



HUMAN RIGHTS DEFENDERS FOR FREE ELECTIONS

Elections of deputies of the House of Representatives of the National Assembly of the Republic of Belarus of the seventh convocation

Report on the formation of territorial and district election commissions

September 4, 2019

Observation of the elections to the House of Representatives of the National Assembly of Belarus 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

the territorial election commissions (TECs) and the district election commissions (DECs) are an important mechanism of the electoral process, which significantly affects the holding of free and democratic elections;

the majority of observers were able to freely attend meetings of bodies that formed the TECs and DECs; only five of them reported obstacles at the first meetings of the commissions;

all the actors that nominated their representatives to the TECs and DECs had the opportunity to submit the necessary documents to the authorities who formed the commissions and to be present at their meetings;

the meetings of the bodies in the majority of cases considered the professional and personal qualities of the candidates nominated to election commissions; separate votes were taken on each nominee; there were discriminatory approaches in voicing the qualities of certain candidates nominated by opposition parties and movements;

the majority of nominees to the DECs (49.4%) and TECs (43.6%) represented public associations; 12 political parties, including five opposition, accounted for 25% of the representatives in the TECs and 17.6% in the DECs; five opposition parties nominated a total of 146 people, representing 38.9% of the number nominated by all political parties;

as in the past, absence of legislative guarantees of the proportional representation in the election commissions of all political actors involved in the elections results in arbitrary and discriminatory treatment in respect of opposition parties and movements;

the proportion of representatives of political parties on the TECs and DECs is still low (25% and 17.6%, respectively), as compared to the representatives of public associations (43.6% and 49.4%, respectively);

representatives of the five largest pro-government associations and unions affiliated to the FPB, recently joined by the Belarusian Peace Foundation, are still the main organizers of the elections; the success rate of their representatives is 92.8% to the TECs and 93.6% to the DECs;

the success rate of the representatives of opposition parties is traditionally low: only 18.75% of the nominees were elected to the TECs and 21.2% to the DECs; the selection ratios of representatives of the three opposition associations (BPF “Adradzhenne”, Movement “Za Svabodu” and “Tell the Truth”) are 0% for the TECs and 2.8% for the DECs;

the total number of members of opposition parties and associations on all the election commissions constitutes 2.5% of all the commission members.

I. LEGAL FRAMEWORK

The procedure of formation of the election commissions for the elections of members of the House of Representatives of the National Assembly of the seventh convocation is regulated by the Electoral Code of the Republic of Belarus and the CEC’s Resolution of August 6, 2019 No. 23 “On explanation of the procedure of the formation of the election commissions for the elections of members of the House of Representatives of the National Assembly of the Republic of Belarus of the seventh convocation”.

According to Art. 28 of the Electoral Code, the preparation and conduct of elections of members of the House of Representatives are administered by the regional election commissions, Minsk city election commission, the territorial election commissions, and the district and precinct election commissions.

According to Art. 34 of the Code, the regional, Minsk city territorial and district election commissions are formed by the presidiums of the Regional and Minsk City Councils of Deputies and the regional and Minsk city executive committees. The commissions are composed of the representatives of political parties and other public associations, labor collectives, as well as representatives of citizens nominated to the commission by submitting an application, comprising 9-13 members no later than 75 days before the election.

Political parties and other nation-wide public associations, labor collectives, staff of a structural unit, and a group of voters have the right to nominate only one representative to the regional, Minsk city, district and precinct election commissions. According to a general rule, at least one third of the commission members are representatives of political parties and other public associations.

The commission may not include judges, prosecutors, heads of local executive and administrative bodies. Representation of civil servants cannot exceed one third of the commission members.

The meetings of bodies in charge of forming the commissions can be attended by representatives of political parties and other public associations, labor collectives and citizens who nominated their representatives to the commission. The decision on the formation of the commission should be published in the press within seven days from the date of its adoption.

The decision may be appealed within three days from the date of its adoption, respectively, to the regional, Minsk city, district or city court by the entities that nominated their representatives to the commission. The court shall consider the complaint within three days, its decision is final.

The powers of the territorial electoral commissions during the elections of members of the House of Representatives are set out in Art. 39.1 of the Electoral Code. The common organizational and supervisory functions of the TECs include consideration of complaints and appeals against decisions and actions of the district and precinct election commissions. It is the TECs that consider appeals against decisions by the DECs to refuse the registration of nomination groups

and of candidates. This accounts for the significant role of the TECs in organizing and conducting the elections.

