

Russian Federation State Duma Elections 7 December 2003

INTERNATIONAL ELECTION OBSERVATION MISSION

Statement of Preliminary Findings and Conclusions

Moscow, 8 December 2003 – The International Election Observation Mission (IEOM) for the 7 December 2003 State Duma elections in the Russian Federation is a joint effort of the Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR), the Organization for Security and Co-operation in Europe's Parliamentary Assembly (OSCE PA) and the Parliamentary Assembly of the Council of Europe (PACE).

PRELIMINARY CONCLUSIONS

The 7 December 2003 State Duma elections were the first to be held since the March 2000 election of Vladimir Putin as President. On the technical level, the Central Election Commission (CEC) should be credited for its high level of professionalism in the organization of these elections, which were generally conducted in a calm and peaceful manner.

However, the State Duma elections failed to meet many OSCE and Council of Europe commitments for democratic elections. In addition, important safeguards in domestic legislation were not enforced by the Russian authorities. This is a worrisome development that calls into question Russia's fundamental willingness to meet European and international standards for democratic elections.

Despite serious shortcomings in the election process, the following positive aspects should be recognized:

- A comprehensive legal framework has been created that provides the potential for genuine democratic elections, although it is unduly complex;
- The Central Election Commission functioned in an efficient and open manner;
- The 30 October decision of the Constitutional Court lifted the most restrictive provisions on campaign media;
- Televised debates provided a forum for an exchange of views, although non-participation by United Russia reduced their value to the electorate.

Regional variations have produced a mixed picture of the electoral environment. The blatant fraud that occurred in Bashkortostan and irregularities seen in some other national republics and in certain regions, particularly in Siberia and the far East, are not to be considered typical of the country as a whole.

However, the extensive use of the state apparatus and media favouritism to the benefit of United Russia did create an unfair environment on a country-wide basis for other parties and candidates contesting these elections. This undermines the fundamental principle that parties and candidates should be able to compete with each other on the basis of equal treatment. In turn, this has contributed to a sense of disillusionment among Russian voters, as indicated by the relatively low country-wide turnout.

Since the 1999 State Duma elections, the increased concentration of executive power at the central levels of government has contributed to an electoral environment in which there is less possibility for equal competition:

- The advantage of incumbency has been overwhelmingly distorted by the inclusion of 29 federal subject heads in the pro-presidential United Russia candidates' lists, which is highly misleading to voters as these senior officials are unlikely to abandon high public office to take up a seat in the Duma;
- The high level of activity of local public officials in support of United Russia's campaign, in addition to the reportedly extensive use of administrative resources (state infrastructure and personnel on the public payroll) on behalf of United Russia, blurs the distinction between state administration and political party structures, in contravention of paragraph 5.4 of the 1990 Copenhagen Document;
- State funded television broadcasters failed to comply with their legal obligation under Russian law to provide balanced and unbiased reporting on candidates and political parties, which also violates paragraph 7.8 of the Copenhagen Document that provides for unimpeded access to the media on a non-discriminatory basis;
- There has been considerable pressure exerted on media outlets, especially in the regions, not to provide voters with a wider range of opinion;
- Some courts and election commissions have applied the law selectively to the disadvantage of opposition candidates, in contravention of paragraph 7.6 of the Copenhagen Document;
- There were instances of police obstruction to campaigning and pressure on voters including intimidation.

Beyond the issue of equal competition, the following matters also raise concern:

- Xenophobic, racist and extreme nationalist statements have featured in the campaigns of some parties and candidates, notably the Liberal Democratic Party of Russia (LDPR);
- The participation of women as candidates in the State Duma election process is in decline;
- The potential role of domestic non-partisan observers was not sufficiently recognized;
- Allocation of votes from Russians living abroad to single mandate district contests has a real potential for distorting the final result in certain single mandate constituencies.

On election day, the conduct of voting in most polling stations was positively assessed by international observers, although significant irregularities were noted. By permitting open and group voting, polling station election officials did not enforce the legal requirement for secret voting, and in the process breached paragraph 7.4 of the OSCE Copenhagen Commitments. Despite overcrowding in many polling stations, election day proceeded in a calm and orderly manner, although with a relatively low country-wide turnout. During the counting of votes, observers generally noted more problems than during the voting procedures.

The final assessment of these elections will depend, in part, on the completion of counting and tabulation, the announcement of preliminary and final results and the complaints and appeals process.

