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## RUSSIAN FEDERATION

Elections to the State Duma  
19 December 1999

FINAL REPORT



Warsaw  
13 February 2000



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# **RUSSIAN FEDERATION**

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## **OSCE/ODIHR FINAL REPORT**

### **I. INTRODUCTION**

The Organization for Security and Cooperation in Europe (OSCE) Office for Democratic Institutions (ODIHR) deployed an Election Observation Mission (EOM) to the Russian Federation for the State Duma elections of 19 December 1999. The EOM started its effort in early November from a central office in Moscow and 12 regional offices throughout the Federation. The EOM included 29 long-term observers and core staff.

Shortly before election day, the OSCE/ODIHR joined with three parliamentary organizations in the International Election Observation Mission (IEOM), including the OSCE Parliamentary Assembly, the Council of Europe Parliamentary Assembly, and the European Parliament. On election day, the IEOM deployed throughout the country some 430 short-term observers from the OSCE participating States and the parliamentary assemblies. They visited approximately 2,300 polling stations in 30 of the 88 Subjects in which elections were held, and 100 of the 224 election Districts. In addition, the IEOM observed the out-of-country voting at the Embassy of the Russian Federation in Warsaw.

On 19 December, in many regions of the country voters cast ballots for both Duma and local elections, and in many cases individual candidates ran simultaneously for a seat in the Duma and for local office. As such, elements of the process and areas of concern overlapped. Nonetheless, preparations and polling for the Duma elections remained the primary focus of the observers.

Ms. Helle Degn, Special Representative of the OSCE Chairman-in-Office for the State Duma election and President of the OSCE Parliamentary Assembly, led the OSCE Election Observation Mission. Ambassador Edouard Brunner was the Head of the OSCE/ODIHR long-term EOM and Ms. Linda Edgworth the Senior Deputy Head of the EOM. Mr. Ernst Muehleemann lead the Council of Europe Parliamentary Assembly delegation. Ms. Constanze Krehl led the European Parliament ad hoc delegation.

The OSCE/ODIHR EOM wishes to express appreciation to the Presidential Administration, the Ministry of Foreign Affairs, the State Duma, the Central Election Commission, and the Warsaw Embassy as well as the Permanent Mission to the OSCE in Vienna of the Russian Federation and the Royal Norwegian Embassy in Moscow for their assistance and cooperation during the course of the observation.

### **II. EXECUTIVE SUMMARY**

The 1999 elections of Deputies to the State Duma of the Russian Federation represented a benchmark in the Federation's advancement toward representative democracy. These elections, which were the third conducted since the end of single-party rule, marked the conclusion of a transitional period forged by President Yeltsin since 1991. In addition, these elections were broadly acknowledged as a "testing ground" for the presidential elections scheduled in the spring of 2000.

In general, and in spite of episodic challenges that could have undermined the general integrity of the process as a whole, the State Duma elections marked significant progress in consolidating representative democracy in the Russian Federation. They reflected a political environment in which voters had a broad spectrum of political forces from which to choose. A solid turnout demonstrated a respectable level of public confidence in the process, and the final result showed a significant increase in the representative share of overall voter support actually included in the State Duma.

The electoral laws governing the process had improved significantly with each successive election and were found to be consistent with commonly recognized democratic principles, including those formulated in the OSCE Copenhagen Document of 1990. This legal framework provided a sound basis for the conduct of orderly, pluralistic and accountable elections.

The law provides the framework for parties and blocs to enter the political arena on an equal basis and provides a foundation for maintaining a level playing field for political participants. In particular, the law provided a basis for equal access to free media time for all participants, and instituted rigid parameters for enforcing accountability measures and controlling the use of campaign funds.

The political campaigns were competitive and pluralistic with 26 parties and blocs ultimately competing on the federal list and 3 to 24 candidates appearing on ballots for the single-mandate constituency races.

