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Electoral System of the Republic of Belarus after 25 Years of Independence

Abstract: This paper aims to present a case study analysis of the condition of the electoral system in the Republic of Belarus after more than a quarter of a century of independence. The main purpose of the paper is to explain the discrepancies between legislation and practice. The author intended to note a real situation that dominates the country's political scene in comparison to theoretical establishments. A Constitution of the Republic (created in 1994, with minor changes in 1996 and 2004) is the legal ground of the electoral system, however, procedural details were drawn up in the Electoral Code. The principles of Belarusian electoral code consist of some statements known from democratic models, such as universal suffrage, direct suffrage, secret ballot and equality. There are different types of elections in Belarus but the most important ones are presidential and parliamentary elections. Despite the detailed legal rules for conducting these elections, in fact, the principles of democracy, as well as the internal rules in Belarus, are not respected. Both presidential and parliamentary elections have shown this in recent years. Independent observers for a long time have been alarming about worrying electoral practices in Belarus. It is also worth emphasizing that since 1994, one man has been in power uninterruptedly, and Parliament has in fact a symbolic function. In the source materials, the author used Belarusian legal acts, analyses and reports, press notes as well as scientific papers.

Keywords: *Belarus; elections; Lukashenka; constitution; president; parliament; democracy*

Independent Belarus appeared on the map of Europe as a result of the breakup of the USSR. However, the socio-political situation in the beginning of self-sufficiency could be considered at least as peculiar: independence somehow “was a godsend” to Belarusians, among whom the national moods were not dominant. The country itself did not have state traditions, and most residents have not been even identifying residents with the new state (Topolski, 2009, p. 7). Gaining independence meant being freed from Moscow's top-down commands and guidance (Mikołajczyk, 2017, p. 64) and the necessity of establishing an independent state apparatus, shaping all internal and external politics. The one of the greatest challenges for

the new Belarusian authorities was to develop a relationship with the “big brother from the East” – the Russian Federation especially that Belarus deprived of its own raw materials is independent from Russian energy supplies (Topolski, 2009, p. 7). However, it was not only a complicated process of creating foreign and security policy that was a challenge. The newly born country had to create the entire state apparatus, define its direction in the development of internal affairs, and also – electoral law.

The Electoral System

According to Encyclopedia Britannica, an electoral system, is a method and the rules of counting votes that are to determine the final outcome of elections. Winners may be figured out in three ways: mostly by plurality – a majority (more than 50% of all votes); by an extraordinary majority (a percentage of the vote greater than 50%) or by unanimity. Candidates for the public office may also be elected in two ways: indirectly or directly (Encyclopedia).

Elections are one of the traditional institutions of representative democracy. The entire election process is established in the constitutions of countries, its legal and state details (e.g. how citizens elect representatives, how the authorities are formed, what the whole procedure looks like and the designation of specific functions are defined) in numerous laws. These are the elections that allow citizens to participate in state management (thus they realize theirs): they elect representatives whose proposals for changes in the state and the direction of politics (presented during the previous activity and election campaign) are considered as proper ones. Moreover, elections are also a way to implement the principle of state power changeability (Dmitruk, 2015, p. 8).

It is possible to distinguish several types of elections, depending on their scope and extent, e.g.: presidential elections, parliamentary elections, local government elections, local mayors, etc. (Dmitruk, 2015, pp. 8–9).

Electoral System in Belarus

Legally, the basement of Belarusian electoral system is the Constitution of the Republic of Belarus (Central Commission). The Constitution was adopted by Belarusian Parliament on March 15, 1994. In 1996 in referendum, 70.5% of voters decided about turning into presidential version of the new constitution. Introduced changes in the Basic Law provided a substantial expansion of presidents' role and power. Next minor changes in Belarusian Constitution were amended in 2004 (Tsentral'nayaIzbrate'l'nayaKomissiya, 2010).

