



Office for Democratic Institutions and Human Rights

RUSSIAN FEDERATION
ELECTION TO THE STATE DUMA
7 December 2003

OSCE/ODIHR NEEDS ASSESSMENT MISSION
REPORT

8-10 October 2003



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RUSSIAN FEDERATION

ELECTION TO THE STATE DUMA 7 DECEMBER 2003

OSCE/ODIHR Needs Assessment Mission Report

I. INTRODUCTION

Following receipt of an invitation from the authorities to observe the election to the State Duma scheduled for 7 December 2003, the Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) undertook a Needs Assessment Mission (NAM) to the Russian Federation between 8-10 October. The purpose of the NAM was to assess the conditions and level of preparation for the elections, in line with OSCE commitments, and to advise on the establishment of an Election Observation Mission (EOM).

The NAM was led by Rita Süßmuth, former President of the Bundestag, who was chosen to be Head of the OSCE/ODIHR Election Observation Mission to the Russian Federation, and Gerald Mitchell, Head of the ODIHR Election Section. They were joined by Holly Ruthrauff, ODIHR Election Adviser, Paul LeGendre, OSCE Parliamentary Assembly Program Officer, Sarah Mendelson, Senior Fellow at the Center for Strategic and International Studies, and Thomas Boserup, Chief Administrative Officer of the OSCE/ODIHR Election Observation Mission.

The NAM held meetings in Moscow with representatives of the governmental authorities, election administration, political parties, media, civil society and international community (see annex for list of meetings).

The OSCE/ODIHR is grateful to the Russian authorities, and in particular the Central Election Commission (CEC), for their co-operation and assistance provided during the NAM.

II. EXECUTIVE SUMMARY

The election to the State Duma scheduled for 7 December will be an important indicator for the prospects of further democratic development in the Russian Federation. While President Putin's leadership appears to be viewed positively by the majority of the Russian electorate, confidence in other institutions essential for a healthy democratic process, such as political parties and an independent judiciary, appears to be low. Some segments of civil society are actively engaged in trying to support the process of democratic transition in the Russian Federation, but overall civil society is perceived to be weak and ineffectual. The constrained media environment has significantly limited access to independent sources of information, and the prospect for a critical lack of information available to voters is a real concern.

The legal framework for elections has been amended since the last election cycle and is generally consistent with OSCE commitments and international standards. ODIHR is pleased to note that several of its previous recommendations have been incorporated into the new legislation. However, the Copenhagen Document calls for no legal or administrative obstacle to stand in the way of unimpeded access to the media, and in this respect, new provisions that regulate the media are cause for distinct concern and will require continued monitoring. Interlocutors also expressed their concern regarding the potential for selective application of the legislative framework, particularly regarding candidate registration, campaign finance and media.

The pre-election environment in Russia appears to be polarized between those interests aligned with the presidential administration and those considered to be in opposition. Although the office of the presidency in the Russian Federation is required by law to be non-partisan, the significant powers vested in this office, in contrast to the slow development of other institutions necessary for the democratic process, has resulted in some political forces distinctly aligned with the presidential administration. Many interlocutors speak of Russian democracy as a “managed process”, with those parties and institutions identified closely with the federal and regional executive authorities purported to benefit from “administrative resources.”

The CEC is in the process of training district-level and territorial-level election commissions and recruiting and training polling officials. For a country with over 94,000 polling stations, this is an extensive process. The NAM received expressions of concern from civil society and political party representatives regarding the overall independence of the election administration, the increased influence that the CEC has over intermediate level commissions and the possible predominant influence of local authorities on lower level commissions.

The NAM recommends that a standard OSCE/ODIHR Election Observation Mission be deployed in early November. It further recommends the secondment from participating States of 60 long-term observers and 400 short-term observers to be deployed for the standard periods for an EOM.

III. FINDINGS

A. POLITICAL CONTEXT

Parties were required to submit their party lists to the CEC for consideration by 22 October, including the submission of either 200,000 signatures or a financial deposit of 37.5 million rubles. By 22 October, 13 parties and blocs had been registered and an additional eleven parties and blocs were awaiting the decision of the CEC, which should release the final list of parties and blocs on 2 November. Despite this plurality of contestants, most analysts agree that this is basically a two party contest between United Russia and the Communist Party of the Russian Federation (CPRF). In addition, the Liberal Democratic Party of Russia (LDPR), the Union of Rightist Forces (SPS) and Yabloko will be competing to try to ensure their parties' continued representation in the parliament by passing the five percent threshold.