The powers of the DECs are enshrined in Art. 42 of the Electoral Code. Among them are such crucial functions as the registration of nomination groups formed to collect voter signatures in support of the persons proposed for nomination as candidates, registration of candidates and their proxies, tabulation of the election results on the territory of the electoral district, etc.

According to the decision of the CEC of August 6, 2019 No. 23, the meetings of bodies in charge of forming the commissions can be attended by foreign (international) observers, representatives of political parties and other public associations whose observers have been accredited with the Central Election Commission (one representative from each entity), as well as representatives of the entities that nominated their representatives to the commissions.

Before making a decision on the formation of the election commission, the question of the professional and personal qualities of each nominee is proposed for discussion, and if the number of candidates exceeds the prescribed number of members of the commission, information on each candidate is voiced and separate voting is arranged for each nominee.

It is noteworthy that the above Regulation removed the notion of “political qualities” of nominees to the commissions. In previous years, this vague and controversial term was criticized by the experts of the campaign “Human Rights Defenders for Free Elections”, who urged the CEC Chair Lidziya Yarmoshyna to remove the wording by adopting a resolution of the Central Election Commission.

II. PROCEDURE OF NOMINATION TO THE DECs AND TECs

In accordance with the Election Schedule, the nomination of representatives to the DECs and TECs and the submission of their applications should be completed no later than three days before the established deadline. The nomination was carried out according to the Schedule¹ and was finalized on August 30, 2019.

The websites of the regional and Minsk city and district executive committees and local media reported on the time and place of meetings of bodies in charge of forming the commissions, and on the time and place of receiving the documents. Most of the campaign’s representatives, who were present during the formation of the DECs and TECs (60%) had no opportunity to examine the nomination documents.

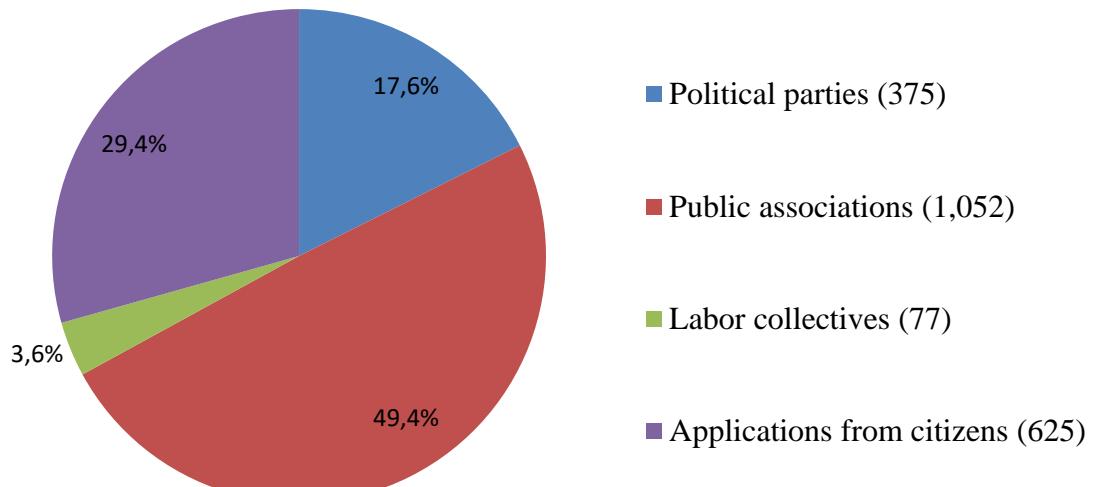
The campaign observers did not record cases of unjustified refusals to accept documents from persons nominated to the election commissions.

According to the CEC², various entities nominated 1,959 representatives to 110 DECs.

¹ Resolution No. 19 “On approval of the Schedule of organizational measures on the preparation and holding of the elections of deputies of the House of Representatives of the National Assembly of the Republic of Belarus of the seventh convocation”