A sophisticated election system was enhanced by a significant increase in the level of transparency afforded to political participants in all phases of the process. Political parties, blocs and independent candidates had generous access and opportunity to monitor the process through non-voting representatives on all election commissions and observers at all polling stations. In fact, at least some party, bloc and candidate observers were on hand at over 98% of the polling stations visited by international observers on election day.

The Central Election Commission performed effectively as an independent professional body that endeavored to fully implement the electoral legislation on an equal and unbiased basis. The competence and expertise of election administrators to carry out well organized and accountable elections are firmly institutionalized.

Polling station commissions demonstrated a notable commitment to carrying out their duties in compliance with the law and procedural requirements. Almost universally, the reports of short-term observers across the country commended the work carried out by polling station commissions. Although complex and time-consuming, procedures instituted by the Central Election Commission for documenting, polling and counting activities provided a solid basis for transparency, accountability and accuracy that fully met accepted international standards.

Over the course of the long-term EOM, several key issues drew the attention of observers as their potential influence on the election and its ultimate outcome became evident.

- Having been elected rather than appointed, the new “political muscle” of governors and regional leaders became a key factor in the Duma races. Local agendas and maintenance of their local support bases could not be ignored. More importantly, however, these

factors combined with the need to also maintain solid relations with the ultimate “party-in-power” that would emerge during what proved to be a volatile and dynamic campaign. These circumstances resulted in backdoor negotiating, the formulation of regional alliances, and fluid pledges of support.

- Among a variety of interlocutors, concern was expressed that, in the heat of a political competition, executive authorities at both central and regional levels would interfere in the electoral process to support favored parties and candidates. There was also concern that, especially at the local level in some regions, the independence of election commissions was not fully respected by local executive authorities. Of major concern was the potential for undue influences to be manifested through inconsistent application of laws and regulations, particularly during the registration of candidates. In the most egregious cases, concerns were raised in a few regions about incidents perceived to be manifestations of purposeful intimidation and harassment of opposition candidates and parties, and fears about manipulation in the reporting of results.
- The rapid acquisition of independent media as well as major stakes in state controlled media by a few powerful individuals with considerable political influence not only had a significant impact on the media environment but ultimately exerted important influence over the electorate itself. In spite of efforts of the Central Election Commission to curtail such influences through legal means, much of the campaign rhetoric that forged public opinion was generated by the media itself rather than by the parties and candidates actually competing in the elections. The political media war that emerged, especially among the most influential television stations, consistently reflected the political biases and alliances of the financial groups controlling them.
- Although the conflict in Chechnya did not emerge overtly as a contentious campaign issue, it provided the political backdrop for the election, and was probably the most significant issue that bolstered the prominence of the newly formed pro-Kremlin bloc.
- The division between official functions of incumbents and their governmental offices and campaign activities were often blurred. The obvious advantages of incumbency are universally recognized. However, evidence suggests that in some instances officials combined political and official functions in violation of law, and that government forces were willing to exert undue influence to denigrate opponents and manipulate the political landscape to their own advantage or to the advantage of pro-government blocs and candidates.
- A theme that emerged as a driving force in formulating certain elements of the electoral system was concern for the potential intrusion of financing and political influence by criminal structures. Enforcement of financial disclosure and campaign finance regulations became a valuable tool for expunging candidates thought to be associated with such elements, who were poised to gain immunity through their candidacy, and legitimacy through their potential election to the State Duma. However, under the law, sanctions for any financial irregularity or infraction involve no less than rejection or annulment of registration, or removal of a mandate. Although these provisions seem to have been based on good intentions, the concern remains that they are vulnerable to arbitrary and inconsistent application.

These issues clearly reflected the general complexity of the election environment in the Russian Federation. More significantly, where they became problematic, they were symptomatic of an established democracy incomplete in its transition. Given the rapidity with which the Russian Federation has emerged from its Soviet past, the problems encountered are not totally surprising. However, where lingering weaknesses were exposed, they will deserve continuing attention if the country is to continue on its democratic path, especially with the presidential elections looming imminently on the horizon.

