

Election transparency

Elections should be prepared and conducted openly. Governmental agencies, elected authorities and electoral commissions must publicize all decisions regarding preparation and conduct of elections in the media.

The pluralistic composition of electoral commissions and domestic observers should warrant an open election.

Observers from political parties and non-governmental organizations may a) attend meetings of local commissions without prior notice; b) observe the vote count at a distance enabling them to see the content of the ballot boxes; c) recount ballots, if necessary; d) ask commissions for certified copies of polling protocols.

On signing a protocol of voting results, local electoral commissions should post it in the voting room for public notice.

An ideal model for Belarus' judiciary and law enforcement agencies

by Mikhail Pastukhou

Like in other European countries, courts in Belarus should act as guarantors of human rights and freedoms. Independence of courts is an indispensable condition.

In this report, the judiciary is regarded as a system of state agencies empowered to settle legal disputes and administer punishment to people found guilty of crimes³⁰. The judiciary's role in a democratic state is to enforce the law, prevent any arbitrariness in society and defend people's rights and freedoms.

Belarus still has a centralized judicial system which bears on the country's administrative division and the executive power; it operates as a repressive mechanism rather than a tool for protecting against unlawful actions.

³⁰ И. И. Мартинович, М. И. Пастухов, *Судебно-правовая реформа в Республике Беларусь*, Мн.: Амафeya, 1995, p. 22.

A new model suggested below is based on international legal acts and the positive experience of the leading European countries. Belarus' new judicial system should comprise the Constitutional Court, general jurisdiction courts, commercial, administrative and other specialized courts.

Constitutional Court

The Constitutional Court, the top authority within the system of governance, has considerable influence on public authorities and plays a key role in the checks and balances system, and in guaranteeing people's rights and freedoms³¹.

Constitutional Court powers

It is necessary to expand powers of the Constitutional Court of the Republic of Belarus. It should have powers to:

- 1) interpret the constitution. Constitutional authorities in most European countries such as Bulgaria, the Czech Republic, Germany, Hungary, Poland, Russia, Slovakia and Slovenia have such a function;
- 2) examine international treaties, as yet ineffective, for compliance with Belarus' constitution. This function should help to prevent the country from assuming international commitments that contravene its constitution. Bulgaria, Germany, Hungary, Lithuania, Moldova, Poland, Slovakia and other countries have a constitutional provision on examining international treaties prior to adoption;
- 3) decide on the constitutionality of platforms and activities of political parties. This function would be an additional guarantee of legality in the operation of political parties. Constitutional authorities in Armenia, Germany, Poland, Portugal and Turkey have a similar function;

³¹ Н. В. Витрук, Конституционное правосудие. Судебное конституционное право и процесс. М., 1998; Конституционное правосудие в Республике Беларусь: пятилетний опыт, проблемы и перспективы. Мн., 1999; Конституции государств Европы. В 3 т. М., 2001; Правовое государство. Конституционный суд (Материалы международных семинаров). Мн., 2000.