



# HUMAN RIGHTS DEFENDERS FOR FREE ELECTIONS

## All-Belarusian People's Assembly - form of (non)implementation of the right to take part in the conduct of public affairs<sup>1</sup>

### Executive Summary

The current paper analyzes the new body introduced into the Belarusian constitutional framework<sup>2</sup>: All-Belarusian People's Assembly (ABPA)<sup>3</sup>. Initially, the ABPA was a quasi-civic meeting organized by the executive vertical, practiced every 5 years (usually) before presidential elections to demonstrate “nationwide” support for A. Lukashenko. It was stated that the ABPA is a form of realization by the citizens of Belarus of their right to directly participate in the conduct of government affairs. Against the background of the political crisis that began in 2020 before the presidential elections, and is still ongoing, at the constitutional referendum in 2022 provisions for the ABPA were included in the Constitution. The ABPA was proclaimed “the highest representative body of the people’s government”, while a bicameral parliament (“National Assembly”) was also preserved. Thus, currently in Belarus there are two central bodies of state power of a representative nature, and in the rhetoric of the authorities, the ABPA is still declared either as a form of direct participation of citizens in resolving public issues, or as a model of representative participation (“people’s government”).

Although the ABPA is postulated as the highest representative body of people’s government, the method of its formation is far from democratic representation: in fact, only 15% of the composition is directly elected by the people (president, deputies of the House of Representatives of the National Assembly and the Minsk City Council of Deputies), and another 29% of the ABPA composition is elected indirectly (by local councils elected by the people). The presence of 3 categories of delegates selected to the ABPA

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<sup>1</sup> The document was prepared by experts of the “Human Rights Defenders for Free Elections” campaign, which unites the human rights center “Viasna” and the Belarusian Helsinki Committee.

<sup>2</sup> Since 1996, the compliance of election campaigns conducted in Belarus with basic international standards for genuine and democratic elections has been questioned both internationally (see, for example, OSCE/ODIHR reports <https://www.osce.org/odihr/elections/belarus> ) and by independent national observers (see, for example, the reports of the campaign “Human Rights Defenders for Free Elections” on election campaigns: 2008 (<https://spring96.org/ru/tags/vyborny-2008>), 2010 (<https://spring96.org/ru/vybory2010>), 2012 (<https://elections2012.spring96.org/ru>), 2015 (<https://elections2015.spring96.org/ru>), 2016 (<https://elections2016.spring96.org/ru> ), 2019 (<https://elections2019.spring96.org/ru>), 2020 (<https://elections2020.spring96.org/ru>), 2022 (<https://referendum2022.spring96.org/ru>), 2024 (<https://elections2024.spring96.org/ru>)). In this context, the legitimacy of the parliament, president, local government bodies, and lawfulness of the constitutional changes is called into question. Nevertheless, *de facto* all these bodies have been formed and are operating, and the updated text of the constitution is considered by the current authorities as the legal basis for the functioning of the state. Accordingly, further in the text, references to elected positions (president, deputy) do not imply recognition of the election results, just as consideration of the legal status of the ABPA does not mean agreement with the legality of changes to the Constitution.

<sup>3</sup> After two years since the constitutional changes, there is still no consistent method for translating the name of the state entity: at the presidential web-site it is translated as the “Belarusian People’s Congress” (<https://president.gov.by/en/statebodies/belarusian-people-s-congress>); whereas the official English version of the Constitution uses “All-Belarusian People’s Assembly” (<http://law.by/databank-business/constitution-of-the-republic-of-belarus/>)

according to different procedures, which are not clearly stated in the law, are not transparent and are held behind closed doors in the absence of observers, hinders recognition of the ABPA's real representational nature and the right to participate in the conduct of public affairs as being exercised **by all** citizens of Belarus directly or through representation in the ABPA.

### **ABPA as a republican assembly: 1996–2022**

The first convening of the ABPA took place in October 1996 against the background of the constitutional crisis in Belarus<sup>4</sup>. President A. Lukashenko, faced with opposition from the parliament (the Supreme Council) regarding an attempt to shift the balance of power in his favor, decided through decree<sup>5</sup> to create a parallel extra-constitutional structure to legitimize the submission of a new version of the Constitution to a referendum. At the same time, the wording of the decree indicates as a goal the need to broadly discuss the work of the executive branch in the economic sphere (and not a political conflict with Parliament and the Constitutional Court): “in order to ensure the fullest participation of the general population in the discussion of decisions adopted by the President of the Republic of Belarus, the Cabinet of Ministers of the Republic of Belarus , local executive and administrative bodies of measures to overcome the economic crisis, stabilize the social situation in society.”

Having no administrative experience outside the Soviet paradigm, A. Lukashenko, when establishing the ABPA, was obviously influenced by the organizational model of the congress of the communist party of the Soviet Union (CPSU).

Indeed, the ABPA was intended to be similar to the CPSU congresses in both its organizational structure and methods of work. In Soviet times, the congress was formally the highest body in the party (and state) hierarchy. It convened periodically, usually every five years, and brought together delegates who were supposed to represent different regions, sectors, and demographic groups. These delegates, who typically numbered around 5,000 in recent years, were carefully selected through an opaque procedure by party organs. During the congress, which did not last long, the delegates approved the strategic plans and ideological programs proposed by the party leadership. The congress adopted five-year plans for the development of the national economy of the USSR - the so-called five-year plans. Since 1980, the document containing these five-year plans was called “Main directions of economic and social development of the USSR for 1981-1985 (1986-1990).” The last five-year plan was to be prepared for 1991-1995.