² <http://rec.gov.by/sites/default/files/pdf/2019/stat2.pdf>

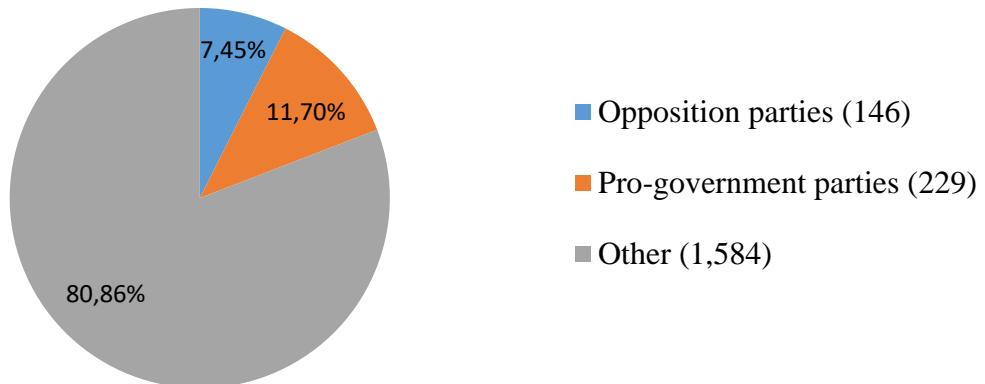
Nominations to DECs from various entities



170 persons were nominated to the DECs by two entities at a time. Of these, in the Brest region — 1; the Homiel region — 1; and the Hrodna region — 168. According to a campaign's observer, almost every one of the pro-government candidates was nominated simultaneously by two entities.

Of the 15 registered political parties, 12 nominated their representatives to the DECs, including 5 opposition parties: Belarusian Party of the Green (1), Belarusian Party of the Left "Spravedlivyi Mir" ("Just World") (74), United Civil Party (18), BPF (17), and Belarusian Social Democratic Party Hramada (35). According to the CEC, a total of 146 representatives were nominated by the five opposition parties, which is 38.9% of the total number of nominees from the parties. All the registered parties nominated 375 representatives to the commissions, or 19.1% of the total number of nominees; the opposition parties account for 7.45% of the total number of candidates nominated to the DECs. This indicates low activity of the parties in the electoral process.

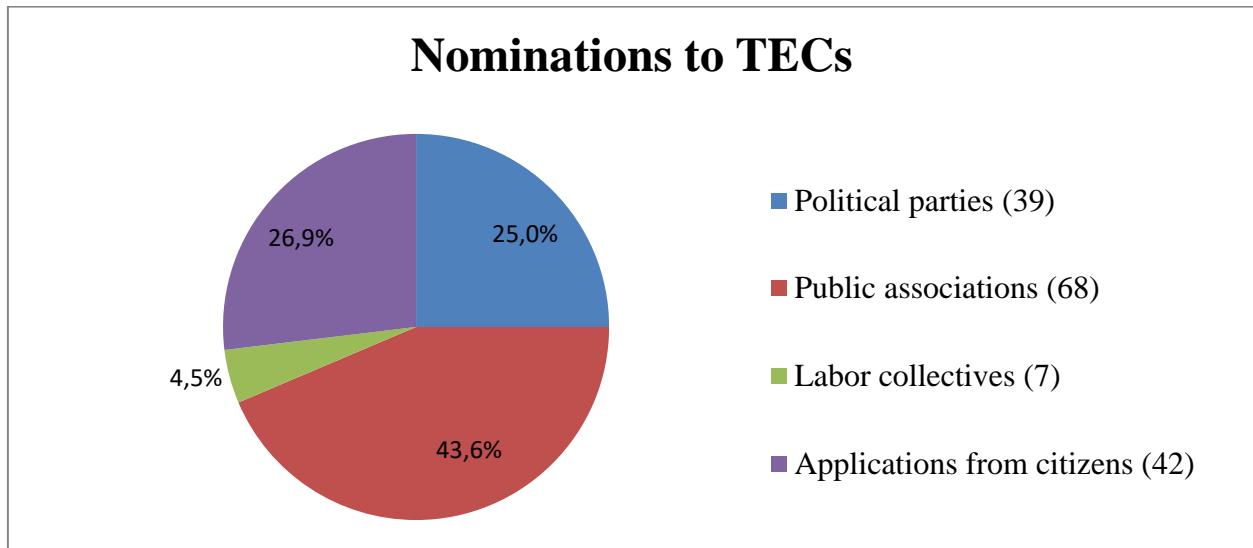
Nominations to DECs from political parties



More than 50% of all the candidates to the DECs were nominated by public associations and trade unions. The traditionally active NGOs "Belyaya Rus", Belarusian Republican Youth Union,