### **III. LEGISLATIVE FRAMEWORK FOR ELECTIONS**

#### **A. Two Chambers of Parliament**

Russia consists of 89 regional entities or "Subjects" of the Federation. Among them are Oblasts (regions), national Republics, two federal cities (Moscow and St. Petersburg) and Krai (territories). The Constitution was ratified by referendum on 12 December 1993.

The Parliament of the Russian Federation, the Federal Assembly, is divided into two chambers: the upper Federation Council and the lower State Duma. The two houses meet separately, but may hold joint closed meetings in specific cases stipulated by the Constitution. The Federation Council was created to represent Russia's regions and has 178 deputies, two from each of Russia's 89 Subjects. One of the members is the locally elected executive head. The other is the head of the regional legislature, elected by regional deputies.

The State Duma consists of 450 members, elected through two types of mandates: a party-list vote, whereby 225 seats are divided among those parties that clear a 5 percent vote barrier; and 225 seats distributed through single-member constituencies on a first-past-the-post basis. During the 19 December 1999 elections, only 224 seats were distributed in single-member races, as elections in the Chechnya District were suspended.

#### **B. Election Law**

A complement of legislation governs elections in the Russian Federation. Foundation principles on which elections and citizens' electoral rights are enshrined in the Constitution and clarified in the Law on Basic Guarantees of Electoral Rights and the Rights of Citizens of the Russian Federation to Participate in a Referendum (Basic Guarantees). Initially this law was intended to underpin the standards and principles that would govern all elections. As it was enacted in 1994, the Basic Guarantees law also set forth relatively specific procedural principles on which subsequent election laws were to be based. However, as it is currently formulated, it also incorporates legislative provisions outlining the procedures for the conduct of referendum. The mixing of provisions which are supposed to prevail in all electoral contexts with provisions that relate specifically to a single type of election tends to dilute the original intention envisioned in the Basic Guarantees law.

According to the Constitution, certain laws called "constitutional laws", which can only be passed with super majorities in both the upper and lower chambers, have superiority over other federal laws.<sup>1</sup> Although it is not a "constitutional law" and did not gain passage by a 3/4 majority in the Federation Council and a 2/3 majority vote in the State Duma, the Basic Guarantees law stipulates that, if another federal law should conflict with its principles, its

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<sup>1</sup> Article 108, Constitution of the Russian Federation, Ratified by Referendum, 12 December 1993.

provisions were to prevail. It is not clear how this stipulation would stand up if legally challenged in the face of contradictory federal laws bearing the same rank, or if a “constitutional law” were ultimately passed that dealt with similar issues in a different way.

### **C. Law on the Election of Deputies to the State Duma**

A new law on the election of Deputies to the State Duma was approved in June of 1999. Consistency with the Basic Guarantees law was achieved mostly through a repetition of the same text in both laws. Not only does this formulation result in redundancy, but there is the risk that future amendments to one may not be repeated in the other, creating confusion and legal loopholes.

Nonetheless, the Basic Guarantees law succeeds in providing a fundamental “bill of electoral rights” to govern all levels of elections. Notwithstanding its tenuous status as a “prevailing” law, in view of the authorities of Subjects to enact their own local election laws, it has merit as far as ensuring that basic principles are adhered to regardless of nuances of local electoral legislation that may differ from Subject to Subject.

The Law on the Election of Deputies to the State Duma (State Duma Election law) has been upgraded with each successive election, incorporating a number of recommendations by the international community made over the course of past elections. In particular, the law has been amended to clarify the direct supervisory role of the Central Election Commission over all subordinate election administrative structures, strengthening the potential for uniform and consistent application of procedures and streamlining responses to complaints and appeals. The amended State Duma Election law also enhances transparency mechanisms, particularly for domestic observers, creating extensive opportunities for political participants to monitor the activities and decisions of election commissions and gain access to election documents. The amendments strengthened and clarified a number of important elements of the election process.