Thus, the model of 5,000 carefully selected delegates meeting for a few days every 5 years, adopting 5-year plans for the country's socio-economic development, hearing and approving the leader's report with virtually no discussion, became the inspiration for the ABPA, with one important exception: the party ideology and, in general, any ideology has been completely removed. None of the ABPAs indicated the party affiliations of the delegates, despite approximately 17 political parties operating in the country<sup>6</sup>.

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<sup>4</sup> Belarus 1996: country report. Constitution Writing & Conflict Resolution // <https://pcwcr.princeton.edu/reports/belarus1996.html>

<sup>5</sup> Decree of the President of the Republic of Belarus of August 29, 1996 No. 341 “On the convening of the All-Belarusian People's Assembly”

<sup>6</sup> Political parties in Belarus are an essential part of civil society. - Minsk, 2003 // <https://library.fes.de/pdf-files/bueros/belarus/07073.pdf>

While during the Soviet period the congress approved the key policy directions based on the ideology of the communist party, the ABPA proceeds from the simple idea of supporting A. Lukashenko:

The ABPA of the first convocation was organized by the executive vertical, which ensured the selection of 4,740 delegates. The criteria for “nomination and delegation” are established in the Decree in a wording whose legal analysis is difficult: it was supposed to delegate “the most authoritative representatives of labor collectives, associations, enterprises, institutions of all forms of ownership.” At the same time, there was no uniform procedure for nomination and delegation - the conditions and procedure for nominating delegates were determined by the organizing committees, which were organized by the executive vertical. At the first ABPA, they approved the main directions of socio-economic development for 1996-2000, thereby continuing the counting of the “five-year plans” of Soviet times and the initiative to hold a republican referendum on amendments and additions to the Constitution, giving A. Lukashenko legitimation against the position of the Constitutional Court, which decided that amendments to the Constitution should be adopted by the parliament, and not through a mandatory referendum<sup>7</sup>.

Constitution of Belarus 1994<sup>8</sup> enshrined the individual right to freedom of “assemblies, rallies, street processions, demonstrations and picketing” in Art. 35. The Constitution also provided for the possibility of holding an “assembly” in Art. 117 devoted to the local government and self-government, which is carried out incl. through “local referenda, assemblies and other forms of direct participation in state and public affairs.” The right of citizens “to participate in decisions on state affairs, both directly and through freely elected representatives” was enshrined in Part 1 of Art. 37. Direct participation in accordance with Part 2 of Art. 37 “is ensured by holding referenda, discussing draft laws and issues of republican and local significance, and other methods determined by law.” It appears that such a constitutional framework does not imply that the President has the power to assemble voluntarily selected “authoritative representatives” as a republican assembly, which is financed from the state budget and is postulated to represent the whole people.

Belarus emerged from the constitutional crisis of 1996 with a shattered balance of powers and an updated text of the Constitution, in which Art. 37 was supplemented by the third part: “In the manner established by law, citizens of the Republic of Belarus take part in discussing issues of state and public life at republican and local assemblies.”

Based on this constitutional provision, the Law “On Republican and Local Assemblies” was adopted in 2000<sup>9</sup>, providing the legal basis for the possibility of regular convening of the ABPA. In the original text of the law, according to Art. 2, republican and local assemblies are considered as a form **of direct participation** of citizens in managing the affairs of society and the state. Later, in a new version adopted by Law No. 70-Z of November 4, 2013, this definition is transferred to Art. 3 and is accompanied by an important addition: such meetings are **the main** form of direct participation of citizens in managing the

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<sup>7</sup> Conclusion of the Constitutional Court of the Republic of Belarus dated November 4, 1996 No. 3-43/96 “On the compliance with the Constitution and laws of the Republic of Belarus of paragraphs 2.2, 2.5 and 3 of the Resolution of the Supreme Council of the Republic of Belarus dated September 6, 1996. “On holding a republican referendum in the Republic of Belarus and measures to ensure it” // <http://www.kc.gov.by/document-11453>

<sup>8</sup> Constitution of the Republic of Belarus 1994 // [https://ru.wikisource.org/wiki/Constitution\\_of\\_the\\_Republic\\_Belarus/Original\\_edition](https://ru.wikisource.org/wiki/Constitution_of_the_Republic_Belarus/Original_edition)

<sup>9</sup> Law of the Republic of Belarus dated July 12, 2000 No. 411-Z “On Republican and Local Assemblies”

affairs of society and the state. The idea that the ABPA, as an assembly, is a form *of direct democracy*, figured widely in the rhetoric of the authorities<sup>10</sup> and was flirted with in pro-government “doctrine”.<sup>11</sup>

The law on republican and local assemblies gave participants the right to discuss issues of republican and local significance, make proposals on them or make recommendations. The legal force of acts of such assemblies is not regulated by the law. The law provided that the procedure for financing republican assemblies was established by the president, while financing of local assemblies was carried out by their initiators. The law gave the president (and no one else) the right to convene a republican assembly “as necessary,” leaving it to him to establish the procedure for electing participants and holding the assembly.

The following ABPAs (2001, 2006, 2010, 2016 and 2021) were smaller in scale: about 2,500 delegates. They were usually convened before presidential elections (the exceptions were 2016 and 2021). The main official outcome of the meetings was the approval of the so-called “Main provisions of the Program for the Socio-Economic Development of Belarus,” that is, the concept of the “five-year plan”. This action had no legal implications, since in accordance with the law “On state forecasting and programs for socio-economic development of the Republic of Belarus”<sup>12</sup> 1998, medium-term (five-year) socio-economic development programs are approved by presidential decree. But all the programs adopted so far were prepared by the government, their “main provisions” were approved by the ABPA, and then the programs were approved by presidential decrees. Officially, the powers of the ABPA to approve the socio-economic development program were enshrined only in the new version of the law of July 12, 2023 No. 279-Z due to changes in the Constitution.

