

Belarus at a Crossroads

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Abstract

The article analyses the critical aspects of recent developments in Belarus and the deeply rooted causes that led to the current unprecedented political crisis. It gives a thorough consideration to the negative aspects of non-observation by the OSCE/ODIHR of the 9 August presidential election. Furthermore, the article examines the preconditions of a national dialogue, and suggests an agenda and a roadmap as a way out of the crisis, placing a special emphasis on the OSCE's possible mediation role. In conclusion, the article comes up with the idea of Belarus's neutral status as a legal and political framework to guarantee the country's stability and democratic progress.

Keywords

democratic transition – elections – national dialogue – Constituent Assembly – OSCE – mediation agenda – geopolitics – neutral status

Introduction

The 9 August 2020 presidential election in Belarus and the following events brought the country into the limelight of news coverage all over the world. They raised a huge wave of innumerable comments by political analysts and pundits, statements by parliamentarians and government officials, intensive consultations and meetings up to the level of heads of state and government, public discussions and rallies of solidarity in numerous countries.

This unprecedented attention was triggered by, undoubtedly, the most acute political crisis that Belarus has been witnessing since 1994, the year, when Aleksandr Lukashenko was elected as president for the first time. Although

the constitutional provision in force at that time restricted his tenure to a maximum of two terms,¹ i.e., until 2004, by the 2020 presidential election he was still assuming the functions of head of state. At the time of writing there is no clarity whether or not he will be able to continue doing so in the near future.

Actions that many of those concerned over the situation in Belarus suggest to be undertaken by the Belarusian authorities and the opposition, as well as by the international community, stem from the following considerations: the presidential election was fraudulent, and its official results, as announced by the Central Election Commission (CEC), did not represent the will of the electorate; consequently, Lukashenko's victory cannot be acknowledged and new elections should be held; the government should agree to negotiate with the opposition representatives in order to come to an agreement about the steps that would allow to end the crisis; the popular unrest was due to the dissatisfaction of population and has nothing to do with geopolitics. More than that, depending on their political conviction and affiliation, those who comment on the events in Belarus strongly oppose interference from abroad, meaning either Russia or the West.

As logical as these arguments might seem, they raise, nevertheless some question marks. Whether or not the elections were really falsified and, if so, is there any evidence? And, in a broader context, whether Lukashenko after all these years of authoritarian rule still enjoys popular support as he claims, or are the people determined to get rid of him at any rate? Whether or not negotiations between the authorities and the opposition forces are feasible and, if conducted, will they yield any meaningful results? Was the popular unrest due to merely internal factors, or did external factors also have a say, and what will be the role of the international community, say, the neighbouring countries, or Russia, or the European Union (EU) and the Organization for Security and Cooperation in Europe (OSCE) in resolving the crisis through a toolkit comprising of instruments that range from mediation efforts to imposing sanctions?

This paper is an attempt to answer these and some other questions that may emerge in the course of the analysis. The issues in the context of Belarus's development after independence, in general, and in light of the current events, in particular, are complex and controversial to the extent that this analysis itself has the potential of creating controversy, not to say, discontent and harsh criticism from some quarters. That is quite natural, and what matters is the objectivity of the analysis that this paper pretend to be based on, as well as practical target-oriented conclusions that might be taken into consideration

1 Constitution of the Republic of Belarus, 15 March 1994, Art. 97. Retrieved 9 September 2020, [https://en.wikisource.org/wiki/Constitution_of_the_Republic_of_Belarus_\(1994\)](https://en.wikisource.org/wiki/Constitution_of_the_Republic_of_Belarus_(1994)).

by those who are really concerned over and interested in the Belarusian people's security, stability and well-being.

Furthermore, this analysis heavily relies on the author's five-year involvement with the OSCE Office in Minsk, statements, deliberations, debates, analytical articles and TV programs, as well as social media resources reflecting different, often diametrically opposite opinions. A special emphasis should be placed on the resolutions, reports and other materials issued by the UN Human Rights Council, the European Commission for Democracy through Law (Venice Commission), OSCE/ODIHR (Office for Democratic Institution and Human Rights) Election Observation Missions (EOM) to Belarus – structures, whose quality of expertise and impartiality are beyond any doubt.

Three Scenarios of Post-Soviet States' Development

In order to understand the deeply rooted causes of the huge wave of popular unrest in Belarus, one should go back to the time of the Soviet Union's disintegration and the distinctive path of development that the country embarked upon soon after Lukashenko's election to the highest office in the state.

The new leaders of the countries emerged on the ruins of the Soviet totalitarianism eloquently pledged from the highest international podiums their commitment to human rights and democracy, peace and solidarity with liberal ideas, etc. In reality, however, only three out of fifteen post-Soviet states honoured their pledges and launched profound democratic reforms successfully integrating into the Western scale of values and structures. These were the Baltic states: Estonia, Latvia and Lithuania, which soon after independence became members of the North Atlantic Treaty Organization (NATO) and the EU.

The other newly independent states, with one exception only, opted for quite a different path of development: the 'Russian model'. That is, with the leadership of Russia a number of post-Soviet countries, under the lofty slogans of democratic liberties, initiated 'socio-economic reforms' that ended up with plundering of those countries' national wealth created during decades of their peoples' hard toil. That is how privatization brought about the creation of a new caste of *nouveau riches* well-known as 'oligarchs'. Externally, these states adhered to international conventions and human rights instruments acknowledging their priority over domestic legislation and expressing determination to join their efforts with those of the international community's in order to build a better future, strengthen international security and cooperation. Unfortunately, these positive steps that led to a kind of East-West euphoria, or

rather self-deception, after roughly a decade were replaced by a new confrontation heralding the beginning of Cold War II.

The post-Soviet state, which went a totally different way was Belarus, though initially it followed the 'Russian model'. As Artyom Shraibman has underlined: "The early years after Belarus achieved independence were a time of sluggish market reforms, low standards of living, growing corruption and criminality, and nostalgia among the bulk of the population for the stable years of the Soviet Union."² However, after Lukashenko's election as president things took a totally different turn: the country made a transition. This was a transition not from totalitarianism to democracy, but from totalitarianism to autocracy.

