



HELSINKI COMMISSION HEARING

UNITED STATES COMMISSION ON
SECURITY AND COOPERATION IN EUROPE

Testimony :: Patrick Merloe

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Mr. Chairman and Distinguished Members of the Commission:

Thank you for this opportunity to comment on the troubled conditions in Belarus during the run-up to its March 19 presidential election. Belarus has yet to organize an election that meets international standards and the country's commitments through the Organization for Security and Cooperation in Europe (OSCE). The run-up to the March 19 presidential poll, unfortunately, is marked by a large number of problems reported in respected news media, noted in OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) election observation mission reports and findings of nonpartisan Belarusian election monitors. Among the documented violations are: the beating and arrest of a presidential candidate; arresting and detention of a number of opposition supporters; charging opposition activists with violating the law simply for passing out campaign flyers; and more.

Mr. Chairman, these and additional violations of civil and political rights are covered by the testimony of others in this hearing. While NDI has been involved in Belarus since 2000, assisting citizens who want to build democratic political processes and ensure the integrity of elections, today I will focus my comments on one critical subject: the importance of the free exercise of the right of citizens to participate in government and public affairs through nonpartisan election observation by domestic nongovernmental organizations.

On February 21, 2006, several civic activists were arrested; their offices and homes were raided, and their computers and other effects were confiscated. These persons, who are leaders in the efforts of Belarusian citizens to monitor their presidential election, remain in detention, accused by the KGB of "slandering the president and illegally running an unregistered organization". Slandering the president is a criminal offense in Belarus that could result in multiple years in jail.

Belarusian authorities have thwarted in other ways the efforts of citizens to observe their election process. NDI, as well as the OSCE, provided assistance to a coalition of nonpartisan domestic election monitors who observed Belarus' 2001 election, and NDI assisted the efforts of more than 3,000 Belarusian nonpartisan observers for the 2004 parliamentary elections. A year later, many of the civic activists involved with these efforts once again sought to register a citizen initiative called Partnership in order to observe the present election. Their good-faith request for registration was denied.

I would like to draw your attention to the fact that Partnership signed the Zagreb Declaration and Commitments (attached to this testimony) adopted on June 29, 2003, at the European Domestic Observer Forum, sponsored by the European Commission and the OSCE and organized in cooperation with NDI. The Declaration and Commitments, among other things, commit the signatories to act in an impartial, nonpartisan manner and to observe the highest ethical standards when observing elections. The commitment of Partnership to these standards establishes its bonafides regarding election observation.

The bad-faith denial of registration is being used by Belarusian authorities as a basis of charging individuals with running an “illegal organization”. In addition, in an ongoing propaganda campaign, Belarusian authorities falsely accused Partnership of organizing fraudulent exit polls to be released after the election in order to draw protesters to the street, where explosions would be detonated to create “blood and sacrifices” to mobilize the population and attempt to seize governmental power. This false, outlandish accusation also fallaciously tied NDI to the KGB’s fiction.

Mr. Chairman: The attempts by Belarusian authorities to foil nonpartisan election observation by its citizens violate rights guaranteed by Belarus’ constitution, election law and international obligations. Article 13 of the Belarus electoral code recognizes the right of citizens to observe elections, just as the Constitution of Belarus recognizes the right of association and guarantees free and open elections (Articles 36 and 66). Yet, the authorities have created unreasonable obstacles to the effective exercise of these rights. The denial of genuine opportunities to exercise such civil and political rights also violates Belarus’ obligations under the International Covenant on Civil and Political Rights (ICCPR) and its OSCE commitments.

Through its membership in the United Nations and accession to the ICCPR, Belarus is obligated to ensure every citizen’s right and opportunity, without any unreasonable restriction, to participate in government and public affairs, directly and through freely chosen representatives. Through its participation in the OSCE, Belarus commits to this principle (e.g., 1990 Copenhagen Document, paragraph 6) and explicitly commits to invite domestic (and foreign) election observers from any appropriate private organization that wishes to observe the course of national elections (Copenhagen Document, paragraph 8). Like all OSCE participating States, Belarus is obligated to ensure that its laws, regulations, practices and policies conform with obligations under international law and be in harmony with OSCE commitments (Copenhagen Document, paragraphs 4 and 24), and that they not be designed to frustrate the exercise of rights.