Table 1. Chronology of convocations of the ABPA

<b>ABPA</b>	<b>Program for socio-economic development of Belarus (date of decree)</b>	<b>Presidential elections</b>	<b>Referenda to amend the Constitution</b>
		June 23, 1994 (I round) July 10, 1994 (II round)	
I ABPA October 19-20, 1996			November 24, 1996 (effectively a new Constitution)
II ABPA May 18-19, 2001	08 August 2001 (for 2001 - 2005)	September 9, 2001	October 17, 2004

<sup>10</sup> <https://www.belta.by/society/view/pjatae-vsebelorusskoe-narodnoe-sobranie-otkryvaetsja-segodnja-v-minske-198411-2016/>

<sup>11</sup> Kozak, M.A. On the issue of regulating the status of the All-Belarusian People’s Assembly / M.A. Kozak // Pravo.by. – 2011. – No. 1. – P. 92-97. - P. 93. // <https://journal.pravo.by/pdf.php?id=574>

<sup>12</sup> Law of the Republic of Belarus dated May 5, 1998 No. 157-Z “On state forecasting and programs for socio-economic development of the Republic of Belarus”

			(abolition of restrictions on the number of presidential terms)
III ABPA March 2-3, 2006	June 12, 2006 (for 2006 - 2010)	March 19, 2006	
IV ABPA December 6-7, 2010	April 11, 2011 (for 2011 - 2015)	December 19, 2010	
V ANS June 22-23, 2016	December 15, 2016 (for 2016-2020)	October 11, 2015	
VI ABPA February 11-12, 2021	July 29, 2021 (for 2021-2025)	August 9, 2020	
			February 27, 2022 (effectively a new Constitution)
VII ABPA April 24-25, 2024		planned: 2025	

### **ABPA after the 2022 constitutional referendum**

At the 2022 constitutional referendum, which took place with numerous violations and the results of which do not reflect the real will of citizens<sup>13</sup> effectively, a new edition of the Constitution of Belarus was adopted<sup>14</sup>. The main novelty is the institutionalization of the ABPA as “the highest representative body of people’s government.” At the same time, the parliament - the National Assembly - remains in the system of central government bodies, retaining the status of a representative and legislative body. How these two bodies should share the functions of representing the people is not very clear: neither the Constitution, nor the laws on the National Assembly or the ABPA establish precise ways of dividing power between them. For example, no changes were made to the title of the traditional “annual address of the President of the Republic of Belarus to the Parliament of the Republic of Belarus” but the ABPA will now hear it. The Constitution grants immunity to deputies of the House of Representatives and members of the Council of the Republic (Article 102), but not to delegates of the ABPA.

At the stage of the draft constitutional reform, the Venice Commission of the Council of Europe indicated in relation to the proposed constitutional wording on the ABPA that “the “representative” nature of this

<sup>13</sup> Preliminary analytical report of the expert mission to assess the republican referendum 02.28.2022 // <https://referendum2022.spring96.org/ru/news/106953>

<sup>14</sup> The preamble and 85 articles were adjusted, 11 new articles appeared, and 2 articles were excluded. The Constitution has also been supplemented with a new chapter (Chapter 3<sup>1</sup> “All-Belarusian People’s Assembly”) // <https://president.gov.by/ru/gosudarstvo/constitution>

body is open to doubt [...] it is difficult to see to what extent this body will be truly representative of the Belarusian society and thus legitimate to express the will of the people"<sup>15</sup>.

The new Chapter 3<sup>1</sup> of the Constitution, dedicated to the ABPA, contains 6 articles numbered 89<sup>1-6</sup> (for comparison, 15 articles are dedicated to the National Assembly). The composition of the ABPA cannot exceed 1,200 delegates, its term of office is 5 years, and it must meet at least once a year. The constitutional regulation of the ABPA is very basic: there are no requirements for candidates for delegates; no precise regulation on the procedure for the formation of the ABPA or internal organizational issues.

To develop on those constitutional norms on the ABPA, the law "On the All-Belarusian People's Assembly" was adopted in 2023<sup>16</sup>. It regulates in more detail the features of the formation and functioning of the ABPA.

Delegates of the ABPA can only be citizens of the Republic of Belarus who have the right to vote, but there is a discriminatory ban on being a delegate for citizens who also have citizenship of another state or documents of foreign states that provide rights to benefits and advantages in connection with political, religious views or nationality (such as a residence permit, "Pole's card", "green card", etc.) This restriction was introduced by constitutional amendments in 2022 and is aimed at almost everyone who left the country due to persecution for political reasons; it applies to all forms of exercise of passive suffrage. Mechanism of implementation of the provision enshrined in Art. 6 of the law that the ABPA is formed from delegates representing various social strata and groups of society is not clear. There is no explicit quota mechanism.

The Law on the ABPA elaborates on 3 main categories of delegates:

1) *Ex officio* delegates

- President of the Republic of Belarus;
- The President of the Republic of Belarus who has ceased to exercise his powers due to the expiration of his term in office or in the event of his resignation;
- representatives of the legislative branch - deputies of the House of Representatives (110) and members of the Council of the Republic (64) of the National Assembly;
- representatives of the executive branch - the Prime Minister, his deputies (4) and other members of the Government (24 ministers + 6 chairpersons of state committees); chairpersons of regional (Minsk city) (7), district (118), city (cities of regional subordination) (12) executive committees;
- representatives of the judiciary – chairperson and judges of the Constitutional (12) and Supreme Courts (63);

All these officials form the basis of the three branches of government: legislative, executive, and judicial. Thus the "representative" character "extends" to all central state bodies.