The CEC has sought to “strengthen the role of political parties” by introducing provisions that will make it more difficult for parties that do not enter parliament to be competitive in future elections. Provisions for party registration now require offices in over half of the subjects of the Federation and a minimum of 10,000 members with at least 100 members in more than half the subjects of the Federation. Parties that receive three percent of the vote in the party list contest will have their electoral deposit returned and will receive federal funding at one ruble per vote per year. Parties that enter the State Duma in these elections will also be excused from the requirement to collect signatures and pay a deposit in subsequent federal elections. At the same time, parties that do not receive at least two percent of the vote in the party list contest will have to reimburse the state for the costs of allotted media time during the official media campaign period.

All interlocutors emphasized to the NAM the importance of the single mandate district (SMD) races for the next Duma. The SMD races are likely to determine the political balance and the final composition of the future Duma.

Many political party and civil society representatives emphasized the imbalance with regards to material, human and financial resources, with those parties aligned with the executive authorities expected to benefit from “administrative resources.” At the subject and lower administrative levels, it was predicted that such resources would benefit whichever political force was aligned with the local executive. Some interlocutors even spoke of the use of administrative resources to influence voters in a collective farm, village or factory. An often-cited example of administrative resources was the fact that approximately 30 governors and presidents of ethnic republics either head or are included on United Russia party lists. It was pointed out to the NAM that as these officials already hold prominent public office, they are unlikely to take seats in the Duma. While this is not a violation of the law, at a minimum it could be considered misleading to voters.

B. GOVERNMENT BODIES TO BE ELECTED

Under the Constitution, Russia has a bicameral federal parliament, the Federal Assembly. The Council of the Federation comprises two representatives of each of the 89 subjects of the Federation. The State Duma comprises 450 deputies elected for a term of four years. Of these, half are elected from 225 single mandate constituencies on a first-past-the-post basis, and half by party list in a single national constituency.

On 7 December elections will be held for all 450 deputies of the State Duma, in both party list and single mandate district contests. On the same date, other elections will be held simultaneously in some subjects and municipalities for governor, mayor or other office, mostly notably for mayor of Moscow. The OSCE/ODIHR Election Observation Mission will not follow these contests, except in the context of how they might affect the election to the State Duma.

C. LEGAL FRAMEWORK

As stated in previous ODIHR EOM reports, the legal framework for elections in the Russian Federation has generally improved with each successive election and has been found to be generally consistent with commonly recognized democratic principles and international commitments, including those in the Copenhagen Document. The general

parameters for the conduct of federal and other elections and the content of federal electoral legislation are provided in the Law on Basic Guarantees of Electoral Rights and of the Right to Participate in a Referendum ('the Basic Guarantees Law'), adopted in June 2002. This replaced an earlier law of the same name and, like its predecessor, provides framework legislation on the preparation and conduct of all state and municipal elections. The detailed regulation of specific elections are provided in separate federal laws and laws of the subjects of the Federation, all of which must comply with the Basic Guarantees Law.

Elections to the Duma are governed by the Law on Elections of Deputies of the State Duma of the Federal Assembly of the Russian Federation ('the Duma Election Law'). It is this Law which establishes the mixed majoritarian/party list system under which the 450 Duma deputies are elected. The present Duma Election Law was adopted in 2002 in order to implement the Basic Guarantees Law. In most key respects the new framework retains the provisions in force for the last parliamentary elections in 1999.

The Law on Political Parties was adopted in July 2001 and regulates the formation, structure, rights and obligations of political parties in Russia. A political party is defined as a social association created for the purpose of allowing Russian citizens to participate in political life, in elections and referendums, and to be represented in state and local government organs.

Interlocutors with whom the NAM spoke generally expressed support for the legal framework, with the notable exception of new provisions for media during elections. Many interlocutors expressed concern that prohibitive restrictions on the media could limit access to information for voters (see Media Section).