- Following a Constitutional Court ruling, the rigid 5 percent barrier necessary in order to participate in the distribution of mandates on the federal list was replaced by a “floating” threshold. Under the new law, smaller parties passing a 3% barrier would also be allowed to participate, if the combined votes of all parties achieving 5% or more of the vote, represent less than 50% of the number of voters participating in the election.
- Improvements were also incorporated regarding the mechanism and standards for collecting and verifying signatures in support of candidates. In addition, the new law provided the possibility to pay an electoral deposit as an alternative to signature collection. The deposit is forfeited in case the candidate or party does not reach a threshold established as a percentage of the votes cast.
- Detailed provisions were enacted regarding campaigning through the use of mass media, drawing on a previous set of regulations that had been formulated by the CEC to control this aspect of the election process.
- Rigid requirements regarding financial disclosure by all candidates were formalized as were campaign spending limits. In addition, the law provides for the mandatory use of a designated “electoral fund” through which all contributions and expenditures must flow and dictates a regular schedule for the reporting of all funds received and expended.
- The law provides detailed guidance regarding pre-election campaigning, including activities allowed and prohibited, terms and conditions for access and use of the mass media, and abuses of the right to campaign.

- New provisions significantly enhance transparency mechanisms to afford political contestants generous access to the functioning of election commissions, and election documentation, especially in relation to the reporting of results.

Among such amendments, the most politically significant are those aimed at providing a framework for parties and candidates to enter the political arena on an equal basis, and ensure a level playing field. To this effect, registration procedures, and campaign finance, financial disclosure and media access provisions that are generally consistent with international standards have been entered in the electoral law.

#### **D. Registration of Parties, Blocs and Candidates**

For elections to the State Duma, political contestants include:

- electoral associations, defined in law as “political public associations,” covering political parties, political organisations and political movements;
- electoral blocs, which are voluntary unions of two or more electoral associations formed for joint participation in an election; and
- independent candidates.

In order to qualify to participate in the elections, public associations had to be registered with the Ministry of Justice not less than one year prior to 19 December 1999. When the decree calling for the State Duma elections was published on 10 August, there were 139 associations qualified to field candidates.

In the case of independent candidates, the nomination process started immediately after the decision to call the elections and the definition of electoral districts published. In single mandate districts, candidates could be nominated by voters directly or could be self-nominated, in which cases the nominations were submitted to the District Election Commission. They could also be nominated to run in single mandate race by an electoral association or bloc. These nominations were submitted directly to the CEC.

A candidate whose nomination was accepted by the relevant election commission was then entitled to collect signatures in support of the registration. Signatures could only be collected in the district where running for election. The number of signatures required for a single mandate race was no less than 1% of the total number of voters in the district.

A welcome amendment to the election law provided an alternative method for gaining ballot access. Instead of gathering the required signatures, candidates had the option to pay an electoral deposit of 2,000 times the minimum wage (approximately \$7,000) for a single mandate candidate and 50,000 times the minimum wage (approximately \$170,000) for a party list. These amounts represent about 10% of the allowable campaign spending limits and must be paid from the electoral fund. Several political formations chose this option to apply for registration.

#### **E. Campaign Financing and Financial Disclosure**

Strict campaign financing and financial disclosure laws give election administrators important tools to carry out their obligations in ensuring that all candidates, parties and blocs enter the elections on an equal basis, and maintaining a level playing field for political participants. As part of the filing requirements, each candidate must file comprehensive

documents disclosing their income, properties and assets. In addition, their disclosure documents must provide detailed information about outstanding convictions that have not been fully satisfied and other citizenship. Thorough review of these disclosure forms and ongoing review of new information during the campaign period, permitted election commissions to remove candidates who had provided false information, and in some instances, remove candidates associated with criminal elements. The detailed requirements and general controls envisioned in the law regarding financial disclosure and campaign financing requirements are consistent with similar laws found in a number of established democracies and conform to international standards. As in other countries, however, the ongoing challenge will be to ensure that the system is not abused as a means of arbitrarily disqualifying certain candidates.