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<sup>15</sup> European Commission for Democracy Through Law (Venice Commission). Belarus. Final Opinion on the Constitutional Reform (Adopted by the Venice Commission at its 132nd Plenary Session (Venice, 21-22 October 2022) para. 58 // [https://venice.coe.int/webforms/documents/?pdf=CDL-AD\(2022\)035-e](https://venice.coe.int/webforms/documents/?pdf=CDL-AD(2022)035-e)

<sup>16</sup> Law "On the All-Belarusian People's Assembly" No. 248-Z dated February 7, 2023 // <https://pravo.by/document/?guid=12551&p0=H12300248&p1=1>

2) representatives of local Councils of Deputies (no more than 350 in total)

- delegates elected by regional Councils of Deputies from among the deputies of local Councils of the regional, basic and primary levels in the manner established by the regulations of local Councils of Deputies;
- all deputies of the Minsk City Council (60).

This category of delegates is the most acceptable from the point of view of the theory of representative democracy: indirect elections, when deputies of local councils elect a body, are a widespread world practice. At the same time, it should be noted that in the last local elections, 12,514 deputies of local councils were elected. With an allocated quota of 350 persons, only a meager 2.8% of local deputies get into the ABPA. It is noteworthy that with such a share of representation, the Minsk City Council of Deputies (Minsk City Council) is especially privileged: it is included in the ABPA in its entirety (60 persons). The official explanation for this special position of the Minsk City Council is the need to ensure “optimal and parity representation with the regions”<sup>17</sup>, although other regional Councils of Deputies do not have such a privilege. The authors of the constitutional amendments preferred<sup>18</sup> to keep the Minsk City Council in the category of “representatives of local councils”, and not in the first category, where all *ex-officio* delegates are listed, since they declared “parity” in the composition of the ABPA. In fact, taking into account the Minsk City Council, the number of members of the ABPA who get there “by position” is about 500 people.

3) representatives of civil society, elected by the highest bodies of civil society entities **from among their members**, ensuring representation from each region and the city of Minsk (no more than 400).

The last group raises the greatest doubts both from the point of view of the traditional understanding of representative democracy and the exercise of the right to freedom of association. Numerous problems with the implementation of freedom of association in Belarus<sup>19</sup> after the political crisis of 2020 led to *de-facto* nationalization of civil society. New law “On the foundations of civil society”<sup>20</sup> determines the conditions for the participation of civil society subjects in the elections of delegates to the ABPA, among which the most significant are: the registered status of a republican public association with the presence of regional and Minsk city organizational structures; and, importantly, the number of adult members is at least 100,000 citizens (for public associations). The decision whether a civil society organization (CSO) meets these criteria is made by the Ministry of Justice. Only “civil society subjects” approved by the Ministry of Justice can be represented in the ABPA through their members. This opportunity is closed to

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<sup>17</sup> <https://pravo.by/novosti/obshchestvenno-politicheskie-iv-oblasti-prava/2024/mart/76991/>

<sup>18</sup> Who and how can become a delegate of the Supreme Council? The deputy spoke in detail about the provisions of the bill // <https://www.belta.by/politics/view/kto-i-kak-smozhet-stat-delegatom-vns-deputat-podrobno-rasskazala-o-normah-zakonoproekta-530390-2022/>

<sup>19</sup> See, for example, the Belarusian Helsinki Committee. National Human Rights Index, Right to freedom of association // <https://index.belhelcom.org/>; Lawtrend. Chronology of violations of freedom of association and persecution of civil society organizations in Belarus // <https://www.lawtrend.org/freedom-of-association/hronologiya-narushenij-svobody-assotsiatsij-i-presledovaniya-organizatsij-grazhdanskogo-obshchestva-v-belarusi>

<sup>20</sup> Law “On the Foundations of Civil Society” dated February 14, 2023 No. 250-Z // <https://pravo.by/document/?quid=12551&p0=H12300250>

all other CSOs. For 2024, such entities include<sup>21</sup> 5 organizations that inherit the models of Soviet social movements used by the authorities to simulate public participation:

- Republican public association "Belaya Rus";
- Belarusian Public Association of Veterans;
- Public association "Belarusian Women's Union";
- Public association "Belarusian Republican Youth Union";
- Federation of Trade Unions of Belarus.

Leaving aside the general crisis with the exercise of the right to freedom of association, the design of civil society participation, in which the state itself selects organizations, whose members exclusively will be present in the ABPA, based on membership numbers, raises questions about the representation of less organized groups with various narrow interests, as well as overall respect for the basic principle of equality of all citizens.

At one of the meetings dedicated to constitutional amendments, A. Lukashenko said: "Everyone who will participate in the work of the ABPA will be elected by the people in one way or another"<sup>22</sup>, which is completely untrue. 15% of the members of the ABPA are directly elected by the people, but they are elected to other bodies (to the position of president, deputies of the House of Representatives and the Minsk City Council); 29% of the composition of the ABPA is formed through indirect elections (members of the Council of the Republic and representatives of local councils). 34% are formed on the basis of opaque intra-organizational decisions of "civil society subjects" approved by the Ministry of Justice and 22% of the members of the ABPA are appointed or approved by the president, or the ABPA.