A Quarter Century of Autocracy

A major feature of Belarus's post-Soviet development model was that authoritarianism did not allow huge-scale misappropriation of national wealth, impoverishment and humiliation of the vast majority of population under the slogans of democracy, market economy, respect for and protection of human rights and fundamental freedoms. The Belarusian model prevented establishment of oligarchic structures that would concentrate in their hands the quasi-totality of state properties sold out for peanuts to people with dubious moral integrity. And it is due to this model that Belarus could boast socio-economic achievements. It is noteworthy that according to the United Nations Development Programme's (UNDP) 'Human Development Report 2019' Belarus ranked the 50th under the *Very High Human Development* cluster, leaving behind all but one former Soviet country and even a couple of EU member States.³

Thus, in the case of Belarus, the transition from totalitarianism to authoritarianism initially played a positive role, because internally the national wealth was preserved, which secured economic development and a decent level of social conditions. Externally, Belarus was able to consolidate its independence despite the pressure from both Russia and the EU, each of them trying to involve the country within the orbit of their influence.

2 Artyom Shraibman, 'The House that Lukashenko Built: The Foundation, Evolution, and Future of the Belarusian Regime', Carnegie Moscow Center, 2018, p. 4. Retrieved 12 September 2020, <https://carnegie.ru/2018/04/12/house-that-lukashenko-built-foundation-evolution-and-future-of-belarusian-regime-pub-76059>.

3 See 'UNDP Human Development Report 2019 Beyond income, beyond averages, beyond today: Inequalities in human development in the 21st century', New York, 2019, p. 344. Retrieved 26 September 2020, <http://www.hdr.undp.org/sites/default/files/hdr2019.pdf>.

Nevertheless, this state of things could not be either durable or sustainable. Sooner or later, the country would find itself in front of a dilemma: a transition from authoritarianism to a democratic political system, or deepening of authoritarianism with further concentration of power in the hands of the ruler. In an analytical paper published a decade ago this author suggested that: “The Belarusian algorithm of development from the Soviet totalitarianism to democracy through authoritarianism should, in principle, bring an open society with genuine democracy and genuine market economy. Therefore, the real problem of Belarus is not that the country has an authoritarian ruler.... The real problem of Belarus is whether the opening of the country toward real democratic values will happen at all.”⁴

At that time, the expectation was that Lukashenko could still opt (and he had not yet missed the chance) for a smooth transition of power, gradually promoting conditions for establishment of a full-fledged democratic system through appropriate amendments to legislation, encouraging emergence of a new generation of political leaders and civil servants, implanting a new culture of freedom and respect for human rights. However, the time elapsed since then clearly demonstrated that the country’s leader had opted for quite the opposite way of development: consolidation of power and reinforcement of authoritarianism. Providing in-depth analysis in favour of this assertion would deviate us from the main subjects of this paper. Suffice to underline that in the context of a number of crucial indicators of democratic development, such as the presence of a constitution, human rights and fundamental freedoms, elections, and economic progress, the country’s performance has fallen far short of the internationally acknowledged standards.

Thus, the constitutional amendments adopted through the 17 October 2004 referendum abolished the time limit of presidential tenure, and vested the incumbent with larger authority, insofar as he/she could dissolve the parliament and effectively control the judicial power by appointing and dismissing judges to key positions, including, in the Constitutional Court.⁵

4 Vahram Abadjian, ‘The OSCE and Belarus: The Long and Winding Road of Co-operation’, in H.-G. Heinrich and L. Lobova (eds.), *Belarus: External Pressure, Internal Change*, Peter Lang, Frankfurt am Main, 2009, pp. 333–348, p.347.

5 Constitution of the Republic of Belarus of 1994 (with alterations and amendments adopted at the republican referendums of November 24, 1996 and of October 17, 2004). Retrieved 10 September 2020, <https://www.wipo.int/edocs/lexdocs/laws/en/by/by016en.pdf>. For more details see also: Venice Commission of the Council of Europe, ‘Opinion on the Amendments and Addenda to the Constitution of the Republic of Belarus’, Strasbourg, 18 November 1996, p. 12. Retrieved 10 September 2020, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-INF\(1996\)008-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-INF(1996)008-e). Venice Commission of the Council of Europe,

In terms of respect for human rights and fundamental freedoms, the situation has steadily deteriorated with considerable spikes, especially, in election times. Suffice to refer to a few documents adopted by the UN Human Rights Council and picked up at random.⁶

No benchmark is so capable to expose the progress of a given state in the context of democracy as the one linked to electoral processes. In fact, any election represents a litmus test to reveal the real state of affairs in terms of legislation, freedom of expression and assembly and other principles of fundamental freedoms and human rights. Starting from 2001, the OSCE/ODIHR has observed all presidential and parliamentary elections in Belarus, with the very regrettable exception of the most controversial one: the 2020 presidential election. The OSCE/ODIHR Final Reports are based on sound methodology and analysis in line with international standards and clearly demonstrate the level of (non-) compliance of Belarus with internationally acknowledged election standards.⁷

As to economic progress, one thing should be clear. State-owned economy based on five-year plans of development cannot be durable. The not-that-remote history of the Soviet Union is a convincing testimony to that. As mentioned above, this type of economy might be important in the initial stage of independence in order to prevent a massive misappropriation of national wealth, but with the passage of time it will inevitably bring stagnation.

In the final analysis, all these factors, i.e., a constitution perpetuating authoritarianism, systematic violation of a number of principles of human rights and fundamental freedoms, periodic failure to abide by international standards and commitments in the electoral exercise, state-dominated economy with clear signs of stagnation, gradually but inevitably brought about the popular protest movement in the aftermath of the 9 August 2020 presidential election.

'Opinion on the Referendum of 17 October 2004 in Belarus', Strasbourg, 8 October 2004, p.5. Retrieved 10 September 2020, [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2004\)029-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2004)029-e). Artyom Shraibman 'Belarusian Constitution: an Obituary to Democracy', Carnegie Moscow Center, 25 March 2013. Retrieved 10 September 2020, <https://belarusdigest.com/story/belarusian-constitution-an-obituary-on-democracy/>.

