

in central government. The inferior status of deputies compromises the whole idea of local government. People distance themselves from local politics and leave it to the central government to tackle local problems.

The local executive elite cannot perform its functions effectively. The appointment and dismissal of executive committee heads and administrative officers is largely determined by political considerations. This exposes the administrative apparatus, which should guarantee efficient management and reduce the risk of tailor-made political decisions, to the power of central government and increases government centralization.

## Electoral system

by Mikhas Pliska

The fundamental peculiarities of Belarus' electoral regulations currently in force are a function both of the mentality of the ruling *nomenklatura*, who have failed to transcend the limitations of Soviet, majority-based election rules, and of the time in which new laws were enacted to govern elections to the Supreme Soviet and local soviets. These laws were enacted in November 1994, i.e. after Alyaksandr Lukashenka was elected president. He made considerable efforts to prevent the use of a mixed system combining majority-based and proportional elements in parliamentary elections, as the Supreme Soviet was originally inclined to pass a law whereby 25 percent of the deputies would be elected on the basis of proportional representation.

The flaw in electoral regulations came to light especially after the political system's change in November 1996, when an authoritarian regime was put in place.

The Electoral Code, enacted in February 2000 on the initiative of President Lukashenka, differs from preceding laws in form rather than content. The 110 members of the House of Representatives, the lower parliamentary chamber, and members of local soviets (councils) are elected the majority basis, where a candidate needs to gain at least 50 percent plus one vote to win in the first round, and a relative majority of votes in the second, runoff round. To be elected president, a candidate needs to win 50 percent plus one vote in the first round or in the second round.

The OSCE Office for Democratic Institutions and Human Rights and the Venice Commission of the Council of Europe have found that Belarus' Electoral Code does not ensure free and democratic elections in the country and does not meet minimal international standards. Similar conclusions were drawn by the OSCE special international observation missions that monitored the preparation and conduct of elections for the House of Representatives in October 2000 and presidential elections in September 2001.

The main failing of the Electoral Code is that it does not restrict the government's arbitrariness in forming electoral commissions at all levels. Practice in this respect shows that the commissions do not represent a wide range of political forces, as there are no legal obstacles for local authorities in denying membership to representatives of the opposition. This allows the executive branch to hold absolute sway of the electoral commissions' activities and the entire election process alike, from registration of candidates to counting the votes.

To exert pressure on voters and rig ballots, electoral authorities make frequent use of the early voting procedure held for five days seven hours a day, as well as voting from home. In the 2000 parliamentary elections, in two electoral districts those who, according to official statistics, exercised their right of early voting totaled more than 50 percent of all eligible voters. The average number of those voting before the polling day accounted for 20 to 30 percent of all voters in the past elections.

Regulations currently in force do not allow candidates to effectively use judicial proceedings if they contest voting results or electoral commissions' decisions to remove them from the run-up.

Candidates are banned from setting up their own election funds and using donations from private persons and organizations for campaign purposes. Public funds provided by the government for candidates are far from being sufficient to conduct an efficient campaign.

Independent observers cannot monitor ballot counting, as they are denied the opportunity to see the contents of ballot boxes and can be evicted from the polling station by order of the local commission's chairperson. In addition, lo-

cal polling commissions are not required to give observers certified copies of official ballot counting reports.

Elections held in Belarus are reminiscent of Soviet-era elections aimed at creating a veneer of legitimacy for the Communist Party's rule. Despite formal rivalry among candidates, only candidates previously approved by the executive authorities can actually be elected. Therefore, to ensure free and fair elections, it is necessary to press not only for changing electoral regulations and procedures but also for democratizing the country's political regime.

## Judiciary

by Mikhail Pastukhou

The judicial system inherited from the USSR is still being used in Belarus. The new version of the Belarussian Constitution contains a newly amended procedure for appointing judges. Under the 1994 Constitution, the election of judges was the parliament's exclusive prerogative, whereas under the amended Constitution, the president of the republic has the right to appoint the chair and five judges of the Constitutional Court, the chair and judges of the Supreme Court and Supreme Commercial Court, and judges of other courts. The president is also entitled to dismiss the chairs and judges of the highest courts on grounds stipulated by the law, with notice to the Council of the Republic, the upper chamber of the National Assembly.

The system of general jurisdiction courts consists of the Supreme Court of the Republic, regional courts, the Minsk City Court, district and city courts, Belarussian Military Court, and inter-garrison military courts.

The district and city courts, the judicial system's primary level, employ in excess of 800 judges. The regional courts and the Minsk City Court employ 159 judges. The staff of the Supreme Soviet includes 54 judges. The staff of district and city courts comprises 185 judges who try cases under the administrative law.

The system of commercial courts consists of the Supreme Commercial Court, regional commercial courts and the commercial court of the city of Minsk