In the first chapter of the Constitution of the Republic of Belarus, a term “electoral system” includes a number of basic principles for the selection of delegates elected by the nation to perform state functions (Dmitruk, 2015, p. 17). One of these principles is the universal suffrage (Article 64 of the Constitution): “...citizens of the Republic of Belarus who have attained the age of 18 have the right to vote”. The exceptions are the citizens who

are recognized by the court as legally incompetent, those who are sentenced by the court in places of deprivation of liberty, and people for whom they are elected measure of restraint – detention) (Konstitutsiya, p. 38).

Moreover, elections are equal (Article 66 of the Constitution of the Republic of Belarus): “... voters have an equal number of votes. Candidates elected to public office participate in elections on an equal footing” (Konstitutsiya, p. 38).

There is also a law of direct suffrage (Article 67 of the Constitution of the Republic of Belarus): “... deputies are elected directly by citizens” (Konstitutsiya, p. 38) and secret ballot (Article 68 of the Constitution of the Republic of Belarus): “... control over the expression of the will of voters in the course of voting is prohibited” (Konstitutsiya, p. 39).

Moreover, the nomination of candidates for deputies comes from public associations, labour collectives and citizens. Expenses for elections are covered by the state. Elections are always provided by electoral commissions and they are not held during a state of emergency or martial law (Dmitruk, 2015, p. 19).

Belarusian electoral law is also contained in the Electoral Code of the Republic of Belarus and some additional regulations can be found in other legislative acts of the Republic of Belarus and in resolutions of the Central Commission (Central Commission).

The Electoral Code of the Republic of Belarus was adopted by the House of Representatives on January 24, 2000 (Electoral Code, 2000, p. 1) and includes electoral institutions and procedures that are required to hold “democratic elections”. It was created to integrate legal policies that regulate whole four types of elections and also to describe the conduct of referendums and processes of recalling deputies and members of the Council of Republic (Electoral Code, 2000, p. 1–2). The Electoral Code confirms an “elementary basement” of the election principles contained in the Belarusian Constitution. Basic principles of the electoral system are described in the second chapter of the document: “Basic Principles of the Election System and Holding of the Referendum”, in which we can read “Elections of the President of the Republic of Belarus, deputies of the Chamber of Representatives and deputies of local Councils of Deputies shall be free and shall be held on the basis of universal, equal and direct suffrage by secret ballot” (Electoral Code, 2011, p. 2).

In further articles in this chapter more detailed information is contained about: “Universal Suffrage and the Right to Take Part in the Referendum” (Article 4), “Free Elections and Participation in the Referendum” (Article 5), “Equal Suffrage and the Right to Take Part in the Referendum” (Article 6), “Direct Suffrage and the Right for Direct Expression of Will at the Referendum” (Article 7), “Indirect Suffrage” (Article 8), “Secret Ballot” (Article 9), “Basic Principles of Holding of Recall of the Deputy or the Member of the Council of the Republic” (Article 10), “Provision of the Holding of Elections of the President of the Republic of Belarus, Deputies of the Chamber of Representatives and Deputies of Local Councils of Deputies, of the Referendum and of the Recall of Deputies by Commissions” (Article 11), “Provision of the Holding of Elections and Recall of Members of the Council of the Republic” (Article 12), “Public Openness During Preparation and Holding of Elections

and Referendum and Recall of a Deputy of the Chamber of Representatives, a Member of the Council of the Republic and a Deputy of the Local Council of Deputies” (Article 13) (Electoral Code, 2011, p. 2–3).

Presidential Elections

The President of the Republic of Belarus is the head of the state. This office was created in 1994 (at the same time as the constitution was created) to replace the office of Chairman of the Supreme Soviet (who was a head of the state since 1991) (Fedor, 1995, p. 183). Among the tasks of the president we can mention executing the domestic and foreign policy, defend the rights and general welfare of citizens and uphold the Constitution. Detailed duties and responsibilities are described in the Constitution of The Republic of Belarus in Chapter 3 and articles 79–80 (Constitution, 2006, p. 14).

Eligibility rules and candidate requirements are described in Article 80 of the Belarusian constitution: applicant for the presidential office must be a Belarusian citizen (by birth) aged over 35 years, residing within the Belarusian Republic at least for ten years and be able to cast a ballot legally (Constitution, 2006, p. 14).

