 documents were submitted, including 19 to local executive committees and 10 to TECs.

¹⁰ <http://court.gov.by/ru/viboriprezidentarb2020/gorodminsk/bel/7ac49507f60f4c0a.html>

¹¹ <http://court.gov.by/ru/sudebnie/postanovleniya/f03edb365c0f486a.html> and <http://court.gov.by/ru/sudebnie/postanovleniya/44e0a953ea714e72.html>

¹² <http://rec.gov.by/sites/default/files/pdf/2020/stat10.pdf>