



HUMAN RIGHTS DEFENDERS FOR FREE ELECTIONS

Situation on the eve of the referendum. First report of the campaign “Human Rights Defenders for Free Elections”

SUMMARY:

- the referendum is taking place against the backdrop of a profound socio-political crisis that began immediately after the 2020 presidential election and the pervasive atmosphere of repression targeting those disloyal to the authorities, as well as a tense international situation caused by the possible armed conflict between the Russian Federation and Ukraine, as well as the current Russian-Belarusian military exercises;
- the authorities have not made any attempts 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 draft amendments to the Constitution, which were 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 a discussion of the draft, mainly at government-owned businesses and organizations, which in reality constituted campaigning;
- the process of discussing changes and additions to the draft Constitution and considering the submitted proposals did not take into account critical opinions and was another example of the formal practice of “nationwide discussion”, designed to replace a transparent and inclusive debate on proposals from various groups of society.

Legal framework

The legal framework of the electoral system of the Republic of Belarus is made up by the Constitution, the Electoral Code and other legislative acts, as well as the decisions of the Central Commission for Elections and Republican Referendums (hereinafter referred to as the Central Election Commission, or the CEC). The Electoral Code has remained unchanged since the previous presidential election. Thus, the key recommendations of the OSCE/ODIHR made by observation missions deployed to monitor previous elections were not taken into account, and the shortcomings identified by national and international observers were not eliminated. As noted in the final election observation report of the ODIHR mission following the observation of the 2019 early parliamentary elections, “overall, the legal framework does not adequately guarantee the conduct of elections in line with OSCE commitments and other international standards.”¹ Likewise, the authorities failed to take any steps to eliminate the factors in the field of legal regulation of electoral procedures that led to the onset of the post-election crisis in August 2020.

Socio-political situation

The referendum is taking place against the backdrop of a severe socio-political crisis that began immediately after the 2020 presidential election. As assessed by the campaign “Human Rights

¹ Republic of Belarus. Early Parliamentary Elections. 17 November 2019. ODIHR Election Observation Mission Final Report, <https://www.osce.org/files/f/documents/6/4/447583.pdf>

Defenders for Free Elections”, the 2020 presidential election process at all of its stages did not meet a number of basic international standards for holding democratic and fair elections and was accompanied by numerous violations of these principles and provisions of national legislation. Significant violations of the national legislation and the fundamental principles of holding fair and democratic elections, including the deprivation of observers of the opportunity to observe the vote count, during the elections of the President of the Republic of Belarus, do 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.²

Throughout 2021, the authorities consistently took measures to destroy the country’s civil society, suppress freedoms of expression and peaceful assembly. By the time the referendum was announced, there were about a thousand political prisoners, recognized as such by human rights organizations in accordance with the Guidelines on the Definition of Political Prisoners³. During the year, the number increased by eight hundred people.⁴

In the year leading up to the referendum, the authorities forcibly liquidated more than 300 civil society organizations, including those that participated in earlier elections and delegated election observers. About two hundred more organizations were forced to self-dissolve. Over the past year, the authorities adopted a series of repressive legislative changes in response to the nation-wide protests.

Instead of initiating an efficient dialogue with the public and the civil society to discuss proposals to change the Constitution and de-escalate the situation in the country, the authorities launched a large-scale campaign to persecute dissidents, the main tools of which were numerous searches, arrests and criminal cases. Ideology-based “purges” are carried out nation-wide to fire “disloyal” employees from their jobs.

The situation with fundamental rights and freedoms, which are guaranteed by the current Constitution and the country’s international obligations, on the eve of the announced referendum can be called truly catastrophic. With the vote scheduled for February 27, the society is in an atmosphere of total fear: any criticism is a pretext for persecution at work, deprivation of liberty, use of violence and torture.

Many participants in the political process, who enjoy the support of a significant part of the Belarusian society, are imprisoned, some were forced into exile. Over the past 18 months, tens of thousands of active citizens have fled the country to escape persecution. Independent media have been crushed, dozens of journalists are imprisoned, hundreds were forced to emigrate.

Shortly before the referendum was called, the authorities launched a campaign of pressure on citizens who were nominated as observers to election commissions and polling stations during the 2020 election. The observers are summoned to the prosecutor’s offices or police departments for “preventive conversations”. According to experts of “Human Rights Defenders for Free Elections”, this is done in order to rule out any possibilities of independent observation of the referendum.

² Republic of Belarus. Presidential Election. August 9, 2020. Final report on election observation. December 9, 2020, https://spring96.org/files/misc/2020_election_final_report_dec_09_en.pdf

³ Guidelines on the Definition of Political Prisoners, https://spring96.org/files/misc/politprisoner-guidelines-final_en.pdf

⁴ Human Rights Center “Viasna”. Human Rights Situation in Belarus in 2021. Analytical review, https://spring96.org/files/reviews/en/review_2021_en.pdf

Representatives of the campaign state that it is for the first time in the history of modern Belarus that the electoral process is taking place in such a complicated atmosphere. It is important to note that one of the coordinators of “Human Rights Defenders for Free Elections”, Uladzimir Labkovich, and one of the campaign’s permanent analysts, Valiantsin Stefanovich, have been in custody on trumped-up charges since July 14, 2021.

The situation is also influenced by the tense international situation caused by the possible armed conflict between the Russian Federation and Ukraine. It is important to note that the referendum will be held in the context of the military exercises of Belarus and Russia “Allied Resolve 2022”, the main phase of which is scheduled for the period from February 10 to 20. Some observers link the transfer of Russian troops to the possible aggression against Ukraine from the territory of the Republic of Belarus. Other experts suggest that the presence of Russian troops in Belarus is aimed at minimizing possible protests after the referendum.

