

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

equal in status to the regional courts. Their function is to settle disputes between undertakings and individuals arising from conducting regular business, and disputes and claims to overrule decisions of governmental agencies related to business interests of undertakings.

The staff of judges in commercial courts is not large. The commercial courts in regions and Minsk have 8 to 14 judges, and the staff of the Supreme Commercial Court includes a total of 18 judges.

The Constitutional Court of the Republic of Belarus was established in late April 1994. After the November 1996 national referendum, which resulted in adopting an amended Constitution, the first Constitutional Court was in fact dissolved. In January 1997, by his edict, President Alyaksandr Lukashenka appointed six judges, including the Court's chair. Another six judges were elected by the upper chamber of the National Assembly, which itself was hand-picked by Lukashenka.

In June 1997, the Constitutional Court Law was radically amended resulting in a considerable change in the place and role of this instrument of governance.

At present, the courts have lost much of their reputation and credit with the people. A confidence poll showed that only 38 percent of the interviewed trusted the judiciary.

Staff fluctuation in courts is high. Out of the current number of general jurisdiction judges, more than half (54 percent) have served for less than five years and 15.8 percent for less than one year. Those in office for five to 10 years total a mere 25 percent, and judges with 10 to 20 years of service make up 15.3 percent.

Dependence of the judiciary on the executive manifests itself in many aspects of their mutual relations: in the procedure of appointing judges, their pay and promotion, nomination for higher category of service, procedure for awarding housing, and disciplinary sanctions.

An important lever against judges is the current procedure for awarding housing. A presidential decree in force since September 1997 provides for granting temporary apartments to judges and prosecutors in need of housing. In the event of his/her dismissal, the judge or prosecutor and all their co-residents sho-

uld be evicted. To be entitled to ownership of such dwellings, judges and prosecutors have to have served for no less than 20 years.

Despite their unlimited-term appointments, judges can be easily removed from position by a presidential edict. This is rather usual. Formal grounds for dismissal are recommended by a qualifying board of judges.

The performance of judges is under constant supervision of judicial agencies. These agencies determine financial and technical support for courts and their staff. They run judicial statistics, form an opinion on judges' fitness for the job, and nominate them to higher positions. The judicial agencies also supervise the courts' timeliness of adjudication. If necessary, they can initiate disciplinary proceedings against judges.

Thus, in current circumstances, Belarus' courts have lost the qualities of judicial bodies such as independence, impartiality and fairness. As a result, they have ceased to perform their main mission of warranting the protection of human rights and liberties.