6 See, for instance, UN Commission on Human Rights, 'Situation of Human Rights in Belarus', Resolution 2005/13, 14 April 2005, pp. 1–2. Retrieved 13 September 2020, https://ap.ohchr.org/documents/sdpage_e.aspx?b=1&c=18&t=11. UN Human Rights Council, 'Report of the Special Rapporteur on the Situation of Human Rights in Belarus, Miklós Haraszti', 29 April 2015, p.1. Retrieved 13 September 2020, https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/29/43. UN Human Rights Council, 'Report of the Special Rapporteur on the Situation of Human Rights in Belarus, Anaïs Marin', 8 May 2019, p.1. Retrieved 13 September 2020, https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/41/52.

7 See <https://www.osce.org/odihr/elections/belarus>.

Falsified Elections: in Search of Legal and Political Assessment

The immediate cause of the protest rallies was the conviction among large segments of population that the election was falsified, and their will as electors trampled. This concerns both the pre-electoral situation and the election day. Indeed, in June 2020, a number of potential presidential candidates, human rights activists, bloggers were arrested under different provisions of the Criminal Code; among them the presidential nominee Viktor Babariko, the blogger Sergey Tikhanovski, the opposition politician Mikhail Statkevich. Another opposition politician Pavel Severinets was detained along with several hundred people on administrative charges.⁸ In July, the CEC denied registration to Viktor Babariko and to another candidate nominee, the founder of Belarusian High Tech Park, Valery Tsepkalo. Detentions among protest rallies' participants continued.⁹

As to the election day, while the CEC declared the incumbent president as the winner with 80,1 percent of votes in his favour, the opposition pointed to major violations claiming that the winner was Svetlana Tikhanovskaya despite the officially declared 10,1 percent of votes in her favour. The social platforms "Golos", "Zubr" and the association "Chestnie Liudi" managed to get and study the protocols of election results from 1310 Precinct Election Commissions (PECs) out of 5767 (22,7 per cent) throughout the country. In their Final Report on the 2020 Presidential Elections, they provided facts and figures in support of those claims.¹⁰

Finally, the huge protest rallies in the streets of Minsk and (though to a lesser extent) in other cities indicate that the main opponent to the president might have collected much more votes than those officially registered by the CEC.

However, there is a major problem: neither the above-mentioned and other reports and accounts by civil associations and platforms, nor the testimonies of eyewitnesses, nor the indirect indications of electoral fraud and falsification are able to form a sound legal ground to judge about the elections' real outcome. To put it bluntly, we will never know the exact outcome of the 9 August 2020 presidential election in Belarus. We will never know the exact proportion of popular support to either the incumbent president or his main

8 Belarusian Human Rights Center 'Viasna', 'Human Rights Situation in Belarus: June 2020'. Retrieved 15 September 2020, <http://spring96.org/en/news/98021>.

9 Ibid. Retrieved 15 September 2020, <http://spring96.org/en/news/98647>.

10 Golos, Zubr, Chestnie Liudi, 'Final Report on the Presidential Election in Belarus', August 2020. Retrieved 15 September 2020, https://drive.google.com/file/d/1kSprtBUUtSivb-W_jc4QJkPkoZPJBWxd/view.

opponent before, during and after the election day. In that context, one cannot but agree with a high-ranking U.S. diplomat who, while insisting that the elections in Belarus were fraudulent, stressed at the same time that “....due to the level of this fraud the Belarusian people will never know the real outcome of their election”.¹¹ As the member of the opposition Coordinating Council, lawyer, former Ambassador and Minister of Culture of Belarus, Pavel Latushko, underlined: “There should be a strict legal assessment on whether or not falsification did take place. We understand it did, but we advocate for a legal assessment, and, accordingly, for conducting early elections in conformity with the Constitution.”¹²

Any political assessment, especially, in electoral matters should be based on legal assessment, if political decision makers are committed to objectivity and impartiality. Therefore, the position of those states that have acknowledged Tikhanovskaya as being president of Belarus is *a priori* vulnerable. Such a position is deprived of a solid legal ground and, consequently, is politically biased.

It goes without saying that legal assessment of elections and certification of their final results should be done, first of all, by domestic structures. However, the Belarusian legislation lacks the necessary mechanisms, as repeatedly underlined by the OSCE/ODIHR. For instance, in its Final Report on 19 March 2006 presidential election in Belarus ODIHR has recommended to “.... establish a uniform appeals process so that all decisions, actions and inactions of the CEC can be appealed to the Supreme Court for review.”¹³ This recommendation, along with many others, has simply been ignored.

Legislative flaw and inconsistency in the appeal procedures played a negative role in the context of the recent presidential election, when the Supreme Court of Belarus rejected the presidential candidates’ appeals to review the decision by the CEC, referring to the lack of jurisdiction over the CEC when it comes to election results’ validation.¹⁴

11 Intervention by the Acting Deputy Representative of the U.S. to the UN, Amb. Cherit Norman Chalet, at the UN Security Council informal meeting on Belarus, 4 September 2020. Retrieved 15 September 2020, <https://www.youtube.com/watch?v=qd9-E3SfEGA&t=7247s>.

12 Pavel Latushko’s interview to RU Delfi Lithuania, 4 September 2020. Retrieved 15 September 2020, <https://www.youtube.com/watch?v=KRhf5F-517Y&t=516> (in Russian).

13 OSCE/ODIHR Election Observation Mission, ‘Republic of Belarus Presidential Election, 19 March 2006, Final Report’, 7 June 2006, Warsaw, pp. 29–30. Retrieved 15 September 2020, <https://www.osce.org/files/f/documents/4/c/19395.pdf>.

14 See TASS Russian News Agency, ‘Supreme Court of Belarus rejects Tikhanovskaya’s complaint against Electoral Commission’, 25 August 2020. Retrieved 14 September 2020, <https://tass.com/world/1193639>.

In such circumstances an impartial observation followed by a comprehensive assessment of electoral process by the OSCE specialized institution, ODIHR, acclaimed by the international community for its high-level expertise, wealth of experience and proven methodology, might be of utmost importance to fill, at least partly, the gap. Unfortunately, the OSCE's political leadership decided otherwise.