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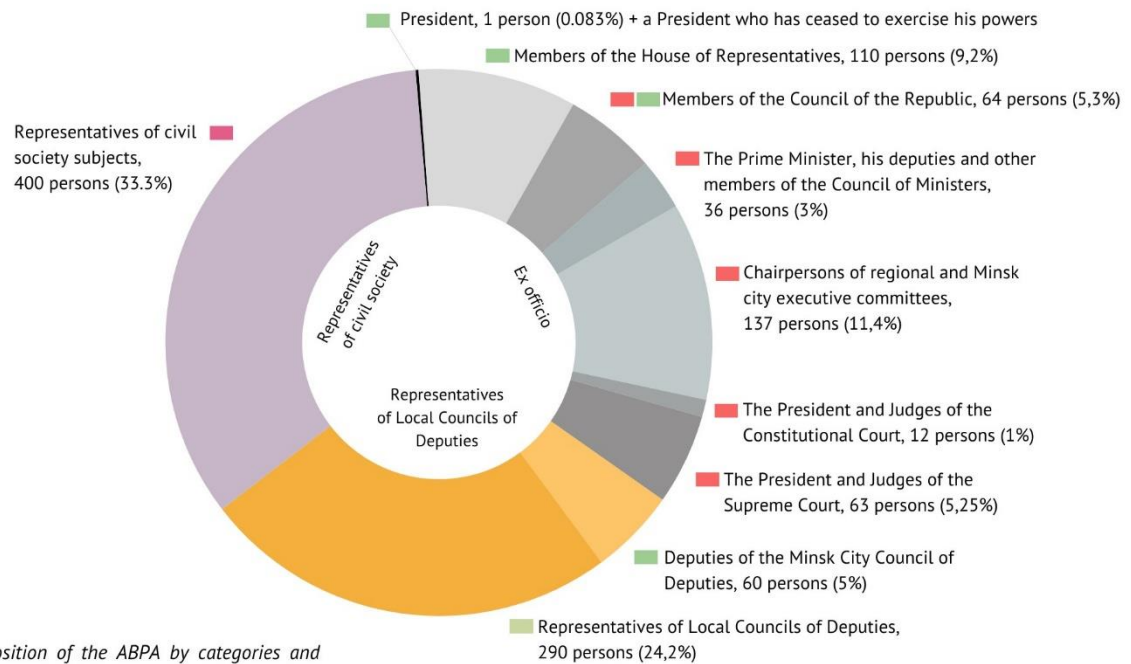
<sup>21</sup> Ministry of Justice. On the classification of public organizations as subjects of civil society // [https://minjust.gov.by/press/news/politicheskie\\_partii\\_obshchestvennye\\_obedineniya\\_i\\_drugie\\_nekommercheskie\\_organizatsii\\_o\\_b\\_otnesenii\\_obshchestvennykh\\_organizatsiy\\_k\\_subektam\\_grazhdanskogo\\_obshchestva/](https://minjust.gov.by/press/news/politicheskie_partii_obshchestvennye_obedineniya_i_drugie_nekommercheskie_organizatsii_o_b_otnesenii_obshchestvennykh_organizatsiy_k_subektam_grazhdanskogo_obshchestva/)

<sup>22</sup> Meeting on bills providing for adjustments to the laws "On the Council of Ministers of the Republic of Belarus" and "On Regulatory Legal Acts" // <https://president.gov.by/ru/events/soveshchanie-po-zakonoproektam-predusmatrivayushchim-korrektirovku-zakonov-o-sovete-ministrov-respubliki-belarus-io-normativnyh-pravovyh-aktah>



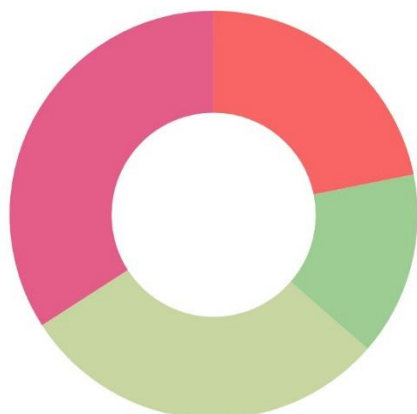
## HOW THE ABPA IS ORGANIZED AND WHO ARE ALL THESE PEOPLE

- Appointed by the President / ABPA
- Intra-organizational decision (members only)
- Elected by the people (direct elections)
- Elected by the people (indirect elections)



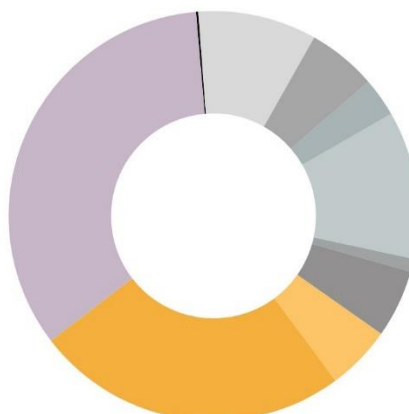
*Composition of the ABPA by categories and mechanisms of election / appointment (percentages are given by categories)*

## HOW THE ABPA IS ORGANIZED AND HOW MANY MEMBERS ARE AT LEAST NOMINALLY ELECTED BY THE PEOPLE



*Composition of the ABPA  
by the mechanisms of election / appointment*

- Appointed by the President / ABPA, 22%
- Intra-organizational decision (members only), 34%
- Elected by the people (direct elections), 15%
- Elected by the people (indirect elections), 29%



*Composition of the ABPA  
by categories and mechanisms of election / appointment  
(percentages are given by categories)*

- President, 1 person (0.083%) + a former President
- Members of the House of Representatives, 110 persons (9,2%)
- Members of the Council of the Republic, 64 persons (5,3%)
- The Prime Minister, his deputies and other members of the Council of Ministers, 36 persons (3%)
- Chairpersons of regional and Minsk city executive committees, 137 persons (11,4%)
- The President and Judges of the Constitutional Court, 12 persons (1%)
- The President and Judges of the Supreme Court, 63 persons (5,25%)
- Deputies of the Minsk City Council of Deputies, 60 persons (5%)
- Representatives of Local Councils of Deputies, 290 persons (24,2%)
- Representatives of civil society subjects, 400 persons (33,3%)