According to experts of “Human Rights Defenders for Free Elections”, under such conditions, it is impossible to organize a full-fledged free and democratic process of adopting amendments to the Constitution.

Calling the referendum and organizing the procedure for holding the vote

On January 20, Aliaksandr Lukashenka signed [Decree No. 14](#) “On the Appointment of the National Referendum”. In accordance with it, the referendum on the issue of introducing amendments and additions to the Constitution of the Republic of Belarus is scheduled for February 27, 2022. The following non-alternative question was approved for the ballot: “Do you accept the amendments and additions to the Constitution of the Republic of Belarus?”. The Decree stipulates that the decision adopted by the national referendum comes into force ten days after its official publication, is binding and is an integral part of the Constitution of the Republic of Belarus.

The calling of the referendum was preceded by a process of discussing possible options for adjusting the country’s key piece of legislation, which, however, did not meet the requirements of voluntariness, inclusiveness and openness.

The final text of the amendments and additions to the Constitution was published along with the Decree calling the referendum. Earlier, on December 27, 2021, a draft of the proposed changes was [published](#) and submitted for “nationwide discussion”. Citizens were invited to send their proposals through a special form posted on the National Legal Internet Portal pravo.by. At the same time, no deadlines were indicated for sending the proposals. As a result, the process of discussing the changes took a little more than three weeks.

On January 21, a message was posted on the pravo.by website to report on the completion of the process of discussing the draft amendments and additions to the Constitution.

An analysis of the final draft demonstrates that the “discussion” resulted in minor, mostly lipstick changes to the text. Critical remarks were not taken into account. Thus, it is obvious that the process of nationwide discussion of amendments and additions to the Constitution, in essence, did not lead to any serious changes in the draft submitted for discussion, which may indicate that the authorities viewed the process as a pure formality.

The authorities sent a group of government officials and pro-government activists who actively campaigned for the proposed draft, and, even more, in support of the policy pursued by the authorities in general. For this sake, the administrative resource and the dependence of workers on their employers were fully utilized: the main form of such events were meetings in labor

collectives, which were held during working hours under the control of the administrations of enterprises and institutions.

However, the authorities portray the process of discussing the new Constitution as a “triumph of democracy”. As an argument, it is voiced that the submission for public discussion was preceded by a series of “dialogue platforms” in Minsk and the regions, as well as a discussion of proposals at the All-Belarusian People’s Assembly, which was held from February 11 to 12, 2021. Meanwhile, according to the experts of “Human Rights Defenders for Free Elections”, the process of discussing proposals to the Constitution was non-inclusive. The process did not involve civil society organizations and political parties, which, according to the authorities, are “destructive” in their nature.

In this regard, it is important to recall the publicly voiced position of a number of key domestic human rights organizations, who described the process of discussing amendments to the Constitution launched by the authorities in the fall of 2020 as an attempt to silence the gross violations of human rights, including the torture of thousands of detainees in August 2020. According to the human rights defenders⁵, a true dialogue on discussing proposals to amend the Constitution could only be possible after the situation in the country deescalates: repression and persecution of dissidents are put an end to, there are no more arrests of peaceful demonstrators, political prisoners are released, and procedures have been launched to bring to justice all persons involved in torture. At the same time, the process of discussing and taking into account opinions on issues of amendments to the Constitution should be based on open and clear rules and include specific deadlines. Participation in the constitutional reform for different groups had to be clear and inclusive, while a working commission to discuss proposals to amend the Constitution should be formed transparently and include representatives of the entire spectrum of non-profit organizations and initiatives. None of these proposals was implemented, and therefore the process of discussing amendments to the Constitution cannot be called transparent and inclusive.

CEC meeting

On January 21, the CEC met to discuss issues of preparing and holding the referendum. At least 15 decisions were adopted⁶, with only 8 of them published:

Decision of January 21, 2022 No. 1 “On approval of the schedule of organizational measures for the preparation and holding of the national referendum on the issue of introducing amendments and additions to the Constitution of the Republic of Belarus”

Decision of January 21, 2022 No. 2 “On clarifying the procedure for applying the provisions of the Electoral Code of the Republic of Belarus governing the formation of referendum commissions”

Decision of January 21, 2022 No. 5 “On approval of the Regulations on the Procedure for the Delegation and Activities of Observers in the Preparation and Conduct of the National Referendum of 2022”

⁵ HRDs Condemn Government-Run Constitutional Reform As “Attempt to Silence Gross Human Rights Violations”, <https://belhelcom.org/en/news/hrds-condemn-government-run-constitutional-reform-attempt-silence-gross-human-rights-violations>

⁶ At the time of preparation of the report, eight CEC decisions were published (<https://rec.gov.by/ru/referendum-2022-ru>), the first of which has No. 1 (“On organizational measures for the preparation and holding of the national referendum on the issue of introducing amendments and additions to the Constitution of the Republic of Belarus”), and the last one - No. 15 (“On the extra-budgetary fund for additional financing of expenses for the preparation and holding of the national referendum in 2022”). Thus, seven resolutions (Nos. 3, 4, 9, 11-14) were not published.

Decision of January 21, 2022 No. 6 “On approval of the Regulations on the Procedure for Accreditation and Activities of Foreign (International) Observers in the Preparation and Conduct of the National Referendum of 2022”

Decision of January 21, 2022 No. 7 “On the creation of additional conditions for citizens with disabilities during the national referendum of 2022”

Decision of January 21, 2022 No. 8 “On clarifying the procedure for participation in the voting of certain categories of citizens during the national referendum of 2022”

Decision of January 21, 2022 No. 10 “On the documents on the basis of which a ballot paper is issued during the national referendum of 2022”

Decision of January 21, 2022 No. 15 “On the off-budget fund for additional financing of expenses for the preparation and holding of the national referendum of 2022”.