Presidential elections occur every five years. Candidates are required to collect at least 100,000 signatures from eligible voters. When the collection is completed, a given candidate is declared as the official one by Central Elections Committee. During voting secret ballots are collected directly from voters. A candidate may win and be declared as a president-elect in the first round of voting if earns 50% + 1 votes. If none of the candidates gathers such a number of votes, then a run-off election will occur between two candidates who earned the most votes in the first round. Next, the person who wins the most votes in the second round is declared as a president-elect (President, 1996).

The last presidential elections in Belarus were held on 11 October 2015. The winner was Alexander Lukashenko (independent), who ran for his fifth term in office. He became re-elected with 83.47% of every vote. Among his opponents we can find Nikolaj Ulakhovich (Belarusian Patriotic Party), Sergei Gaidukevich (Liberal Democratic Party), Tatsiana Karatkevich (People’s Referendum), Viktor Tereshchenko (Independent), Sergey Kalyakin (Belarusian Left Party “A Just World”), Anatoly Lebedko (United Civic Party) and Zhanna Romanovskaya (Independent). The option “against all”, officially received more votes than any of opposition candidate (Belta, 2014).

Elections in Belarus (both presidential and parliamentary) are monitored by international observers. That observation involves the participation of observers in international missions through the CIS and OSCE, as well as on a bilateral basis (such as between Belarus and Russia) (Tsentral’nayaIzbitatel’nayaKomissiya, 2010).

Controversies

The main controversy regarding the elections in Belarus comes from the fact that democracy in this country exists only theoretically. According to the Democracy Index, Belarus is described as an authoritarian country (The Economist, 2017). Alexander Lukashenka is the only person who has served as a president since first presidential elections in 1994. Foreign observers reported a series of doubts about the fairness of the elections and the suspicion of forgery (e.g. creation of artificial attendance at elections, multiple voting for one candidate and passive attitude and consent of electoral commission members for such activities) (Bajek, 2018), but these are not the only controversies that arise around the issue of presidential elections in Belarus and Alexander Lukashenko himself.

First, disputed action undertaken by Lukashenka occur due to a 1996 referendum. After the referendum, the president announced that elections that were supposed to take place in 1999 were pushed back to 2001. That led to the unexpected extension of the president's term. Moreover, the president's competences have increased significantly in this referendum – “the president has extensive powers, including the authority to dissolve the lower and upper houses of parliament, to issue presidential decrees which have the force of law when the legislature is in recess, to declare a state of emergency or to impose martial law. The president appoints the prime minister and the government, as well as half of the judges of the Constitutional Court, and has the power to dismiss any of them. Furthermore, the president is empowered to appoint and dismiss the judges of all other courts, including the Supreme Court” (OSCE, 2015, p. 3). These factors exacerbated Lukashenka's conflict with the democratic opposition, which considered these actions to be unlawful, and the results and turnout of the referendum – forged (Czachor, 2016, p. 356–359). Another alarming movement of Alexander Lukashenka happened due to a change in the constitution in 2004, when the term limits were eliminated (earlier, the president could only serve for two terms in his post) (Nohlen & Stover, 2010, p. 252). In 2017 president Lukashenka and the Liberal-Democratic Party of Belarus announced that further changes in constitution are necessary due to the need for the further democratization and development of civil society, and strengthening power in the country. Among one of the proposal changes is the extension of presidential term – from 5 to 7 years and parliamentary term – from 4 to 5 years. President Lukashenka announced that he is seriously thinking about the correction of constitution because he needs to “face the new challenges”: “The world is changing very fast. We must adapt to the changing conditions and do not only loose our niche, but also look for new ones. Probably the time has come to analyze our constitution, we used to talk about that. Let's try to approach this problem from different points of view. Caution, not to worsen the situation. There are new problems and challenges, and the times probably require something new. We must appoint a group of wise men, lawyers who will examine the basic law. And if there is a need for change, we will allow to provide it” (Kresy24, 2016).