Table 2. Electivity in the composition of the ABPA

	Total persons	Percentage of total composition of maximum 1200 persons	Elected by the people (direct elections)	Elected by the people (indirect elections)	Intra-organizational decision (for members only)	Appointed by the President/ ABPA
President;	1	0.083%	1			
President who has ceased to exercise his powers;	0	0%	0			
Members of the House of Representatives	110	9.2%	110			
Members of the Council of the Republic	64	5.3%		56		8

Prime Minister, his deputies and other members of the Council of Ministers	36	3%				36
Chairpersons of regional and Minsk city executive committees	137	11.4%				137
Chairperson and judges of the Constitutional Court	12	1%				12
Chairpersons and judges of the Supreme Court	63	5.25%				63
Deputies of the Minsk City Council of Deputies.	60	5%	60			
Representatives of local Councils of Deputies	290	24.2%		290		
Representatives of civil society subjects	400	33.3%			400	
<b>TOTAL sum by columns</b>	<b>1173</b>	<b>97.750%</b>	<b>171</b>	<b>346</b>	<b>400</b>	<b>256</b>
			<b>15%</b>	<b>29%</b>	<b>34%</b>	<b>22%</b>

Thus, an analysis of the composition of the ABPA allows to state that it is not a body of national representation. Less than half (44%) of its composition are deputies of the House of Representatives, deputies of local councils and members of the Council of the Republic. 34% of delegates supposedly representing civil society are actually elected on discriminatory grounds only among members of the five state-appointed CSOs. 22% of delegates are appointed or confirmed by the President (or the ABPA according to the new version of the Constitution). Of all the members of the ABPA, only 24% of the members are elected specifically for activities in this body in a relatively representative manner - local councils, elected directly by the people, elect representatives from local Councils of Deputies.

The competence of the ABPA as a whole lies outside the scope of this document, but we will consider those powers that directly relate to elections. The ABPA appoints and removes the Presidents and judges of the Constitutional and Supreme Courts; Chairperson and members of the Central Election Commission (CEC). The ABPA proposes holding republican referenda; has the right to consider the issue of the legitimacy of the elections. The concept of “election legitimacy” appears for the first time in Belarusian legislation. Following the constitutional provisions, changes were made to the text of the Electoral Code, where “legitimacy” is now mentioned 19 times, but the concept of “legitimacy of elections” is not defined. However, legality is mentioned only once. The most common wording is “compliance with... the requirements of the code/legislation/constitution” (more than 60 times).

### **Contents of the right to participate in the conduct of public affairs**

The right of citizens to participate in the conduct of public affairs, both directly and through their representatives, is part of international standards, and is enshrined in paragraph “a” of Art. 25 International Covenant on Civil and Political Rights<sup>23</sup>. The interpretation of the content of this right by the Human Rights Committee (HRC) is given in General Comment No. 25<sup>24</sup>. The Committee emphasized the

<sup>23</sup> United Nations. International Covenant on Civil and Political Rights. (Adopted by Resolution 2200 (XXI) at the 1496th plenary meeting of the UN General Assembly) December 16, 1966 // <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

<sup>24</sup> United Nations. General comment No. 25. Article 25. Adopted by the Human Rights Committee at its 1510th meeting (fifty-seventh session) on July 12, 1996 //

fundamental nature of the right to participate in government, which lies at the heart of democratic governance. Like other individual rights guaranteed by the Covenant, the right to participate in the government of the State must be ensured on a non-discriminatory basis: in the exercise of these rights there shall be no distinction between citizens on account of race, color, sex, language, religion, **political or other opinion**. Thus, if the ABPA is declared as a form of exercising the right to participate in government, and not as a party congress, political views cannot serve as a criterion for selecting its participants.

The HRC emphasizes the connection between the conduct of public affairs and the exercise of political powers, in particular the exercise of legislative, executive and administrative powers. Among the forms of **direct participation**, the HRC sees the exercise of powers as members of legislative bodies or holding executive positions; voting as part of a referendum or other electoral procedure; participation as members of national assemblies, which have the right to make decisions on local issues or the affairs of a particular community, as well as representative bodies created in consultation with the government of the country. It means that direct participation in the conduct of public affairs is carried out only by members of a representative body or local assembly. It is impossible to talk about “people’s government” and the implementation by the entire people of Belarus of direct participation in resolving important state issues in the context of the ABPA.

One could assume that the ABPA allows citizens of Belarus to exercise the right to take part in the conduct of public affairs **through** freely chosen representatives, but in this case, according to the HRC, Article 25 of the Covenant implicitly implies that such representatives must exercise power and be accountable within the framework of electoral process in connection with the exercise of these powers. Thus genuine periodic elections will be an important element in the realization of such a right. The mechanisms for selecting delegates to the ABPA do not meet any criteria for genuine, free, equal, general elections.

The HRC also lists among the forms of participation in the conduct of public affairs national discussions and dialogue with its representatives, as well as the exercise of the right to organize. Such forms of participation in the conduct of public affairs are ensured by respect for the rights to free expression, peaceful assembly and freedom of association. It is obvious that in the situation of the actual nationalization of the third sector and the appointment by the state of some CSOs that are allowed to share seats in the ABPA among their members, there is no exercise of the right of all citizens.

## **The practice of forming the ABPA in 2024**

The election of delegates to the ABPA is the final stage of a series of electoral events carried out by the authorities: on February 25, 2024<sup>25</sup> a single voting day was held for direct elections to local Councils of Deputies and the lower House of Representatives; on April 4, 2024, indirect elections were held for members of the upper house of the National Assembly - the Council of the Republic, who were elected by deputies of the renewed local Councils. The authorities carefully created the impression of the utmost importance of the elected deputies, emphasizing that they would represent the people in the ABPA<sup>26</sup>.