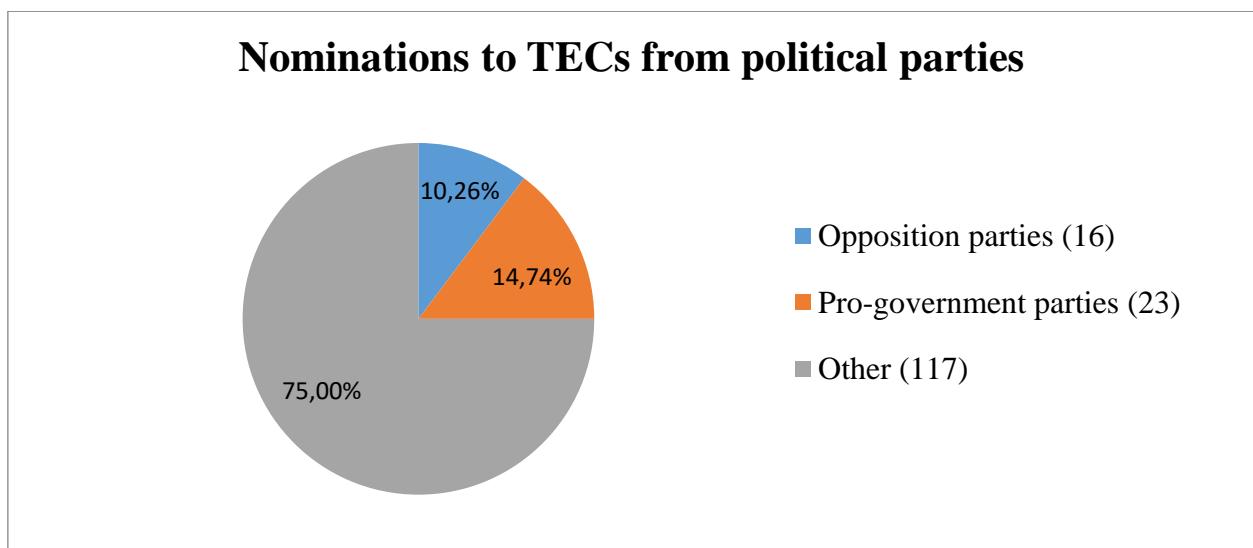
the trade unions (members of the pro-government Federation of Trade Unions of Belarus), the Belarusian Women's Union and the Belarusian Public Association of War Veterans were joined by the Belarusian Peace Foundation. Together they nominated 40.1% of all candidates from public associations and trade unions.

According to the CEC³, 7,143 representatives were nominated to the 7 TECs.



In the Hrodna region, 13 persons were nominated to the TECs by two entities at a time.

Of the 15 registered political parties, 10 nominated their representatives to the TECs, including 5 from the opposition parties: Belarusian Party of the Green (1), Belarusian Party of the Left “Spravedlivyi Mir” (“Just World”) (7), United Civil Party (4), BPF (1), and Belarusian Social Democratic Party Hramada (3). According to the CEC, a total of 16 representatives were nominated by the five opposition parties, which is 41% of the total number of nominees from the parties. All the registered parties nominated 39 representatives to the commissions, or 27.3% of the total number of nominees; the opposition parties account for 11.2% of the total number of candidates nominated to the TECs.



About 50% of the applicants to the TECs were members of public associations and trade unions. 5 pro-governmental associations — “Belya Rus”, Belarusian Republican Youth Union,

³ <http://rec.gov.by/sites/default/files/pdf/2019/stat1.pdf>

Federation of Trade Unions, Belarusian Women's Union and Belarusian Public Association of War Veterans, as well as Belarusian Peace Fund nominated 29.4% of the entire number of applicants and two-thirds of the candidates from public associations and trade unions.

The Conservative Christian Party BPF, the Belarusian Social Democratic Hramada and the Republican Party did not nominate their representatives to the DECs and TECs.

The following opposition NGOs nominated their representatives to the commissions: Movement "Za Svabodu" ("For Freedom") (117), "Tell the Truth" (36) and the NGO BPF "Adradzhenne" (4).

III. MEETINGS OF BODIES THAT FORMED THE COMMISSIONS

Joint meetings of the presidiums of the Regional Council and the Minsk City Council of Deputies and the regional and the Minsk city executive committees were held in accordance with the Schedule, no later than September 2, 2019.

All observers of the campaign "Human Rights Defenders for Free Elections" were able to freely attend the meetings of the bodies that formed the commissions. They reported that all the representatives of the entities who nominated their representatives to the TECs and DECs had the opportunity to attend these meetings without any restrictions.