OSCE Observation: a Missed Opportunity

To all evidence, there is a widespread opinion among politicians, diplomats, analysts and broader public that the OSCE/ODIHR could not observe the presidential election, because it had not received an invitation from the Belarus government. In order to not speculate on this issue one should refer to the official sources. On 15 July 2020, ODIHR published a statement entitled "ODIHR will not deploy election observation mission to Belarus due to lack of invitation".¹⁵ The wording 'lack of invitation' leaves the impression that the Belarus Government did not extend an invitation to ODIHR at all. However, a further reading changes that impression. The statement's second paragraph reads: "The lack of a timely invitation..."¹⁶ Therefore, it turns out that finally there was an invitation, though a belated one. This confusion pressed some dignitaries to make even more confusing public statements, for instance, regretting "...that the OSCE/ODIHR was not invited, but had to decline, basically, the invitation."¹⁷

Furthermore, expressing deep concern over intimidation of prospective candidates and opposition activists' arrests in the run-up to the elections, the statement underlines that: "The protection of fundamental freedoms of assembly and expression is a precondition for genuine democratic elections".¹⁸ It is not difficult to read between the lines that already at that stage the elections could not be considered either free or fair, hence, making observation meaningless.

Interestingly, in the same Belarusian context ODIHR had previously encountered problems of lack of invitation and human rights violations in the

15 OSCE/ODIHR, 'ODIHR will not deploy election observation mission to Belarus due to lack of invitation', Warsaw, 15 July 2020. Retrieved 16 September 2020, <https://www.osce.org/odihr/elections/457309>.

16 Ibid.

17 Intervention of the Head of the Delegation of the European Union to Belarus, Dirk Schübel, at Kalinowski International Conference, Vilnius, 24 August 2020. Retrieved 24 September 2020, <https://en.ehu.lt/events/kalinowski-forum/>.

18 See footnote 15.

pre-electoral stage, but its behaviour in those cases had been quite different. Thus, the OSCE/ODIHR Final Report on the 2001 Presidential Election contains a sub-heading “C. Delayed Observation and Visa Denials” pointing out that delayed invitation “... prevented the OSCE/ODIHR from observing critical early phases of the election process and forced it to deploy a Limited Election Observation Mission (LEOM) rather than a standard, full, and in-depth mission.”¹⁹ As we can see, a delayed invitation did not prevent the Mission to be deployed in one way or the other. The same report has pointed out that the pre-electoral conditions in Belarus could not allow free and fair elections, noting in particular that: “Already during the months leading to 9 September, conditions in Belarus were such that the presidential election could not meet the OSCE commitments for a free, fair, equal, transparent and accountable election.”²⁰ However, this circumstance did not prevent the OSCE/ODIHR EOM from deployment either.

There is another, perhaps, a stronger reason why ODIHR involvement would be so important. According to EOM methodology, any observation includes the post-electoral period to follow the complaints procedures, but also the overall political developments. In this specific case, and given the continuous denial by the authorities to allow visits of the UN Human Rights Council Special Rapporteur on the Situation of Human Rights in Belarus, the presence of ODIHR EOM’s observers would be invaluable. That is not to say that it would be able to exclude mass detentions and brutalities in the election’s aftermath, though to some extent it might have a deterrent effect. More importantly, the international community could receive first hand information and reliable reports on which to base well-thought and balanced decisions instead of relying on mostly partial accounts and comments coming from a diversity of controversial sources.

If deployed, the observation mission would represent not only strictly speaking the ODIHR, but also the OSCE as a whole, eventually preparing the ground for the Organization’s mediation efforts.

Benedek’s Report

True, the OSCE attempted to take corrective action by activating its Moscow Mechanism of the human dimension. In mid-September, 17 OSCE participating

19 OSCE/ODIHR Limited Election Observation Mission, ‘Republic of Belarus Presidential Election, 9 September 2001, Final Report’, 4 October 2001 (revised), Warsaw, p.7. Retrieved 15 September 2020, <https://www.osce.org/odihr/elections/belarus/111402>.

20 Ibid., p. 4.

States appointed Professor Dr. Benedek of Austria as OSCE Rapporteur, who, on 5 November 2020, presented to the Permanent Council his report concerning alleged human rights violations related to the presidential election. Despite the very limited time-frame and the Belarusian authorities' refraining from participation in the Moscow Mechanism, the Rapporteur was able to analyse OSCE, UN, EU pertinent documents, a considerable amount of submissions (more than 700), collect information from local and international human rights organizations and individuals.

Based on thorough methodology and meticulous analytical work, the Rapporteur has come to a general conclusion that: "...there is overwhelming evidence that the presidential elections of 9 August 2020 have been falsified and that massive and systematic human rights violations have been committed by the Belarusian security forces in response to peaceful demonstrations and protests".²¹ Furthermore, the Report contains a number of recommendations, such as cancelling the results of the elections and organizing new genuine ones under OSCE/ODIHR observation, proceeding with legislative and structural reforms in the electoral and human rights protection contexts.

All in all, the Report is a sound comprehensive document which includes not only clear-cut answers to the questions raised by the OSCE participating States, but also contains concrete recommendations on the measures to be undertaken by the Belarusian authorities and the international community to significantly improve human rights situation in the country.

Nevertheless, as is often the case when dealing with Belarussian issues, things are more complicated and ambivalent than one could suppose. While Professor Benedek's Report *per se* is an important and positive step, implementation of the recommendations at this stage remain highly problematic. As Harry Hummel pointed out: "Once the report by the expert mission is completed, there will most likely be no concrete follow-up on the recommendations contained in the report."²²

Another problematic aspect is that the proposed recommendations given their diversity and magnitude, especially, when it comes to conducting profound legislative and structural reforms, require drastic, cardinal and

21 OSCE Rapporteur's Report under the Moscow Mechanism on Alleged Human Rights violations related to the Presidential Elections of 9 August 2020 in Belarus by Professor Dr. Wolfgang Benedek, circulated to the OSCE participating States on 29 October 2020, p. 55. Retrieved 5 November 2020, <https://www.osce.org/files/f/documents/2/b/469539.pdf>.