Belarus and other OSCE participating States are further committed to ensure that individuals are permitted to exercise their right to association by forming and joining organizations in order to study (i.e., monitor) the observance of human rights and fundamental freedoms – including the right to genuine democratic elections. Participating States are also to ensure that such organizations are permitted to develop and advance ideas for improved protection of human rights and for ensuring better compliance with international human rights standards – including standards for democratic elections. (See Copenhagen Document, paragraphs 10.3 and 10.3.) This extends to having unhindered access to and communication with similar bodies within and outside Belarus, to engage in exchanges, contacts, cooperation and even to solicit and receive funds from such other groups for the purposes of promoting and protecting human rights and fundamental freedoms (Copenhagen Document, paragraph 10.4). Beyond this, domestic nonpartisan election monitoring organizations are a subset of “human rights defenders” that have gained protection under United Nations instruments.

Despite these clear obligations, Belarusian authorities have blocked legal recognition of appropriate groups that seek to engage in nonpartisan election observation, prohibited assistance from outside sources and are detaining individuals for nothing more than seeking to promote the right of citizens to free, open and genuinely democratic elections.

Mr. Chairman: We all believe that sovereignty belongs to and flows from the people of a country and that the legitimacy and authority to govern derives from the will of the people expressed in periodic and genuine democratic elections. It is from these precepts that citizens organize themselves to observe and help ensure the integrity of election processes. There is no more basic exercise of the right of association and no more important act by citizens to protect and promote human rights and fundamental freedoms.

Around the world, citizens have organized in a nonpartisan manner to monitor elections as a means of building public confidence, promoting citizen participation in elections and safeguarding electoral integrity. NDI is proud to have worked with over 160 citizen groups and coalitions in more than 65 countries over the last 20 years to aid domestic nonpartisan election observation. Honoring citizens’ rights to monitor their election processes is an established and growing state practice, which is a recognized component of standards for democratic elections.

NDI is deeply concerned that Belarusian authorities are taking overt actions to deny this and other human rights and fundamental freedoms in the present electoral period. NDI Chairman Madeleine Albright, in a statement released by the Institute on March 6 and attached to this testimony, deplored attempts to deny citizens the right to peacefully monitor the March 19 presidential election and condemned the recent arrest of citizen activists, as well as the false accusations against Partnership. In her statement, we called on the government of Belarus to immediately release those detained and to allow them to continue their rightful monitoring effort without interference. We hope that you will join in this call.

Mr. Chairman: NDI appreciates the efforts of Congress to support efforts of the people of Belarus to establish a full democracy, the rule of law, and respect for human rights and Congress's call on the Government of Belarus to conduct a free and fair presidential election, as stated in House Resolution 673. We greatly appreciate the role of this Commission in defending and promoting human rights and respect for all elements of the Helsinki process. The CSCE is a strong voice of Congress and the American people.

NDI also would like to highlight the efforts of the OSCE concerning the electoral situation in Belarus, and in particular for the efforts of the OSCE/ODIHR. The March 3 statement of the OSCE Chairman-in-Office, Belgian Foreign Minister Karel De Gucht, expressed concern and drew attention to the plight of four prominent domestic observers in Belarus, as well as the physical aggression of authorities against and detention of a presidential candidate who was later released. The Chairman-in-Office called on Belarusian authorities to stop such acts. The OSCE/ODIHR Election Observation Mission in Belarus also drew attention to these developments in its first Interim Report and in a March 2 press release. These and other actions by the OSCE are valuable and are consistent with mandates to follow the compliance of participating States with their OSCE commitments.

It is NDI's hope that the government of Belarus will meet its obligations and conduct itself in accordance with its international commitments and its constitutional requirements in this electoral context. Ensuring civil and political rights and guaranteeing a free, open and genuinely democratic election are crucial for developing democracy in Belarus, as in all other countries.

Thank you, Mr. Chairman and Members of the Commission.