The most controversial presidential elections happened in 2006 and 2010. Then, the political opponents of Alexander Lukashenko were hold-up and even beaten by militia units (Polskie Radio, 2010): in 2006 – Alexander Kazulin, in 2010 – Uladzimir Nyaklyayew (after beating he was not able to move on his own), Andrei Sannikov, Ryhor Kastusiau, Vitali Rymauski (W polityce, 2010).

Parliamentary Elections

The Parliament of the Republic of Belarus (The National Assembly of the Republic of Belarus) dwells on two chambers (COMMUN, 2006, p. 4). The role of the parliament was reduced to the intermediary between the society and the ruling unit. In practice, it means the possibility of limited legislative activity and consent to the appointment of the prime minister (without giving consent to the appointment of individual ministers). The Parliament had the right to express a vote of no confidence in the government but this may lead to its earlier dissolution (Czachor, 2016, p. 364).

The lower chamber of the Parliament, called the House of Representatives, consists of 110 deputies elected by citizens of the Republic of Belarus for a period of four years. A citizen of the Republic of Belarus who has reached the age of 21, who permanently resides in the territory of the state and has no criminal records, obtains the right to be elected (COMMUN, 2006, p. 12) in one-mandate electoral constituencies, directly by citizens. According to the Belarusian Constitution, elections should be held on a universal basis, free, equal, and similarly like in presidential elections, held on direct suffrage by secret ballot (Tsentral'nayaKomissiya, On Elections, p. 2).

The nomination of the candidate is possible only in one electoral constituency. There are three ways to nominate the candidate: by political parties (nomination occurs as a result of decision undertaken by supreme bodies of the political parties), by labour collectives (nomination is carried out at meetings of voters in labour collectives) and by collecting signatures of citizens (by initiative groups of citizens): the collected initiative shall be supported no less than by one thousand voters residing in the electoral constituency (Tsentral'nayaKomissiya, On Elections, p. 2).

The procedures of elections are described in the Electoral Code of the Republic of Belarus and they, as it was claimed in the new convocation, must be appointed by the President no later than four months before the termination of powers of the House of Representatives of the current convocations and these elections must be held no later than 30 days before this date. Electoral commissions are responsible for administration of the whole electoral process (Tsentral'nayaKomissiya, On Elections, p. 1).

Before 2013, members of the House of Representatives had been elected by the two-round system but in novelization of electoral code, the requirement to receive an absolute majority was rejected and more effective voting system to first-past-the-post was led (IDEA, 2013). What is important in Belarusian case, in every elections, voters have the possibility

to vote also “against all”. This option seems to be very popular each time elections are held, moreover some observers call it “the last chance to protest” for Belarusian citizens (Babich, 2013).

The Upper Chamber of the Parliament – the Council of the Republic – is a body of territorial representation and consists of 64 members, 56 of whom are elected for a 4-year term on the basis of indirect suffrage by deputies of local Councils of Deputies of the Republic of Belarus from six regions and the city of Minsk; eight members of the Council of the Republic for the same period are appointed by the President of the Republic of Belarus. A citizen of the Republic of Belarus who has reached the age of 30 and who has lived in the territory of the relevant region, the city of Minsk, for at least five years, may be a member of the Council of the Republic (Vainiene et. al, 2003, p. 30–31). Deputies of local Councils of Deputies are elected by the population of the country for a term of 4 years (Belarus, 2014).

A deputy of the House of Representatives may not be a deputy of the local Council of Deputies. It is also not permitted to combine offices of a deputy of the House of Representatives and the President or a judge at the same time (Tsentral'nayaKommissiya, On Elections, p. 2)