22 Harry Hummel, 'The Moscow Mechanism Initiated on Belarus - the OSCE Toolbox Exhausted?', Security and Human Rights Monitor, 5 October 2020. Retrieved 6 November 2020, <https://www.shrmonitor.org/the-moscow-mechanism-initiated-on-belarus-the-osce-toolbox-exhausted/>.

comprehensive measures. They necessitate political will and determination from the Belarusian authorities and the society as a whole, and political consensus among OSCE participating States.

The OSCE's Role as National Dialogue Facilitator

Practically, from the very beginning of the Belarusian crisis the United States, the United Kingdom, the EU and the associated countries have repeatedly insisted on the necessity for the authorities and the opposition to engage in dialogue as the only way to agree on a settlement. At the urgent debates of the Human Rights Council on the situation in Belarus, the Special Rapporteur, while indicating gross manipulations of the electoral process and violent and disproportionate response by the law enforcement agencies, underlined at the same time that: "The only possible way out of this crisis is dialogue, which must be open, honest, and inclusive, involving all stakeholders, including in particular opposition and civil society leaders".²³

As to the OSCE, its Chairperson-in-Office underlined in 17 August 2020 statement that: "An open and constructive dialogue is needed to find a way forward in Belarus."²⁴ In his next statement the CiO went further proposing that: "... the OSCE becomes a facilitator of the necessary dialogue, to help Belarus out of this situation..."²⁵

Even prior to those statements, some think tanks and political analysts suggested that the OSCE initiate such a dialogue through different tools at the Organization's disposal.²⁶

23 Statement of Mrs Anaïs Marin, UN Special Rapporteur on the situation of human rights in Belarus, at the Urgent Debate on the situation of human rights in Belarus Human Rights Council 45th session, 18 September 2020. Retrieved 18 September 2020, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26261&LangID=E>.

24 'OSCE Chairmanship offers to visit Belarus', VIENNA / TIRANA 17 August 2020. Retrieved 3 September 2020, <https://www.osce.org/chairmanship/460384>.

25 'OSCE Chairperson-in-Office Edi Rama offers to facilitate dialogue in Belarus', VIENNA 28 August 2020. Retrieved 17 September 2020, <https://www.osce.org/chairmanship/461854>.

26 The Democracy Reporting International suggested that the CiO might consider visiting Belarus, appointing a Special Envoy, dispatching a fact-finding mission (See 'What can the OSCE do in Belarus?', 31 August 2020. Retrieved 3 September 2020, https://democracy-reporting.org/de/dri_publications/what-can-the-osce-do-in-belarus/); Stephanie Lichtenstein also suggested that the CiO appoint a Special Representative 'to lead a national dialogue roundtable'. She referred to the UK initiative to launch the Moscow Mechanism, which was materialized shortly. (See S. Lichtenstein 'Will the OSCE mediate in Belarus?' 10 September 2020, Security and Human Rights Monitor. Retrieved 18 September 2020, <https://www.shrmonitor.org/will-the-osce-mediate-in-belarus/>).

At last, one of the Benedek report's important recommendations to OSCE participating States is to "continue efforts at facilitating a dialogue between all actors in Belarus."²⁷

However, here again we encounter a problem. That is, a dialogue supposes involvement of at least two sides, in this case, the authorities and the opposition. While the opposition, in particular, the Coordination Council members have reiterated their appeal to the authorities to engage in dialogue, the latter's reaction has so far been strictly negative. Lukashenko has explained this stance by the fact that on the opposite side he could not see any one with whom to negotiate and, more importantly, due to the absolute incompatibility of political views and approaches no common agenda could be discussed between them.²⁸

In reality, there are two circumstances that may urge the authorities to accept those relentless appeals to dialogue. First of all, they may concede if the massive protest rallies grow to such a point that the situation gets out of control. However, at the time of writing despite continued protest actions, they have not yet reached the necessary level of persuasion.

Second of all, the authorities will be obliged to accept the opposition leaders as interlocutors, in case if the 'measures', ranging between civil disobedience and subversion of state structures and economy, suggested by Tichanovskaya in her *Opinion* in the Washington Post,²⁹ start obtaining distinct contours. Indeed, providing financial assistance to striking workers, trying to spread over the strikes to the civil service, academic institutions, etc., boycotting the state apparatus, state-owned banks, massive use of social network with a complete blockade of state-owned media to enumerate only a number of suggested actions, in principle, might be effective, though hardly feasible.

Another problem is the dialogue's agenda. As we saw, the authorities and the opposition have conflicting approaches, different assessment of the situation and, consequently, incompatible agendas. The opposition has, thus far, advanced three major demands that, in principle, can shape, at least partly, the subject of the negotiations. These are: a) releasing all political detainees and ending repressions; b) bringing to responsibility those guilty for murders,

²⁷ OSCE Rapporteur's Report, op.cit., p.7.

²⁸ Aleksandr Lukashenko's Interview to Russian Media, 8 September 2020. Retrieved 18 September 2020, <https://www.youtube.com/watch?v=SHfCjwB8ANE> (in Russian).

²⁹ Svetlana Tikhonovskaya, 'The Regime in Belarus is trying to steal our victory. It won't succeed', The Washington Post, September 14, 2020. Retrieved 18 September 2020, <https://www.washingtonpost.com/opinions/2020/09/14/regime-belarus-is-trying-steal-our-victory-it-wont-succeed/>.

violence and torture; c) conducting new free and fair elections in conformity with the international standards.³⁰ The authorities too have an agenda and a crisis resolution proposal. Lukashenko has stated on several occasions that there is a need for a new constitution and that after its elaboration by a group of specialists and popular approval through referendum, new presidential elections will take place in conformity with the constitution. The question of a new constitution is of strategic importance, therefore, it should be part of the dialogue as well.

The OSCE's role as facilitator, should the dialogue be anyhow materialized, would be to find a common ground between those positions and elaborate together with the sides concerned a comprehensive agenda for action. This might include shorter-term issues in line with the opposition's demands and longer term issues bearing in mind the authorities' suggestion on a new constitution.