A ceiling for electoral expenses by candidates and political parties is clearly stipulated in the Election Law and is established at approximately \$65,000 for single mandate candidates and approximately \$1,700,000 for party lists. All contributions and expenditures must be channeled through a designated electoral fund established by each candidate, party and bloc. A number of norms ensure that these spending limits are adhered to. Specifically, legal guidelines prohibit certain kinds of donations, including free services or in-kind contributions. An obligation to submit three financial reports to the election commissions by the candidates and parties on a specified schedule assists administrators in monitoring compliance with spending limits and campaign financing laws. Violators incur a severe penalty – refusal of registration, or de-registration.

The principles behind these financial reporting requirements generally have broad-based support and have not been seriously challenged. The actual ceilings for electoral expenses, however, are considered by most political parties (with the notable exception of the Communist Party) as too low.

#### **IV. ELECTION ADMINISTRATION**

Elections are administered by a five-tier hierarchy of election commissions supported by an administrative staff at the Central Election Commission (CEC) level and by local executive authorities at the Subject, District, Territorial levels. Precinct Election Commissions serve at polling stations. The 89 Subjects of the Russian Federation are subdivided into 225 Districts coinciding with the 225 single mandate constituencies. The Subjects are divided further into about 2,700 territories representing cities, rayons and other local administrative units. During the Duma elections, there were approximately 93,000 polling stations established, requiring the recruitment and training of nearly one million Precinct Election Commission members. Each polling site served up to 3,000 voters.

Election commissions are independent of all bodies of federal and local governments during the preparation and conduct of elections. The law was amended to clarify the supervisory authority of the Central Election Commission over lower commissions. In addition, the amended law clarifies that decisions of a higher election commission are binding upon subordinate election commissions. These clarifications had been recommended by international observers in prior elections when it became evident that the unclear chain of command gave Subject Commissions grounds to question the intervention of the CEC regarding decisions of local commissions, and in particularly, allegations about falsification of election results at the Subject level.

A key feature of the election commissions structure is the provision for the participation of representatives of electoral parties, blocs and candidates on various election commissions. A party or bloc that succeeds in registering a federal list of candidates is entitled to appoint a representative to serve on the CEC, as well as on all other commissions at every level. Candidates in a single-mandate constituency can appoint their representatives on the District Commission where they are registered, and on each territorial and precinct commission in their jurisdiction. Parties and blocs nominating a candidate in a single-mandate race may also appoint representatives to the CEC and District Election Commission.

These party, bloc and candidate representatives are non-voting members. However, they have the right to take part in deliberations. In addition, they are allowed to participate in certain tasks that fall under the responsibility of specific commissions, such as issuing absentee certificates, sorting or counting ballots, and drafting protocols of election results.

The representatives of candidates elected may continue to serve on the commissions until the end of the registration of candidates for the following election to the Duma. The terms of all other non-voting commission members expire 30 days after the official publication of results.

The liberal nature of the laws that preserve the rights of candidates, parties and blocs to have representation on election commissions provides an important level of transparency in the process.

The charts in Annex 1 provide details about the terms and membership of election commissions at each level, the manner in which they are appointed, and the main responsibilities of each commission.

## **V. POLITICAL ENVIRONMENT**

### **A. Political Background**

Political positioning of parties and blocs has been underway in the Russian Federation since the end of one-party rule. During the State Duma elections, voters benefited from a broad spectrum of viable political choices. In addition, the movement towards broader alliances and the paring down of the number of separate parties and blocs participating was demonstrated by the reduction of the number of parties and blocs competing on the federal list ballot from 43 in 1995, to 26 in 1999.