In most cases, the nominees were characterized as to their personal and professional qualities. However, the observers point out different approaches to characterizing applicants nominated by the opposition parties and other entities.

In particular, during the formation of the TECs and DECs at a joint meeting of the Minsk city executive committee and the Minsk City Council, a clearly discriminatory approach was visible towards nominees from the opposition structures. In most cases, only the year of birth, occupation, or its absence (retirement), and partisanship were voiced, while most of the remaining candidates were given detailed positive characteristics, including from the employers.

At a joint meeting of the Hrodna regional executive committee and the Regional Council, it was stressed that the candidates from the pro-government NGOs were nominated by large-scale structures with thousands of members and local offices across the region. As a result, all such candidates were unanimously included in the commissions.

At a meeting of the Mahilioŭ regional executive committee and the Regional Council, it was noted that opposition nominees (United Civil Party and Movement "For Freedom") Uladzimir Parfionau and Piotr Mihurski had no experience of work in election commissions. Despite the fact that a UCP representative Uladzimir Shantsau, who was present at the meeting, denied the statement, noting that the two nominees had earlier worked on the regional and district commissions of Škloŭ, they were not included in the commissions.

In 11% of the cases, the campaign observers noted that the nominees' qualities were not considered at all.

In particular, at a meeting of the Brest city executive committee and the regional executive committee, neither professional nor personal qualities of candidates from the Movement "For Freedom" (S. Vakulenka), "Tell the Truth" (A. Blanko) and "Just World" (N. Bosak) were not discussed due to the absence of such information.

A known Brest human rights activist, member of the public association Movement "For Freedom" Raman Kisliak was not elected to the DEC because of the absence of information

about his professional qualities. The fact that he called himself a human rights activist was viewed as providing inconsistent data.

The observers also noted that in Brest all the applications were considered by a working group, which made recommendations ahead of the meetings where the nominees were discussed.

The observers' reports suggest that the main criterion for inclusion in the commissions, as before, was previous experience of work with the electoral management bodies. At a meeting in Hrodna, additional personal qualities were voiced, including an analytical mind, authority among subordinates, perseverance, interpersonal skills, and tact.

The observers reported that voting was mostly a formality, although in most cases accompanied by a discussion of the nominated candidates. The representatives of the pro-government political parties and public associations were voted for almost unanimously, while the representatives of the opposition parties were almost unanimously rejected. It can be concluded that the formation of the commissions was prejudged.

In most cases (67%), the campaign's observers noted that they were not allowed to access the nomination documents. The reasons were not called. Therefore, it was impossible to verify the compliance of the documents submitted by all entities that nominated their representatives to the election commission with the current electoral law.

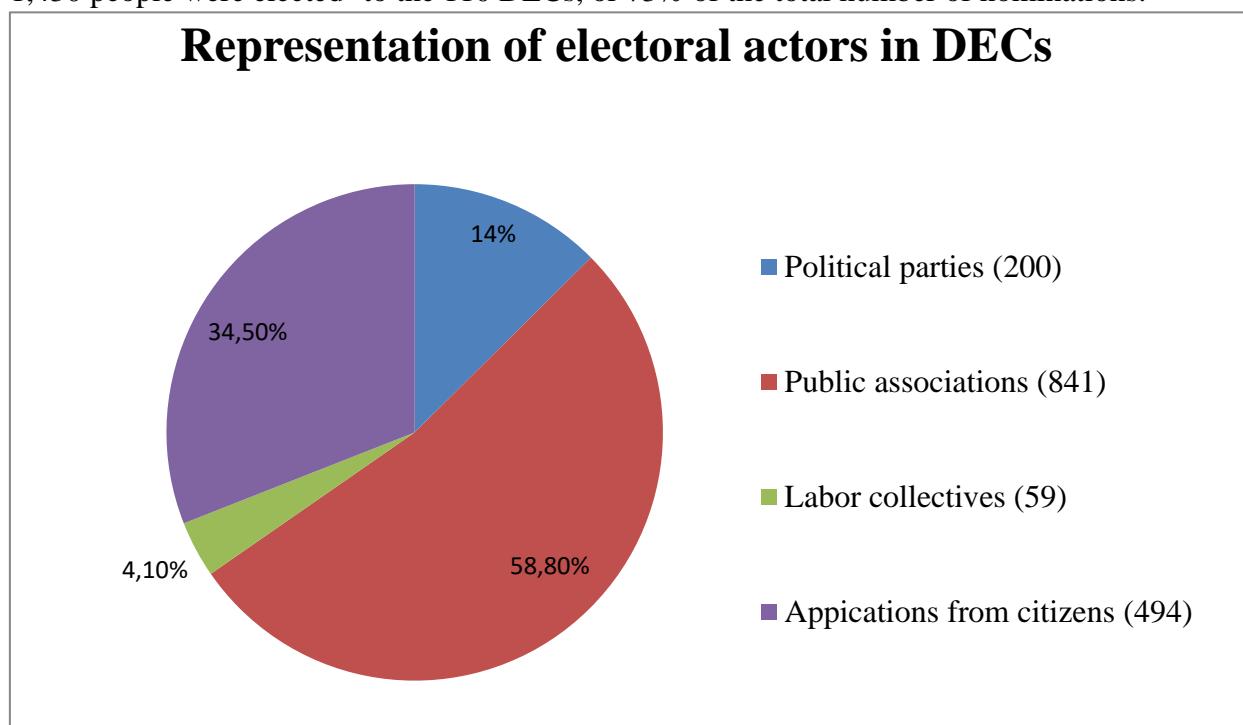
The BPF Party received from the Viciebsk regional executive committee a written request for "professional and personal qualities" of persons nominated by the party to the DEC. Meanwhile, legislation does not oblige electoral actors to provide such data.