Much more than that, the CiO could envisage other important items for a comprehensive agenda and suggest a kind of tentative road map to give the whole undertaking a target-oriented character and impetus. Undoubtedly, it is the prerogative of the CiO, the Troyka and the OSCE participating States along with the whole spectrum of the Belarusian society to discuss and adopt such an agenda. Nevertheless, in that context this paper would like to suggest a number of considerations.

National Dialogue: Agenda and Roadmap

Both the authorities and the opposition, though from different angles, suggest early presidential election. They also advocate for replacing the current constitution. However, it seems that there are conceptual flaws in both sides' approaches. It is clear that fraudulent elections are not only due to the authorities' arbitrariness, but also stem from the lacks and inconsistencies of the legal framework, the constitution, the electoral code, the law on the political parties, etc.³¹ Therefore, to secure the necessary prerequisites for free and fair elections, they should be anticipated by adoption of the constitution and the relevant legislation. The question is what constitution we are talking about

30 'Video-address by Svetlana Tichanovskaya, Olga Kovalkova and Pavel Latushko. Coordination Council', 19 September 2020. Retrieved 20 September 2020, https://www.youtube.com/watch?v=YvN_dmRO4e8 (in Russian).

31 For more details see the OSCE/ODIHR Final Reports on Belarus available at <https://www.osce.org/odihr/elections/belarus>.

and how it should be adopted. In her electoral programme Tichanovskaya advocates for returning to the 1994 constitution which provides for two-term presidential tenure and separation of powers. However, it does not seem expedient to revive a three-decade old ground law just because it contains acknowledged democratic principles that should anyway be enshrined in a completely new constitution. As to the authorities, Lukashenko's approach does not hold water either. Judging from his recent interviews and statements, a group of specialists has already been set up to elaborate the text of a new constitution. Then, the text will be published for the people's discussions and suggestions for amendments, before being adopted at a national referendum (the latter being a pure formality like in old good Soviet times). In reality, a constitution elaborated by 'a group of specialists' cannot but reflect the political will of the given authorities, not of the people.

Another similar idea is that the most critical questions, such as anticipated elections or constitutional reforms might be discussed at the 'All Belarusian National Assembly', whose next session has been tentatively scheduled for January-February 2021.³² On the surface, this is really a representative organ that every five years brings together broad segments of Belarusian authorities and society. However, neither the principles of selection to the Assembly, nor its mandate that has so far served as a tool of formal adoption of five-year socio-economic development programmes, are adequate to the critical importance of legal/constitutional/political deliberations.

There is only one way to elaborate a truly democratic constitution reflecting the aspirations of the people at a crucial juncture of their history. This way is convening a Constituent Assembly with the participation of the people's legitimate representatives who will be entrusted to draft a new modern and democratic constitution to lay the ground of Belarus's development for the coming decades. The Venice Commission of the Council of Europe might also be invited to provide expertise during constitution's drafting, as well as for overall assessment, as suggested by the Benedek Report.³³

It is further suggested that the idea of Constituent Assembly become the fundamental element on which to build the dialogue's agenda and actions' roadmap. This may serve as a basis for a transition period, which will hopefully be instrumental in overcoming the current profound political impasse in Belarus. Below are suggestions for the roadmap's major elements.

32 See Interfax 'Reshenie o novikh prezidentskikh viborakh mozhet bit prinyato na Vsenarodnom sobranii – Lukashenko', 9 September 2020 (in Russian). Retrieved 6 November 2020, https://interfax.by/news/policy/vnutrennyaya_politika/1282915/.

33 See footnote 21.

- Step 1 – Elections to the Constituent Assembly (This highest state body will be entrusted to elaborate a new constitution followed by elaboration of new legislation);
- Step 2 – Dissolution of the National Assembly after the establishment of the Constituent Assembly which, in parallel of elaboration of constitution, will assume parliament's most important functions;
- Step 3 – National Referendum to adopt the new constitution;
- Step 4 – Simultaneous parliamentary and presidential elections.

As to the time frame, the Constituent Assembly will most probably need one or two years to fulfil its tasks. The National Referendum and the elections might require approximately a year. With consideration of some possible delays, the entire transition period should last from three to five years.

Two more considerations: first, Lukashenko should continue to serve as president up to the end of the transition period to secure a smooth transfer of authority. Insisting on Tikhanovskaya's temporary presidency, to all evidence, will be a non-starter. Second, the OSCE's facilitation role will be of utmost importance for the dialogue's progress, but also for the Organization to become a guarantor of the agreements' strict observance and implementation, thereafter.

Of course, this is an optimistic scenario, based on the assumption that the external actors, i.e., the Western countries and Russia, will do everything to contribute to the peaceful solution of the crisis. For that purpose, they must demonstrate the necessary amount of political will and broadmindedness to stop the tug of war between them with Belarus as object and objective of their strategic ambitions.

The Inevitable Geopolitical Dimension

Commenting on the situation in and around Belarus Western politicians, diplomats, political analysts have repeatedly stressed that the popular protest and massive rallies have nothing to do with geopolitics. Suffice to mention a few examples. "The protests in Belarus are not about geopolitics. This is in the first place a national crisis. It is about the right of people to freely elect their leadership."³⁴ "This is about the Belarusian people, about their ability to have a voice.... This is not about us, it's not about a geopolitical competition between

34 Charles Michel, President of the European Council, 'European Commission and European Council hold presser on Belarus', 19 August 2020. Retrieved 20 September 2020, <https://www.youtube.com/watch?v=NjZO3IIqw34>.

East and West or the U.S. and Russia”³⁵ “The politics that brought Belarusians to the streets of their villages, towns and cities are local: they are angry that their president of 26 years has tried to steal yet another election. But if the crisis in Belarus is at its core anything but an East-West standoff, it is happening at a time when hasty responses by either Russia or Western states could turn it into just that.”³⁶

There is little wonder that Russia sticks to a completely different viewpoint. The Russian Foreign Minister Sergey Lavrov has stated: “We are concerned about the attempts to take advantage of the internal difficulties that Belarus, the Belarusian people and leadership are facing right now in order to interfere in these events and processes from the outside. Not only interfere but impose certain procedures on the Belarusians that external actors find beneficial for themselves. No one is making a secret that it is all about geopolitics, about the struggle for the post-Soviet space.”³⁷

The question is whether or not the unprecedented events in Belarus are about geopolitics, or put it otherwise, whether or not there are external pressure on and interference in Belarus.