The Last Parliamentary Elections

The last parliamentary elections were held in Belarus on 11 September 2016 (NDI, 2017). These elections differ from the previous ones: not only because of the changed principles of choosing deputies but also they were not boycotted by the opposition. Both, pro-government parties (Communist Party of Belarus, the Liberal Democratic Party, the Republican Party of Labour and Justice, Belarusian Patriotic Party) and oppositional parties (alliance named “PravaVybora”, consisting of the BPF Party, the Belarusian Christian Democracy, the Belarusian Social Democratic Party, Liberal Party of Freedom and other) participated in the elections (TUT.BY, 2016). Moreover, in comparison to earlier elections, the last one were distinguished by the quite liberal approach of autocratic authorities: a significant number of opposition candidates were not only allowed to participate in elections but they were also allowed to give “radical” speeches. Moreover, for the first time in the history of Belarus, two opposing candidates had won seats: Hanna Kanapatskaya, a member of the United Civic Party won in one of the Minsk constituencies, whilst independent candidate Alena Anisim won in a constituency in the Minsk Region. Even if there are 93 independent deputies more, these candidates were considered as pro-government (Kłysiński, 2016).

Nevertheless, in the assessment of both, Belarusian and foreign observers, recent elections has shown a number of weaknesses of democratic principles. The members of the OSCE mission showed in their report the practices already known from the past: too heavy obstruction of observers, the reduction of the participation of opposition in electoral commissions, unequal access to media for all candidates, the lack of a centralized national register of voters and removing too inquisitive journalists and domestic observers from the

polling stations. In addition, it was common practice to over-attend the turnout, so as to exceed the mandatory threshold of 50%. Official turnout amounted to 74.8% but according to the opinions of independent observers, the turnout was too low to complete the elections (Kłysiński, 2016).

Conclusions

After the year 1991, that carried independence for the Republic of Belarus, the attempts of authorities were made to implement in the country an electoral system based on democratic principles. However, there is a difference between the reality and expectations floating from the bills of laws and legal acts.

The fact is that democracy in Belarus does not exist: the country has been ruled by the same person since 1994 – Alexander Lukashenka, who has been able to change the law and electoral rules according to his own preferences (anyway, the lack of the significant reaction of society should be indicated), or even bloodily deal with oppositional rivals. Today, Lukashenka has virtually unlimited power, and the parliament seems to function only for the preservation of “appearances of democracy” and as an organ supporting the president. Most members of the parliament are often people associated with the president who have previously shown loyalty to him and as a reward they received the mandate of a deputy.

The situation in Belarus was clearly exposed by the recent parliamentary elections. The violation of the rules of electoral law, high inflated attendance and a number of other deficiencies pointed out by independent observers, called into question the authenticity of election results. And although some analysts saw the shadow of positive changes (the liberalization of the electoral scene, two opposition candidates in the parliament), as rightly noted by K. Kłysiński, it is not a manifestation of democratization in Belarus, but only a gesture towards the West and a clever play against the opposition: on the one hand, liberalization of the nature of the election may be, in Lukashenka’s hopes, the proper basis for the continuation of the initiated dialogue with the European Union and the USA, and on the other hand, it will be more difficult for the opposition activists to criticize and question the election process and electoral outcome (Kłysiński, 2016).

It should be clearly underlined, that the parliament has only a symbolic meaning in Belarus and Lukashenka has retained the absolute power and again plans further changes the law and extend the presidential term in the near future. Such strong presidential power, among other European post-Soviet states, has survived only in Russia. In the Baltic States parliamentary system was introduced and these countries presents high level of democratization. Ukraine can be regarded as a country towards democratizing (Czachor, 2016, p. 368) What may be interesting: Belarus has a tendency to maintain intense relations with the countries of strong presidential power, such as Russia and Kazakhstan, with which Belarus has been creating the Eurasian Customs Union since 2010 (Dziugiewicz, 2011, p. 22).

It is not known what results free elections would bring in Belarus: a part of society genuinely supports the current president, although there are also citizens who oppose him (Makhovsky, 2015). There are no chances for any change in the actual situation on the Belarusian political scene in the moment: Belarus has been an authoritarian state since 1994, and despite the provisions in the Constitution, the Electoral Code and apparent compliance with the rules, Alexander Lukashenka is able to manipulate both the election process and election results. What should be emphasized is that all these illegal electoral and political action seem to happen under the silent and common consent of Belarusian society.

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