The absence of law-based guarantees for the representation of all political actors on the election commissions, as in the past, resulted in arbitrary and discriminatory approaches to the formation of election commissions at all levels in respect of opposition parties and movements.

According to experts of the campaign "Human Rights Defenders for Free Elections", the CEC should give all entities that nominate their representatives to the election commissions the right not only to attend the meetings, but also to provide information about their professional and personal qualities.

IV. STRUCTURE OF FORMED COMMISSIONS

1,430 people were elected⁴ to the 110 DECs, or 73% of the total number of nominations.



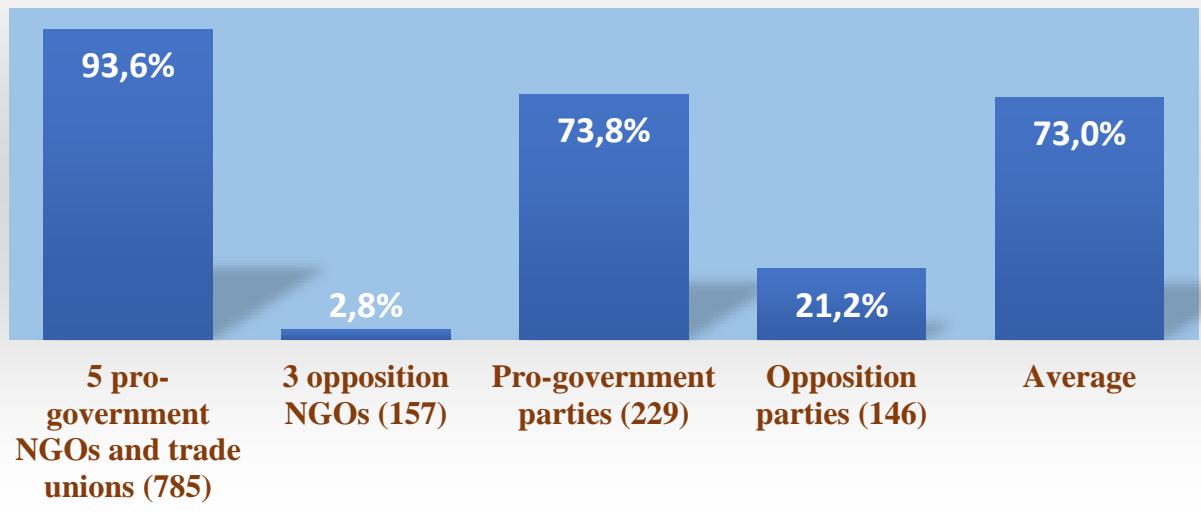
The activity of political parties was low, however only 200 of the 375 nominees were included in the DECs, most of whom were members of the pro-government parties. Of the 229 candidates from these parties, 169 became commission members, which is 73.8% of the total number of nominees. At the same time, of the 146 representatives of the five opposition parties nominated to the DECs, the commissions included only 31 candidates, or 21.2% of the total number of nominated representatives of opposition parties.