Under certain angle of view, the answer is negative, the reason being that no external pressure can push a given country into so acute a crisis as the current one in Belarus. Conspiracy theories are not able to explain the real causes of a popular unrest: long-standing authoritarian rules as in the case of Belarus, and corrupt governments plundering the national wealth as in the case of some other post-Soviet countries. In both cases, violations of fundamental human rights and freedoms are inevitable, and in both cases accumulation of people’s wrath bursts into large protest movement. We have already seen this phenomenon in Georgia, Ukraine, Armenia. Now it is Belarus’s turn.

The best illustration to this assertion is Belarus itself. Opposition rallies are far from being a new phenomenon there. Over the past two decades, public rallies have taken place periodically, especially during election time. No external

35 George Kent, Deputy Assistant Secretary, Bureau of European and Eurasian Affairs, U.S. Department of States, ‘U.S. Engagement in Belarus: A Conversation with George Kent’, 2 September 2020. Retrieved 20 September 2020, <https://www.youtube.com/watch?v=XO4KYgyWAd8;>

36 Statement by the International Crisis Group (ICG), ‘How to help Belarus’, 18 August 2020. Retrieved 20 September 2020, <https://www.crisisgroup.org/europe-central-asia/eastern-europe/belarus/how-help-belarus>.

37 Ministry of Foreign Affairs of the Russian Federation, ‘Excerpt from Foreign Minister Sergey Lavrov’s interview with the Rossiya TV Channel’, Moscow, August 19, 2020’. Retrieved 22 September 2020, https://www.mid.ru/en/press_service/minister_speeches/-/asset_publisher/7OvQR5KJWVmR/content/id/4290963.

interference could raise such a huge wave of discontent and resolute action as we have been witnessing since more than three months. Hence, what brought about such a situation is primarily the internal factor. It is due to the gradual accumulation of political, economic, human rights problems, as described above, that the events in 2020 took exactly that kind of turn.

Viewed from another angle, the answer is positive. Belarus is not an island. It is surrounded by EU/NATO states to the West and Russia/Collective Security Treaty Organization (CSTO) to the East. After the collapse of the Soviet Union, NATO started its steady eastward expansion followed by the EU. Forming a sanitary cordon around Russia, with the purpose 'to project real democracy to their neighbourhood'³⁸ has been and remains a major goal of that expansion. While under Yeltsin Russia's policy was the one of complacency, things changed diametrically when in 2000 Putin became president with the aim to restore the power of the Soviet Union and the grandeur of the Russian Empire. Putin's doctrine signalled the beginning of Cold War II. The decade of hope and international solidarity heralded by the OSCE Charter of Paris for a New Europe (1990), supported by worldwide acclaimed theoretical exercises about the end of history and the triumph of liberal democracy, vanished under the bitter reality of East-West confrontation.

The above-mentioned does not contain any criticism whatsoever. It is a mere observation of objective reality, and the reflection of the fact that the international community, unfortunately, was not able to translate the breakthrough in mutual understanding and in elaborating a common agenda for peace and stability during the *decade of euphoria* (1990–2000) into tangible political capital. What we see nowadays is conflicting interests, more than that, harsh confrontation between the West and the East with an ever-growing potential of drastic deterioration into open conflict.

With regard to Belarus it is more than appropriate to refer to the opinion of Kamil Kłysiński, who came to the following conclusion: "The country's strategic location between Russia and the West, initially considered as advantage, has now become a potential threat to Belarus's security, and perhaps even its independence."³⁹

38 Anna Fotiga, Intervention at Kalinowski International Conference, Vilnius, 24 August 2020. Retrieved 25 September 2020, <https://en.ehu.lt/events/kalinowski-forum/>.

39 Kamil Kłysiński, '(Un)realistic Neutrality Attempts to redefine Belarus' Foreign Policy', Centre for Eastern Studies (OSW) Commentary, Number 276, Warsaw, 28 June 2018. Retrieved 21 September 2020, https://www.academia.edu/37309228/Kamil_K%C5%82ysi%C5%84ski_Un_realistic_neutrality_Attempts_to_redefine_Belarus_foreign_policy_OSW_Commentary_No_276_28_06_2018.

In that context, it is beyond doubt that the events in Belarus have a geopolitical component. This actually does not depend on the international actors, even if they are really determined not to interfere. They are involved willy-nilly, because that is how the logic of confrontation functions. And that is how Belarus becomes a geostrategic space “where the tectonic plates of liberal democracy and authoritarian oligarchy are clashing.”⁴⁰

A Neutral Status for Belarus

Further escalation of the situation in and around Belarus, and a continued stalemate could lead to a drastic deterioration of the political and security situation in the region. Given the volatile situation in the neighbouring Ukraine this may have a multiplying effect with unpredictable consequences. Therefore, urgent measures are needed from both the East and the West to proceed with mediation efforts. But mediation should be based on concept, principles and mutually acceptable strategies. In addition to the above-mentioned agenda and the road map for a possible dialogue, this paper suggests a strategic approach for the Belarusian people and the international community to overcome the unprecedented crisis in Belarus.

The key idea of that approach is a neutral status for Belarus. At first sight, this may seem to be not only strange, but also unfeasible. Indeed, Belarus is member of the CSTO and the Eurasian Economic Union (EAEU), not to mention the ethnic, linguistic and cultural identity that the Belarusians share with the Russians. Pro-western feelings in Belarus are much weaker than in Ukraine to the extent that the opposition, allegedly, has withdrawn, at least for the time being, its own electoral slogans calling to re-orient the country toward the West, and Tikhonovskaya has called Putin “a wise statesman.”⁴¹ However, one should not forget that Lukashenko has always tried to strike a balance between the Western and the Russian influence. Until recently, he has harshly criticized Russian political and economic pressure, trying to develop in parallel constructive ties with the West, some examples being the visit of the U.S. Secretary of State, the first in 25 years, to Belarus in February this year; the nomination of the U.S. Ambassador; cooperation of a number of Western think-tanks and NGOs with their local counterparts, and the like.