This preliminary statement will be followed by a final report, issued approximately one month after the elections. The OSCE and the Council of Europe stand ready to assist the authorities and civil society of the Russian Federation in continuing to improve its electoral process.

PRELIMINARY FINDINGS

Background

The 7 December 2003 State Duma elections were the fourth national parliamentary elections to be held in the Russian Federation since the dissolution of the Soviet Union. Coming only three months before the next presidential election, they are considered to be an important indicator of the course of democratic development during the Presidency of Vladimir Putin.

In general, the increased consolidation of state power in the center has created an atmosphere of stability and predictability, and President Putin's popularity ratings remain high. However, confidence in other institutions essential for a healthy democratic system, such as political parties, the parliament and the media, remains low.

Legislative Framework

These elections were conducted under a number of highly detailed laws, primarily the Duma Election Law (DEL) and the Basic Guarantees of Electoral Rights Law, both of which were adopted in 2002. In most respects, the legal framework complies with OSCE commitments and other international standards relating to democratic elections; however the length and complexity of the legislation makes the law all but impenetrable for ordinary citizens.

The DEL incorporates important safeguards to protect against fraud and promote transparency. In particular, plurality of political representation in election administration is provided for by allowing electoral participants to appoint voting and non-voting members of electoral commissions. Parties, blocs and candidates are also permitted to observe the work of electoral commissions through the appointment of proxies and agents. International observers enjoy a broad range of rights to observe the vote and the count. Clear procedures allow decisions of electoral commissions to be appealed to a higher commission or to a court. The range of election-related administrative violations and criminal offences has been extended and some penalties have been increased to reflect the seriousness of the violations concerned.

However, a number of features of the election legislation give rise to concern. In particular, the DEL fails to make a distinction between serious and minor violations as a basis for refusing or cancelling registration of a candidate. Amendments introduced since the last Duma elections have meant that political parties are required to have a federation-wide presence (i.e. branches in at least half the 89 federal subjects), thus inhibiting the development of local and regional political parties. The law makes insufficient provision to recognize the potentially positive contribution of non-partisan observers.

Election Administration

There is a vast structure of election administration in the Russian Federation and, despite the logistical and geographic challenges, the CEC ensured that all levels of election commissions were well prepared and coordinated for election day. The CEC functioned in an efficient, professional and generally transparent manner. Its decisions were generally fair and adopted after open debate and examination of the issues. However, the CEC was not always consistent in its pursuit of apparent violations, especially in regard to complaints about the media.

In their composition, the lower level commissions were closely tied to the local administration. There was also an imbalance in the representation of political interests on subject and territorial election commissions (SECs and TECs) that tended to favour United Russia. There are unclear and

inconsistent procedures for determining the membership of district and precinct election commissions (DECs and PECs). The IEOM observers witnessed a number of examples of election commissions displaying partisan symbols inside their offices.

The CEC has announced that its automated tabulation system known as *GAS Vybori* will be able to provide results at the precinct level available on the Internet 24 hours after the close of the polls. Although the timing of this preliminary statement precludes an assessment of this process, the publication of results at the precinct level would enhance the transparency of the tabulation process by permitting a crosscheck on the results tabulated at polling station level.

The allocation of out-of-country votes to single-mandate constituencies has stirred controversy. The manner in which votes cast overseas are allocated to single mandate district contests lacks transparency and has the potential to distort the results of the elections. For example, four days before the election the CEC decided to send extra ballot papers for about 20,000 voters in Abkhazia, Georgia. Such a large increase in the number of voters could give the voters in Georgia a disproportionate influence on the outcome of the single mandate contest, in this case in DEC 107 (Kolomenskiy).

Election Campaign

The political landscape has altered significantly since the previous State Duma elections in 1999. The creation of the pro-presidential United Russia party in 2001 was the result of a merger of Unity and Fatherland-All Russia, which had been rival political blocs at the last elections. At least three other pro-presidential political parties or blocs have emerged led by high-profile politicians. Well over half the political parties taking part in the elections had not participated in previous State Duma elections.

A total of 18 political parties and five blocs had been registered to contest the national proportional elections. All but one of these also fielded candidates in some of the 225 single-mandate constituencies, as did nine parties not contesting the proportional elections, albeit no party attempted to cover all single-mandate contests. There were electoral deals between some parties not to run against each other in certain constituencies. Around one third of registered single-mandate candidates were self-nominated.