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[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F21%2FRev.1%2FAdd.7&Lang=ru](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F21%2FRev.1%2FAdd.7&Lang=ru)

<sup>25</sup> Elections\*2024. Final analytical report on the results of monitoring the elections of deputies on a single voting day on February 25, 2024 // <https://elections2024.spring96.org/ru/news/114851>

<sup>26</sup> <https://pravo.by/novosti/obshchestvenno-politicheskie-iv-oblasti-prava/2024/mart/76991/>

Schedule<sup>27</sup>, approved by the CEC, defines the main stages of preparation and conduct of elections to the ABPA, as well as the timing of their holding. The entire process covered a period of just over a month: elections of delegates to the ABPA were scheduled for March 1, and the results were summed up on April 16<sup>28</sup>.

In addition to approved *ex officio* delegates representing all branches of government, the CEC states that delegates from local Councils of Deputies were elected in a maximum number of 350 persons and delegates from CSOs in a maximum number of 400 persons. The CEC website published the election results only as figures, without the names of delegates, which is consistent with the logic of not drawing unnecessary attention to the personalities of ordinary delegates. Only one pro-government media outlet published the list of delegates' names in the public domain<sup>29</sup>.

### ***Election of delegates from local Councils of Deputies***

Out of the maximum possible number of 350 representatives of local Councils of Deputies, 290 persons are *de jure* elected, since all 60 deputies of the Minsk City Council are delegates of the ABPA. The CEC has determined the quantitative norms for the representation of delegates from local Councils of Deputies of each region, proportional to the number of voters in each region<sup>30</sup>:

Table 3. Number of delegates from local Councils of Deputies by region

<b>local Councils of Deputies (region)</b>	<b>number of delegates</b>	<b>number of voters in the region</b>
Minsk City Council of Deputies	60	1 376 544
Minsk Region	60	1,136,524
Brest region	52	985 739
Gomel region	55	1,051,624
Grodno region	38	735 435
Mogilev region	41	783 925
Vitebsk region	44	842 191
<b>Total:</b>	<b>350</b>	<b>6 911 982</b>

<sup>27</sup> Calendar plan of organizational activities for the preparation and conduct of elections of delegates of the All-Belarusian People's Assembly, approved by the Resolution of the Central Election Commission of the Republic of Belarus 03/01/2024 No. 21 // <https://www.rec.gov.by/uploads/files/Pdf/2024/vns2024-calend.pdf>

<sup>28</sup> Report on the results of the elections of delegates to the All-Belarusian People's Assembly seventh convocation // <https://www.rec.gov.by/uploads/files/Pdf/2024/vns-itogi-soob.pdf>

<sup>29</sup> <https://www.sb.by/articles/publikuem-polnyy-spisok-delegatov-vsebelorusskogo-narodnogo-sobraniya.html>

<sup>30</sup> Resolution of the Central Election Commission of the Republic of Belarus dated March 1, 2024 No. 19 // <https://www.rec.gov.by/uploads/files/Pdf/2024/post2024-19.pdf>

Delegates from each region are elected by the regional Councils of Deputies from among the deputies of the primary, basic and regional levels. The law does not explain the procedure for holding such elections, but establishes<sup>31</sup> that elections must take place in the manner established in the regulations of regional Councils of Deputies. Based on the law<sup>32</sup>, decisions of the Council are made by a simple majority of votes by secret or open voting, including by roll call.

The regional Council of Deputies is entrusted with the function of organizing, conducting elections and actually selecting delegates: they must report to the CEC only on the date, time, location of the election meetings and the results of the elections, after which the CEC registers the elected delegates<sup>33</sup>. The regional Councils of Deputies did not cover the election process on their websites or in the media. Only mandatory information about the beginning of the nomination of candidates for the ABPA delegates was published. The elections of the ABPA delegates from local Councils of Deputies were held behind closed doors; with no possibility to evaluate the voting and decision-making process.

### ***Election of civil society delegates***

All CSOs that can delegate their representatives to the ABPA, from the list compiled by the Ministry of Justice, confirmed their participation by sending a corresponding decision to the CEC and divided among themselves the maximum number of delegates from civil society: 80 persons from each of the structures.

Elections of civil society delegates were conducted by the organizations' highest bodies behind closed doors. It is known that they received methodological recommendations from the CEC on how to conduct elections, but their content is not publicly available.

Thus, as expected, the ABPA included members of CSOs, which are membership-based organizations that support the pro-government agenda. Moreover, these CSOs - "subjects of civil society", under the guise of public organizations, perform ideological and administrative functions. In fact, they do not represent the interests of youth (as the Belarusian Republican Youth Union positions itself), women (as the Belarusian Women's Union positions itself), workers and veterans, and membership in them is forced.

### ***Formation of the internal structure of the ABPA***

The first meeting of the ABPA took place on April 24 convening 1166 persons (required minimum  $\frac{2}{3}$  from maximum composition – 800 persons). ABPA's main results, in addition to listening to the speech of the president, is election of governing bodies: chairman and presidium. The Counting Committee was elected by open voting: the delegates voted in favor of its composition as a whole. In reality this was an approval of the list proposed by the prime minister<sup>34</sup>.