Some political party and civil society representatives expressed concern that some legal provisions might be selectively applied, including the media provisions, but also regarding violations of campaign finance regulations and criteria for denying candidate registration, particularly signature validation and disclosure of tax and property information. Some expressed a further lack of confidence in the implementation of the law, as they did not expect the adjudication of complaints to be conducted in a wholly independent manner.

D. ELECTION ADMINISTRATION

Elections to the State Duma are supervised by the Central Election Commission (CEC). The CEC is established as an independent body that acts on a permanent basis and serves for a term of four years. The CEC oversees a vast structure of election authorities; including 89 subject level commissions, 225 district level commissions, 2700 territorial level commissions and approximately 94,000 polling station level commissions. Currently the CEC is in the process of providing training to its almost one million personnel.

Several interlocutors with whom the NAM spoke expressed concern regarding the independence and "increased verticality" of the election administration. The CEC is made up of 15 members, five members are appointed by the presidential administration, five by the Council of the Federation and five by the State Duma. It was pointed out to

the NAM that in practical terms a majority of the members could appear to have some direct or indirect links to the presidential administration. The CEC nominates two members on subject level election commissions, including the chairman of each.

The *GAS Vybory* automated system is the main database for elections in the Russian Federation and connects the CEC with all 2700 territorial election commissions. *Vybory* contains the voter registry and will be used to tabulate votes from the territorial election commissions. CEC officials forecast that *Vybory* should make unofficial results at the polling station level available by Internet within 24 hours of the close of the polls. For these elections, scanning machines for vote tabulation purposes will also be set up in 500 polling stations in urban centers as a pilot project. While many interlocutors believed the *Vybory* system to be an important innovation, there was also some concern expressed regarding who has access to the system and at what stage of the process. Additional regulations have been promulgated by the Central Election Commission and may help to clarify this issue.

Regarding election day, interlocutors generally focused concern on certain regions and specific SMD races. Many political party and civil society representatives expressed considerable concern regarding possible irregularities in certain regions where historically irregularities have been reported. SMD races are also cause for special attention, particularly in close contests where it is alleged that administrative resources could be employed to tip the balance between contestants.

Another issue raised by some interlocutors was the change in the legislation that restricts the ability of citizens to vote outside of where they are permanent residents, as inscribed in their identity documents. In previous elections, only temporary residence in a constituency was necessary to vote there. Under the new legislation, citizens or their proxy must return to their place of permanent residence prior to the election to obtain an absentee ticket allowing them to vote in their place of temporary residence or return there themselves to vote on election day. In such a case, sufficient public information should be provided to guarantee voting rights. This is particularly true given the high number of people potentially affected by the provision, an estimated four million in Moscow alone, and the fact that certain segments of the population – the young, mobile and displaced – could be disproportionately affected.

E. MEDIA

Concerns regarding the independence and regulation of the media were consistently raised in meetings with the NAM. Many interlocutors pointed to the closure in June of “TVS,” considered to be the last independent nationwide television station, as a sign that access to independent sources of information has been further restricted. New provisions regulating coverage by the media during election periods, also passed in June, were almost universally criticized by interlocutors as vague, confusing and open to selective interpretation by the authorities. When set against the broader context of the media environment in the Russian Federation, where intimidation and harassment against journalists and media outlets are reportedly regular and widespread occurrences, the seriousness of this issue is further compounded.

The new media provisions were passed with the declared intent to restrict the negative campaigning and “black PR” programs of the previous election cycle. Indeed the ODIHR heavily criticized this “media war” in its previous EOM final reports and called on the CEC and other authorities to strengthen their enforcement mechanisms in this regard. Some government officials and others pointed to the lack of a negative campaign as evidence that these provisions have been successful.

The new provisions differentiate between “campaigning” and “information” and forbid “campaigning” in the media during the election period. Media have the right to “inform” citizens about the electoral process as long as it is unbiased and provides equal access to all parties. Journalists and party representatives expressed concern that these terms remain undefined and that such vague provisions could be used arbitrarily to close certain media outlets or punish certain parties or candidates, particularly at the regional level. Many felt that the vagueness of these provisions would result in some degree of self-censorship, and would therefore restrict analysis of the campaign or information made available about political competitors. These constraints on the media could leave the Russian electorate with a critical lack of information necessary to make an informed decision in the voting booth on 7 December. Furthermore, party representatives expressed concern that they would be unable to communicate their message to the voters under these circumstances.