It is noteworthy that 735 (93.6% of the total number of nominees) representatives of the five largest pro-government trade unions and NGOs were elected to the DECs.

Prejudice against members of opposition political parties and associations is obvious: the representatives of the opposition political parties became members of the DECs in one case out of five, while the candidates representing the loyal parties — in almost four out of five cases. Only four members of one of the three opposition NGOs which applied for participation in the DECs were elected to the commissions, while the representatives of the five largest pro-governmental organizations and trade unions were included in the commissions in 9 cases out of 10.

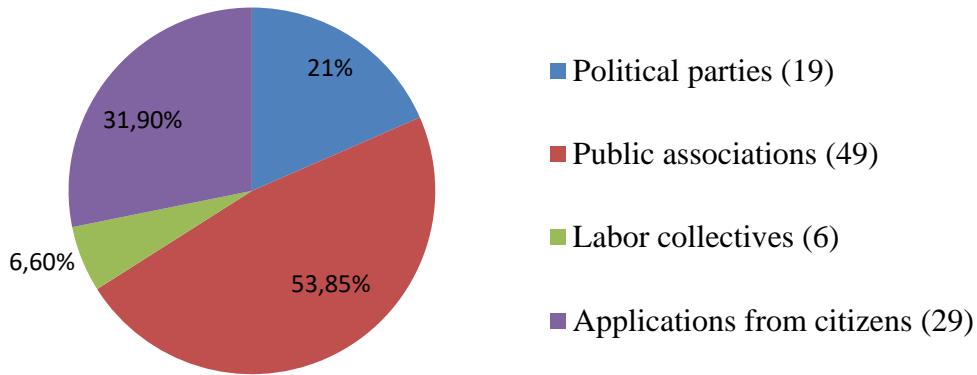
⁴ <http://rec.gov.by/sites/default/files/pdf/2019/stat4.pdf>

Representation in DECs vs Number of nominations



91 people were elected⁵ to the seven TECs, or 63.6% of the total number of nominees.

Representation of various entities in TECs



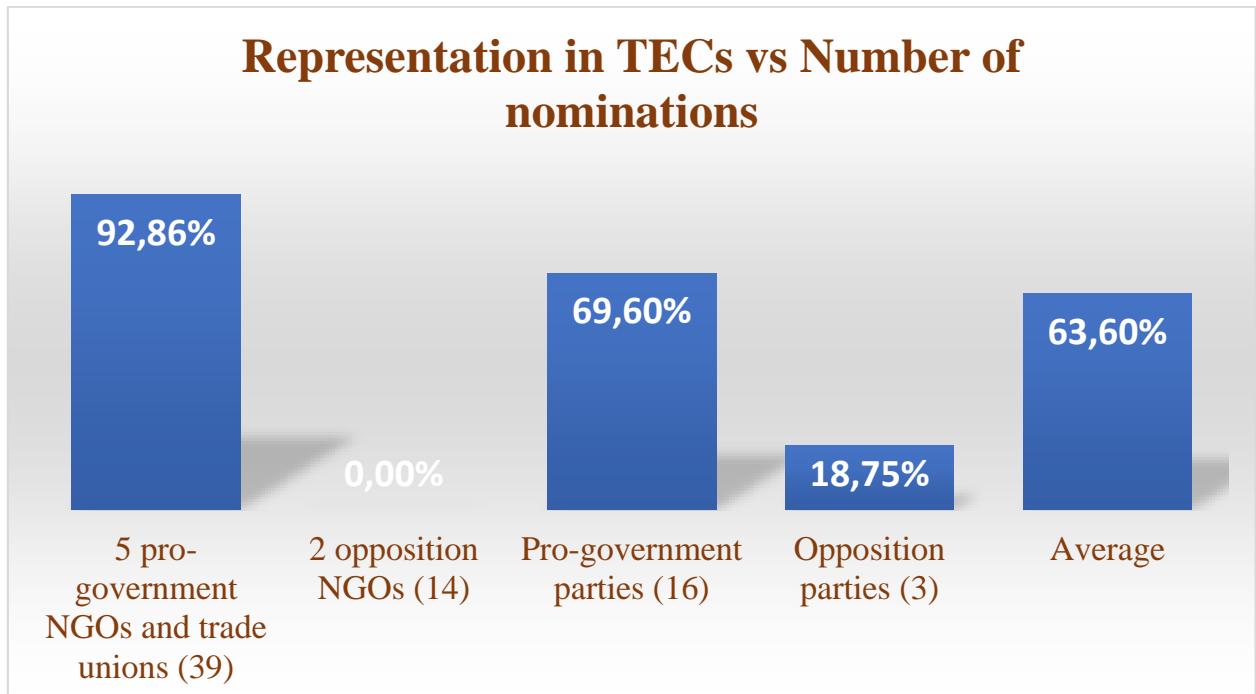
Of the 39 nominated representatives of political parties, 19 were elected to the TECs, most of whom were members of the pro-government parties. Of the 23 candidates from these parties, 16 persons (69.6% of the total number of nominees) were included in the commissions. Meanwhile, of the 16 members of the five opposition parties nominated to the TECs, only 3 candidates were elected commission members — “Just World” (21.2% of the total number of nominations from the opposition parties).