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<sup>31</sup> Art. 10 of the Law of the Republic of Belarus of February 7, 2023 No. 248-Z "On the All-Belarusian People's Assembly"

<sup>32</sup> Art. 13 Law of the Republic of Belarus dated January 4, 2010 No. 108-Z "On local government and self-government in the Republic of Belarus"

<sup>33</sup> In accordance with the Calendar Plan of organizational activities for the preparation and conduct of elections of delegates of the All-Belarusian People's Assembly, approved by Resolution of the Central Election Commission of the Republic of Belarus 01.03.2024 No. 21 // <https://www.rec.gov.by/uploads/files/Pdf/2024/vns2024-calend.pdf>

<sup>34</sup> Heads the organizing committee for the preparation and holding of the first meeting of the seventh All-Belarusian People's Assembly in accordance with the order of the President of the Republic of Belarus No. 25pn dated February 2, 2024 // <https://president.gov.by/ru/events/v-belarusi-sozdan-respublikanskiy-orgkomitet-po-podgotovke-i-provedeniyu-vnshttps://president.gov.by/ru/documents/rasporyazhenie-no-25rp-ot-2-fevralya-2024-g>

The Chairman, his deputy and the Presidium of the ABPA, whose term of office coincides with the term of office of the ABPA, were elected by secret ballot on a non-alternative basis<sup>35</sup>. It is reported that voting booths were equipped specifically for this procedure, and the elected counting commission counted the results during the same day<sup>36</sup>.

The role of the **Chairman of the ABPA** is decisive: he leads the assembly, introduces issues for consideration, presents it and signs all decisions made by the assembly. He can also issue orders, which, however, can be canceled by the assembly<sup>37</sup>. A. Lukashenko was almost unanimously elected as Chairman of the ABPA (1157 - for, 1 - against)<sup>38</sup>. This is legally possible, since the current president can simultaneously be the chairman of the ABPA, provided that he is the first president of Belarus (an exceptional provision included in the constitutional framework as an element of a possible transit of power according to the “Kazakh scenario” back in 2020). A. Kosinets, who previously held the position of Deputy Prime Minister, was unanimously elected to the role of Deputy Chairman.

The maximum number of members of the **Presidium** is 15 persons, but it was formed from 13 people. The chairman and his deputy are automatically members of the presidium, and 11 more people were elected by voting for the list of proposed candidates (no alternative lists were proposed). The competence of the Presidium of the ABPA is vaguely defined in the Law. It must promptly resolve issues that arise before the ABPA in the manner prescribed by the ABPA’s Regulations (not publicly available). At the same time, the Presidium plays a certain role in deciding the issue of removing the president from office<sup>39</sup> or when resolving the issue of the legitimacy of elections<sup>40</sup>. A. Lukashenko himself sees it as a body “not duplicating the governance of the country” and representing “various public and state structures,” therefore, in addition to deputies, it included the rector of the university, heads of state enterprises and the head of a pro-government public organization<sup>41</sup>.

## Conclusion

Thus, the ABPA was conceived by A. Lukashenko in the midst of the 1996 political crisis as an alternative to the parliament; a method of legitimation that demonstrates the unconditional support of the “people” for him personally. During the period 1996–2022 the ABPA was convened once every five years, usually before the presidential elections, as a propaganda event, which was attended by the entire nomenklatura of the country, as well as, as stated, “ordinary” workers of industrial enterprises, services, education,

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<sup>35</sup> <https://www.belta.by/president/view/lukashenko-izbran-predsdatelem-vsebelorusskogo-narodnogo-sobranija-630253-2024/>

<sup>36</sup> CEC. Delegates of the ABPA elect the leadership and members of the Presidium of the ABPA // <https://rec.gov.by/ru/from-telegram-ru/view/delegaty-vns-izbirajut-rukovodstvo-i-chlenov-prezidiuma-vns-1717-2024;>

<sup>37</sup> Art. 31 of the Law of the Republic of Belarus of February 7, 2023 No. 248-Z “On the All-Belarusian People’s Assembly”

<sup>38</sup> CEC. 1157 – for, 1 – against. Results of secret voting for the candidacy of the Chairman of the ABPA // <https://www.rec.gov.by/ru/from-telegram-ru/view/1157-za-1-protiv-itogi-tajnologo-golosovaniya-za-kandidaturu-predsedatelja-vns-1721-2024>

<sup>39</sup> Authorized, at the proposal of 1/3 of the lower house of parliament or 150,000 citizens, to apply to the Constitutional Court to assess the actions of the President for compliance with the Constitution; Art. 18 of the Law of the Republic of Belarus of February 7, 2023 No. 248-Z “On the All-Belarusian People’s Assembly”

<sup>40</sup> Proposes, along with 1/3 of the members of the ABPA, to consider the legitimacy of the elections to the entire assembly; Art. 19 of the Law of the Republic of Belarus of February 7, 2023 No. 248-Z “On the All-Belarusian People’s Assembly”

<sup>41</sup> Full list of members of the Presidium // <https://kult.1prof.by/news/no-category/izbran-prezidium-vsebelorusskogo-narodnogo-sobraniya-kto-v-ego-sostave/>

healthcare, etc., to emphasize the status of the meeting as people's one. The theoretical framework for the ABPA was formally the idea of an assembly as a form of direct participation in the conduct of public affairs. After amendments to the constitution in 2022, the ABPA becomes "the highest representative body of the people's government," with an extremely opaque mechanism for selecting 1,200 delegates. The presence of 3 categories of delegates selected to the ABPA according to different procedures, two<sup>42</sup> of which are not clearly stated in the law, are not publicly disclosed, and are carried out behind closed doors in the absence of observers and open reporting, makes it impossible to consider real representative nature of the ABPA and the right to participate in the conduct of public affairs as exercised by **all** citizens of Belarus directly or through representation specifically in the ABPA.

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<sup>42</sup> With the exception of *ex officio delegates*, the election procedure for which is established by law, but in practice the elections are held in gross violations of international standards for genuine and democratic elections