There was no uniform pattern to the issues noted during the long-term observation of the pre-election campaign throughout the Russian Federation – inevitable in a country of such scale and diversity. In addition to bias in the media (see below), the main problems observed were unequal treatment of certain parties and candidates at the hands of the state administration. These problems were seen in many parts of the country, although their extent and seriousness varied.

The most widespread complaints concern the use of administrative resources by the state apparatus on behalf of United Russia candidates. Advantages of incumbency are universally recognized, but this has been a dominant issue in the context of these elections. Abuses of executive authority seriously jeopardize the integrity of a democratic election system.

The active promotion of certain parties and candidates by senior officials, including the heads of some of the federal subjects, 29 of whom were themselves candidates on the United Russia proportional list, was of notable concern. In addition, some of the subject heads and other officials were observed to be in breach of the requirement to suspend their official functions while they were running as candidates. The IEOM observed that some of these officials continued to appear in public acting in their official capacity, for example opening hospitals.

In a number of areas, the United Russia campaign headquarters was co-located with a state or government administrative office. In some locations, the IEOM was told that office equipment and services were supplied by the local government to the United Russia campaign.

The IEOM observed other ways in which some parties and candidates experienced unfair conditions for campaigning. There were consistent complaints from several parts of the country that candidates were prevented from obtaining suitable spaces for meetings and rallies, or were denied equal conditions to hold campaign meetings directed at employees in public institutions. There were at least two instances where parties or candidates were refused the use of public advertising space they had contracted for. In a small number of observed cases the unfair conditions faced by candidates extended to pressure and intimidation. Police detained candidates' campaign workers in Moscow Region, Volgograd, Vladivostok and Bashkortostan, where they also impounded campaign materials.

There were also reports of pressure on voters. For example, oil refinery workers in Bashkortostan claimed that they were forced to apply for absentee ballots under threat of job loss and would be bussed to vote *en masse* on election day, which did in fact take place. In an analogous situation in Saratov, the Communist Party of the Russian Federation (CPRF) has complained to the Procuracy that hospital workers were forced to request absentee ballots by the chief doctor. Similar allegations of public employees coming under pressure from their superiors were heard from Rostov-na-Donu and Komsomolsk-na-Amure.

Criticism of business oligarchs featured strongly in the campaign period, the principal impact on the pre-election environment of the 25 October arrest of business tycoon Mikhail Khodorkovskiy. Allegations levelled by one party against another, or in the mass media, became focused on links to oligarchs or to improper business conduct of party candidates or their supporters, with the CPRF in particular coming under sustained attack. At a more localized level, the IEOM observed numerous examples of negative campaigning or "black PR" being deployed against candidates and parties.

The pre-election campaign was characterized by a generally low level of public interest. In those locations where elections for regional and local leaders were also taking place, these contests appeared to get more attention from voters, reflecting a stronger interest in local issues. The visibility of the campaign increased markedly in the final days in almost all areas observed by the IEOM, including efforts by the election authorities to inform and motivate voters to participate.

The campaign environment in Bashkortostan was characterized by a particularly high degree of violations, partially due to the impact of the sharply contested Bashkortostan presidential race. The Procuracy is investigating the discovery of tens of thousands of apparently forged ballot papers, which were discovered partially destroyed days before the elections in Bashkortostan.

Media

While Russia has a pluralistic media environment, including State and private broadcasting, as well as a diverse range of print media, there is widespread concern over media independence. Following the closures of two independent nationwide broadcasters in the last two years, the number of media outlets able or willing to offer critical and objective reporting has been sharply reduced.

The October 2003 decision of the Constitutional Court provided valuable clarification of the law by limiting the most restrictive legal provisions on media activities. These provisions, passed in July 2002 with the declared intent to restrict negative campaigning, were criticized as vague and open to selective interpretation by the authorities. Many journalists refrained from covering activities of political parties or blocs to avoid penalties on them or their organizations. While the Court's decision largely clarified this issue, the provisions already had had a negative effect and together with the closure of independent televisions as well as credibly reported intimidation especially in the regions, cast a shadow over the media atmosphere and led some journalists and broadcasters to exercise self-censorship.

In September 2003, the CEC established a special media working group to assist in overseeing compliance with the rules on allocation of free time, publication of opinion polls and illegal campaigning. The working group was composed of CEC members, the Deputy Minister of Press and

Broadcasting, journalists from various media outlets and members of media organizations. The working group considered 20 media-related complaints.