⁴⁰ Dr. Michael Carpenter, Intervention at Kalinowski International Conference, Vilnius, 24 August 2020. Retrieved 24 September 2020, at <https://en.ehu.lt/events/kalinowski-forum/>.

⁴¹ Interview of Svetlana Tikhonovskaya to RBK, 20 September 2020. Retrieved 21 September 2020, <https://www.youtube.com/watch?v=q48gmveklyo&t=316s>.

Having said that, it becomes more and more evident that Belarus cannot endlessly play this role of geopolitical tight-rope walker, and that the country needs a political and legal framework to stabilize the situation, while maintaining relations of confidence and cooperation with both the East and the West. A neutral status is exactly what is needed to form such a framework. Here it would be appropriate to refer to a historic precedent, which, although occurred in a quite different époque, circumstances and environment, nevertheless contains elements that could be considered also for the Belarus's neutrality model.

On 26 October 1955, the Parliament of Austria adopted the Constitutional Law on the Neutrality of Austria declaring the country's permanent neutrality and obligation not to take part in military alliances and prevent the establishment of foreign military bases on its soil.⁴² A few months prior to that, on 15 May 1955, the State Treaty for the Re-Establishment of an Independent and Democratic Austria was signed between the USSR, the UK, the US and France, on the one side, and Austria, on the other, providing for the occupation forces' withdrawal and beginning of a new stage in Austria's history as an independent, sovereign and democratic state.

Two aspects of Austrian neutrality achievement might be noteworthy in the Belarusian context. First, the country committed itself not to take part in military alliances, which did not include political or economic alliances. That is why Austria is an EU member, but is not part of NATO. Second, neutrality was achieved at two levels: internationally, meaning the acknowledgement by the former Allies, and domestically, by the Austrians themselves through a constitutional law.

Starting from the domestic aspect it should be stressed that such a drastic strategic change should be based on the will of the Belarusian people. As in the case of Austria's neutrality Belarus should not be member of any military alliance or have foreign military bases on its territory. However, this would not mean for Belarus withdrawing from the EAEU, or weakening cultural ties with Russia. In addition, one could refer to a number of analytical studies that have considered neutrality as the best solution for Belarus. The Belarussian think tank Ostrogorski Centre noted that: "This trend towards a real neutrality of Belarus increased in the past decade. For a long time it was misinterpreted as Minsk opportunistically moving back and forth between Moscow and the West. Yet by the mid-2010s, these elements of neutrality became a reliable part of

42 See 'Constitutional Law on the Neutrality of Austria (26 October 1955)'. Retrieved 22 September 2020, https://www.cvce.eu/en/obj/constitutional_law_on_the_neutrality_of_austria_26_october_1955-en-670aa09c-4d4b-451a-84f2-23f2f9c8cbo6.html.

Belarusian foreign and national security policy.”⁴³ Or else: “... Neutrality might be the only way for the Belarusian state to survive, develop, and succeed.”⁴⁴

However, the international aspect may pose much greater problems, especially from the Russian side. A Russian think tank’s following opinion on this issue may well spread light over the moods prevailing in Russia: “Non-governmental organizations (NGOs) led by the US carried out activities aimed at the geopolitical reorientation of Belarus through the promotion of the doctrine of neutrality. Belarusian neutrality is a way to get the official Minsk’s refusal from military and economic Alliance with Moscow.”⁴⁵

Should this be the Belarussian people’s will, they might adopt a constitutional law or devote a section on neutrality in the new constitution. In any case, the proposed Constituent Assembly could be an ideal venue for in-depth deliberations on that issue.

As to the foreign factor, again referring to the Austrian case, the US, the UK, the EU and Russia could sign with Belarus a kind of a State Treaty that would serve as a guarantor of Belarus’s neutrality and a deterrence for the states concerned from any attempt of interference. The question is whether or not the leaders of those countries could demonstrate political wisdom and broadmindedness to act in the best interests of regional security, stability and cooperation.

Conclusion

The recent events in Belarus have clearly demonstrated the necessity for cardinal changes in the country’s strategic development. This paper attempted to outline the major components of a road map aimed at ending the current political crisis and undertaking important steps that could help make a gradual transition from an authoritarian rule to a democratic socially oriented system of power.

43 Siarhei Bohdan and Gumer Isaev, ‘Elements of Neutrality in Belarusian Foreign Policy and National Security Policy’, Analytical Paper 7, Ostrogorski Centre, Minsk-London 2016, p.6. Retrieved 24 September 2020, <https://belarusdigest.com/papers/belarusneutrality-eng.pdf>. pdf.

44 Ibid., p.28.

45 Center for Strategic Assessment and Forecast, ‘The Activities of NGOs in Belarus in the Interests of the West’, 16 September 2019. Retrieved 22 September 2020, <http://csef.ru/en/politica-i-geopolitica/438/deyatelnost-npo-v-belorussii-v-interesah-zapada-8976>.

As to the country's foreign political doctrine, an argument was provided in favour of Belarus's neutral status as a unique possibility to stabilize the situation in the country and the region, and develop truly cooperative relations both with Russia and the West.

It depends on the will of the Belarusian society and the people as a whole whether or not they would opt for a national dialogue with or without international mediation. But a cardinal solution also depends on the major international players, who must put aside their conflicting ambitions and bring together their efforts so that Belarus become a country of peace and stability, and a uniting, rather than dividing factor in the region and broader. Although at this juncture such an assertion seems to be over-optimistic, the alternative might be a nightmare scenario of moral and political self-distraction.

Finally, the OSCE is well positioned to act as a mediator provided it is able to propose to the Belarusian society a comprehensive agenda for dialogue conducive to concrete ground-breaking actions. In any case, the OSCE's behaviour in the Belarusian context may well serve as a litmus test on the participating States' ability to overcome the deep crisis the Organization has been witnessing over the recent years.