On 13 October, the Constitutional Court began hearings to consider whether certain provisions of the new media regulations are constitutional. This case was brought by several parties, including over 150 deputies of the State Duma. It has been estimated that the court will take three weeks to rule on the case.

F. INTERNATIONAL AND DOMESTIC OBSERVERS

All interlocutors welcomed the prospect of an ODIHR Election Observation Mission to the 7 December State Duma elections.

The OSCE Parliamentary Assembly has also been invited to observe, and plans to send short-term observers. Mr. Bruce George was appointed on 30 September by the Chairman in Office as Special Coordinator to lead the Short Term OSCE Election Observation Mission in the Russian Federation. It is also anticipated that the Parliamentary Assembly of the Council of Europe will send a delegation to observe the State Duma election.

The law provides access for both international and domestic observers. Additional regulations have been issued regarding procedures for international observers. The law authorizes observers from political parties, candidates and “all-Russia public associations,” as well as journalists and international observers. The role and responsibilities of observers are clearly defined by law.

Several domestic civic organizations plan to observe the State Duma elections. However, while local and regional public associations were permitted by the previous State Duma law to observe elections, new requirements call for such associations to be “all-Russia public associations”, with an organizational network in at least half of the subjects of the Russian Federation. This has seriously hindered some organizations, that cannot comply with the all-Russia status, from carrying out their activities. In some cases such groups

have sought other ways to legalize their observer status, through becoming non-voting members of election commissions or receiving media accreditation.

Political parties also plan to train and deploy observers, in addition to naming non-voting members to election commissions.

IV. CONCLUSIONS AND RECOMMENDATIONS

The NAM recommends that an Election Observation Mission be established according to the standard OSCE/ODIHR observation methodology and in line with its mandate. The NAM further recommends that the ODIHR request the OSCE participating States to second 60 long-term observers to follow the campaign and election preparations, and 400 short-term observers for the observation of election day proceedings.

ANNEX

List of Meetings

Moscow

8-10 October, 2003

RUSSIAN AUTHORITIES

Central Election Commission

Mr. Alexander VESHNYAKOV, Chairman

Mr. Andrei DAVIDOV, Director, International Affairs Department

Ministry of Foreign Affairs

Dr. Anwar AZIMOV, Deputy Director, Department of European Cooperation

Mr. Leonid GOLUBEV, Deputy Head of Department

State Duma of the Russian Federation

Mr. Gennady SELEZNYOV, Speaker of the Duma

POLITICAL PARTIES

Communist Party of the Russian Federation Faction

Mr. Ivan MELNIKOV, Deputy Head of Faction

Fatherland/United Russia

Mr. Konstantin KOSACHEV, Deputy Head of Faction

Yabloko Faction

Mr. Vladimir LUKIN, Deputy Head of Faction

Union of Rightist Forces Faction

Mr. Alexander BARANNIKOV, Member of the State Duma

Unity/United Russia Faction

Mr. Oleh KOVALOV, Deputy Head of Faction

People's Deputy Faction

Mr. Anatoly AKSAKOV, Deputy Head of Faction

Liberal Democratic Party of Russia

Mr. Vladimir ZHIRINOVSKY, Head of LDPR Faction

MEDIA

Union of Journalists and other media representatives

CIVIL SOCIETY

Moscow Helsinki Group

Ms. Tanya LOKSHINA, Executive Director

Voice Association

Ms. Jule BRYGALINA, Project Manager

Carnegie Moscow Center

Dr. Andrew KUCHINS, Director

Dr. Nikolai PETROV

Dr. Henry HALE

Center for Political Technologies

Dr. Boris MAKARENKO

VCIOM-ANALITIC

Dr. Yurii LEVADA

Ms. Ludmila KHAKHULINA

INTERNATIONAL COMMUNITY

Embassies of OSCE participating States