Most media monitored by the IEOM did not provide impartial and fair coverage of the campaign.¹ The bulk of the media coverage was devoted to reports on the activities of President Putin. In their coverage of the election campaign, the State-owned TV channels exhibited clear bias in favor of United Russia and against the Communist Party of the Russian Federation (CPRF). In response to the complaints on this point, the CEC working group examined the coverage by two nationwide state TV channels and identified the “systematic and deliberate” distribution of neutral or positive coverage of United Russia and predominantly negative coverage of the CPRF. Where media organizations were considered to have breached the rules on equal treatment of electoral participants, the CEC had the power to apply to a court for that media organization to be fined. Yet, instead of seeking to implement this procedure, the CEC Chairman sent a warning letter to two nationwide State-owned channels. There was no subsequent change in the tone of coverage, nor did it appear that this apparent violation of the election law was pursued. The Ministry of Press and Broadcasting also refused to intervene, claiming concerns about interference in the editorial policies of the channels.

The State-funded TV channels monitored by the IEOM complied with legal provisions on allocation of free time for all contestants. Outside of the free time, however, the State-funded broadcasters openly promoted United Russia. In the four weeks preceding the election, the State-funded *First Channel* provided 19% of its political and election news coverage to United Russia, all positive or neutral. In the same period, the CPRF received 13% of mostly negative coverage. The other two State-owned TV Channels adopted a similar approach. They also produced a number of prime time news items discrediting the CPRF. By contrast, the nationwide private broadcasters monitored by the IEOM – *NTV* and *Ren TV* – provided a more balanced coverage with a greater diversity of views. In a positive development, regular cross-party debates on both private and State-funded television took place, albeit without the presence of United Russia representatives.

The print media provided a plurality of views but mainly supported specific political parties or blocs. As such, voters could form an objective view of the campaign only if they read several publications. A State-funded newspaper, *Rossiskaya Gazeta*, provided overwhelmingly positive or neutral support to United Russia. In contrast, a private newspaper, *Novaya Gazeta*, was clearly against United Russia and provided a more balanced coverage of the CPRF.

Regional State controlled and private broadcasters were biased in their news programs. Out of twenty-four regional media outlets monitored by the IEOM, nineteen gave clear support to United Russia. In Irkutsk for instance, the State-funded TV *RTR* allocated half of its prime time news coverage to United Russia, with an overwhelmingly positive tone.

The media situation in the regions varied significantly from more liberal to a very restrictive environment. In several regions, the IEOM received reports on a number of instances where local administration imposed various obstacles to the expression of independent views. For instance, in Bashkortostan, some broadcasters alleged political pressure because they offered independent reporting of the campaign. The privately-owned radio station *Bulgar* reported to be a subject of unwarranted inspections by the local authorities especially after increasing its outreach by using a new antenna. On 10 November, unidentified individuals broke into the radio’s premises and cut down its antenna.

¹ The IEOM monitored five television stations and seven newspapers, using qualitative and quantitative analysis, from 7 November through 5 December: State-controlled First Channel, Russia TV and TV Center; two private channels NTV and Ren TV; newspapers *Kommersant*, *Moskovskij Komsomolec*, *Komsomolskaja Pravda*, *Novaya Gazeta* and *Argumenty i Fakty*.

The IEOM received credible reports that some media outlets in the regions increased the cost for paid political advertising at least two times higher than comparable rates for commercial advertising, limiting candidates and political parties' possibilities to campaign in the media.

Pre-election Complaints and Appeals

There were relatively few complaints and appeals submitted to electoral commissions and courts during the campaign period, as compared to the number of complaints not pursued through formal channels. Complaints against electoral commission decisions and appeals to the courts were generally handled promptly.

Most complaints related to non-registration as a candidate or to de-registration. The CEC ruled on 24 appeals against a DEC refusal to register a candidate, over half of which were resolved in the candidate's favor. The fact that several of the original non-registrations were concentrated in certain DEC's indicated that the workings of electoral authorities in specific locations such as Bashkortostan and Omsk were problematic. In ruling against the registration of candidate Yuriy Skuratov (DEC 9), the CEC endorsed an excessively rigid position that suggested an inconsistent and selective application of the registration rules.