The year leading to the Duma election had been turbulent, with a major recession further eroding Russia's economic stability, scandals, allegations of corruption, international money laundering, and rapid changes in the cabinet with a succession of prime ministers. The year also saw an attempt to impeach the President. Terrorist bombings causing the death of hundreds of people rocked Russian society and the conflict in Chechnya intensified with unyielding popular support. These circumstances created an environment in which the "party of power" resulting from the 1995 elections had lost its edge as the single major political force. Until Unity emerged as a new identity representing pro-Kremlin forces, the campaign was not a clear reflection of an "opposition vs. incumbent" contest in the usual sense.

Many analysts believed from the beginning that these elections were a "primary election" for the presidential elections scheduled for the Spring of 2000. At the forefront of the competition that dominated the campaign period were two major power players that emerged

as new forces specifically for these elections: the Fatherland-All Russia Bloc, and the Interregional Unity Movement commonly known as Unity or Medved, the Russian word for Bear. The competition between the Kremlin power base (Unity Bloc lead by Minister of Emergency Situations Sergei Shoigu) and the Fatherland-All Russia alliance (led by Luzhkov, the powerful mayor of Moscow, and Yevgueni Primakov, a former Prime Minister) was considered to be the premier contest primed to set the stage for the presidential election. The chasm between these power players was in total contrast to a strong alliance between President Yeltsin and Mayor Luzhkov which helped ensure the former's success during the 1996 presidential elections.

The Communist Party that won the greatest number of seats in the 1995 Duma elections was expected to sustain a solid base of support in the "red belt" regions, where it continues to have a stronghold, and among rural and older voters who have seen their employment and pensions dwindle.

The Agrarian Party commonly associated with support to the Communist party experienced a significant split in its ranks, with a major faction aligning with Fatherland-All Russia. Yabloko, a party commonly thought to represent the emergence of a democratic party in the traditional sense in the post soviet period, was expected to once again pass the 5% threshold and secure its influence in the State Duma. The ultra-nationalist Liberal Democratic Party of Vladimir Zhirinovski underwent a major facelift for the 1999 elections as he was forced to reorganize under a new name, the "Zhirinovski Bloc" when the candidate list of his party was rejected by the CEC.

The political situation also differed from that of the spring 1996 presidential elections. The 1999 election was not a struggle of political leaders teamed against the "Communist threat" which characterised the 1996 elections, but rather a struggle of personalities to guarantee their own presence on the political summit during the next four years. Dismissed Prime Ministers remained prominent on the political scene. Yabloko attracted former Prime Minister Stepashin to its leadership ranks. The Union of Just Forces emerged as the result of a joining of two parties, one formed by former Prime Minister Yegor Gaidar and the other formed by the Union's 3<sup>rd</sup> candidate on the federal list, Irinia Khakamada. The Union of Just Forces also attracted former Prime Minister Sergei Kirienko who headed their federal list for the 1999 elections. Former Prime Minister Victor Chernomyrdin's Our Home is Russia Party, that figured prominently in the 1995 Duma Elections, competed again, although its image as the "party of power" had waned.

## **B. Unity Movement and the Fatherland-All Russia Bloc**

Two recently created forces became the major opponents in a contest that was to eventually determine the profile of the future Duma in the 1999 elections. Fatherland had been registered on 19 December 1998, but only joined forces with All Russia to form a bloc to compete in the Duma elections in August of 1999. Unity formally came into being even later, on 3 October 1999.

The union of Fatherland and All Russia represented a merging of Luzhkov's "centrist movement" (commonly thought to have been originally established as a vehicle for the Moscow Mayor's national political ambitions) and Primakov's movement created to represent the interests of the regions and to promote a program which called for "perfecting federalism" while preserving Russia as a "single, democratic, multi-ethnic, federal state."

Whereas Luzhkov was able to capitalize on themes of “getting things done” through efficient government and support for a state-led market economy, Primakov added his unblemished reputation and his image as a potential contender for the presidential race in 2000.