39 representatives of the five biggest pro-government NGOs and trade unions were elected to the TECs — 92.86% of the total number of their nominations. None of the nominees by the Movement “For Freedom” (7) or “Tell the Truth” (7) were approved for the TECs.

As with the creation of the DECs, the observers report an apparently biased attitude of the authorities towards members of the opposition political parties and associations. Representatives of only one opposition political party were included in the TECs. Not a single representative of

⁵ <http://rec.gov.by/sites/default/files/pdf/2019/stat4.pdf>

the oppositional public organizations was included in the TECs, while all of the nominated representatives of the NGOs “Belya Rus”, Veterans’ Association and Union of Women, as well as trade unions were included in the commissions.



V. COMPLAINTS AGAINST DECISIONS TO DENY MEMBERSHIP ON ELECTION COMMISSIONS

Decision of the bodies, which formed the TECs and the DECs, were appealed to the regional courts and the Minsk City Court.

Representatives of the opposition parties actively complained against the decisions to deny membership on the TECs and DECs to their representatives.

In particular, on September 4, the Hrodna Regional Court heard a complaint by the Belarusian Popular Front Party against the decision of the Presidium of the Hrodna Regional Council and the Hrodna regional executive committee, which did not approve four of its representatives as members of a local DEC. The Court rejected the party’s complaint.

On September 4, the Viciebsk Regional Court considered a complaint by the BPF Party against a decision to deny membership to the Party’s regional office chair Kanstantsin Smolikau on the Viciebsk regional election commission, as well as two members of the Party — on the district commissions. The complaint was rejected.

Also, complaints were filed in the Homiel Regional Court, Minsk Regional Court and the Minsk City Court.

VI. CONDITIONS OF OBSERVATIONS

Most observers of the campaign “Human Rights Defenders for Free Elections” were free to attend the meetings of the bodies in charge of forming the election commissions. However, some faced obstacles in the admission to the first meeting of the newly formed election commissions. It is worth noting that the first meetings of the commissions consider the election of chairpersons and secretaries. The decisions are crucial for the implementation of monitoring at this stage of the electoral process.

In particular, observer Natallia Satsunkevich, who was nominated through collection of signatures, was unable to attend the first meeting of district election commission No. 96, which was held in the administration of the Kastryčnicki district of Minsk. D. Stradzin, who later was elected chairperson of the commission, asked her to leave after the observer handed over her nomination documents. The observer was invited only 15 minutes later, when both chairperson and secretary of the commission had already been elected. The meeting lasted 28 minutes. The observer was prohibited from taking photographs or recording audio, despite a written request. She also asked for clarification on the use photo, video and audio recording devices in a letter to the chairperson of the Minsk city election commission.

Observer Aliaksei Loika was not allowed to observe the election of the chairperson and secretary of district election commission No. 102 in Minsk. He received a refusal from T. Zabauskaya, who was later elected chairperson of the commission, despite a timely advance request. The observer was only allowed into the room after the voting was over. Aliaksei Loika regarded it as a violation of the electoral law and filed a complaint against the members of the commission.

It is also known that the campaign's observer Aliaksei Horbach was not allowed to attend the meeting of district election commission No. 93 in Minsk.

Observer Ales Burakou was initially prohibited from attending the first meeting of district election commission No. 88 in Mahilioŭ, but managed to persuade the members of the commission by citing the law. Meanwhile, Burakou praises absence of obstacles in local DECs Nos. 86 and 87.

The meeting of DEC No. 18, which was held in the administration of Pieršamajski district of Viciebsk, was held behind closed doors.

Meanwhile, Article 13 of the Electoral Code guarantees the right of observers to attend, without any exceptions, the meetings of the election commissions.