The last days of the campaign saw a flurry of final appeals, many concerning de-registration. The IEOM was concerned about the outcomes of some of these cases. Notably, the 28 November ruling by the Supreme Court to uphold a lower court's de-registration of candidate Andrey Klementev (DEC 120) was taken despite clear indications that some of the candidate's procedural rights had been breached by the lower court. In other cases, such as the Supreme Court's removal of Nikolay Lugovsky from the CPRF proportional list at the initiative of the Central Election Commission, de-registration appeared to be an overly-harsh response to his having declared a job he no longer held. A similarly disproportionate approach was adopted in the de-registration of Alexander Rutskoi in DEC 97. In the case of Anatoliy Bykov, a candidate in DEC 47, his registration was refused on manifestly trivial grounds. Some candidates also seemed to be acting in bad faith by initiating de-registration proceedings as a way to remove rivals from the ballot.

Participation of Women in the Electoral Process

Overall, the participation of women in federal level politics continues to decline. In the current races, only 12-15% of the candidates are women, and many of these are in parties which were unlikely to break the 5% barrier and enter the Duma. Parties likely to win seats often have placed their women candidates too low on the list for there to be any likelihood of their being elected. Women activists report that there is strong resistance to women candidates, or even to devoting much attention in party programs to issues of concern to women.

Women are better represented in local government, and some subject councils have a majority of women members. Women are deeply involved in election administration, including as chairs and secretaries of election commissions, particularly at the lower levels.

Issues Related to Minorities

Issues relating to the treatment of and relations between the Russian Federation's national groups were largely absent from the election. However, chauvinistic positions asserting the interests of ethnic Russians and denigrating other nationalities were heard from some parties, particularly the Liberal Democratic Party of Russia (LDPR). More prevalent was the use of xenophobic statements accusing immigrants, particularly those from other countries of the former Soviet Union, of being responsible for criminality. Notable examples again included statements on national television by LDPR leader Vladimir Zhirinovskiy, and some "black PR" materials against candidates had a racist character. A leaflet for a single-mandate campaign of a senior figure in the New Course - Automotive Russia bloc

containing an overtly xenophobic statement nature was withdrawn following a reprimand from the election authorities.

Domestic Observers

The rights of political party observers to monitor the election process are well protected by the election laws both in the pre-election period and in the voting and counting periods. In contrast, domestic non-partisan observers have no right to observe the activities of the election commissions in the pre-election period, although in practice they might be permitted to do so. On election day, domestic non-partisan observers were present in approximately one in four polling stations.

Election Day -Voting, Counting and Tabulation

There was a positive assessment of voting in 95% of polling stations visited. However, there were reports of significant problems relating to the secrecy of the vote, with open voting in 30% and group voting in 31% of polling stations. In a number of instances, polling station officials and party observers were seen to be actively encouraging persons to vote outside of polling booths.

In general, however, the conduct of voting mostly followed the established procedures. Despite the relatively low countrywide turnout, overcrowding was observed in many polling stations in urban areas, although polling itself was generally orderly. IEOM observers noted unauthorised persons inside 14% of polling stations visited, with police officers present inside 65%. There were isolated cases of unauthorised persons being seen to direct the work of election commissions, although intimidation of voters was observed in around 3% of polling stations. IEOM observers assessed that there were more problems during the counting of the votes than the voting procedures, especially in relation to the reconciliation of results and the completion of protocols. The IEOM is continuing to follow closely the tabulation and publication of preliminary results.

*This statement also is available in Russian.
However, the English text remains the only official version.*

MISSION INFORMATION & ACKNOWLEDGMENTS

Professor Rita Süßmuth (Germany) is Head of the long-term OSCE/ODIHR Election Observation Mission. Mr. Bruce George MP (UK) was appointed by the OSCE Chairman in Office as a Special Coordinator for the OSCE short-term observation. Mr. David Atkinson MP (UK) leads the PACE delegation.

The IEOM issues this statement before the final certification of the election results and before a complete analysis of the IEOM observation findings. The OSCE/ODIHR and PACE will issue a comprehensive report shortly after the completion of the electoral process.

This statement is based on the election preparations and campaign observations of 18 election experts of the OSCE/ODIHR EOM stationed in Moscow and 38 long-term observers deployed in 17 regions for three weeks prior to election day. The statement also incorporates the election day findings of 515 short-term observers, including 88 from the OSCE PA and 28 from PACE, reporting from some 2,500 polling stations out of a total of 95,000 country-wide.

The IEOM wishes to express appreciation to the Ministry of Foreign Affairs, the Central Election Commission, and other authorities of the Russian Federation for their cooperation and assistance during the course of the observation.

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