The bloc gained strength through its bases of support in Moscow led by Mayor Luzhkov, as well as several key regions led by the Governor of St. Petersburg, the Presidents of Tartarstan, Bashkortostan and Ingushetiia, and leaders of regions such as Nishnii Novgorod, Novosibirsk, Perm, Samara and Tiumen. Its potential strength was also bolstered by its ability to capitalize on a strong roster of single-mandate constituency candidates supported by the leadership and power structures in these regions.

In the early stages of the campaign, Fatherland-All Russia showed signs of emerging as the new “party of power” and as a strong contender pitting itself as an alternative “third force” against the Kremlin administration and the leftist opposition. Early projections estimated that the Bloc would poll more than 20% of the federal list votes challenging the Communist Party for the lead.<sup>2</sup> As the campaign wore on, Unity, with its strong Kremlin backing, focused its entire campaign strategy in sinking Fatherland’s chances of success.

The rise of Unity was meteoric given the short time period it had to create an identity, plan its campaign strategy and carry out its ambitious objectives. The establishment of the movement followed a Declaration signed by 39 governors expressing their dissatisfaction with the political battles being fought in Russia. The initial meeting of these governors to form a new electoral movement was held on 24 September 1999. It was at this meeting that Minister of Emergency Situations Shoigu was selected as Unity’s leader. Among the regions represented by governors’ forming Unity were Primorskii Krai, Kaliningradskaya, Rostovskaia, Kurskaia, Kalmykiia, Tverskaia and Omskaia Oblasts, and Chukhotskii Avtonomnyi Okrug.<sup>3</sup>

Throughout the campaign period Unity was able to distance itself from the Kremlin and particularly President Yeltsin’s administration, while unabashedly capitalizing on its strong Kremlin connections and enjoying the administration’s full support. Fortified by the nickname “Bear,” a strong image in Russian folklore, Unity emerged as a pro-government movement able to maintain an image of new, young “can-do” professionals divorced from the baggage of past policy debacles and traditional intrigues associated with internal Kremlin politics. Its leading candidates were not incumbent Duma Deputies. Aside from Shoigu, and Aleksandr Gurov, Head of the All Russian Scientific Institute at the Ministry of Internal Affairs, Unity advanced a list of public personalities, including a World Greco-Roman wrestling champion, the Spartak football coach, and a game-show host. Unity promised continuity and stability, and stronger support to law enforcement agencies and the military, themes all high in the public consciousness.

### **C. Key Features of the Political Campaign**

The political competition that ensued was marked by several key features that suggest that, although pluralistic democracy has taken hold in Russia, party politics in the traditional sense, has yet to fully mature.

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<sup>2</sup> Profile: Fatherland-All Russia, Briefing No. 8, European Union’s Project for Capacity Development in Election Monitoring, 3 December 1999.

<sup>3</sup> Profile: Medved (Interregional Unity Movement), Briefing No. 5, European Union’s Project for Capacity Development in Election Monitoring, 2 December 1999.

- Party politics in Russia tend to center on individual personalities rather than platforms.
- The most powerful players remain those that come together, not as real political parties founded on common ideologies, but as strategic alliances often looking no farther ahead than the specific election in which they want to compete. In the field of major political players, the Communist Party and Yabloko are the obvious exceptions.
- Campaign rhetoric is generally devoid of issues. In 1999, a new phenomenon emerged that centered on “black” campaigning involving slanderous attacks on opponents rather than promotion of programs or ideologies of the parties or candidates themselves.

Furthermore, several factors were destined to shape the course of the elections and its eventual outcome.

- the conflict in Chechnya as the “silent” campaign message;
- the apparent support from administrative structures in the strategic campaign of the pro-Kremlin Unity Movement against the Fatherland-All Russia Bloc;
- the de-registration of candidates and the impact of financial disclosure regulations and the “troika rule” on the status of parties and blocs<sup>4</sup>; and,
- the influence of Governors and local authorities at the local level.

## **1. Conflict in Chechnya**

### **i. Decision to Postpone the Elections in Chechnya**

At the end of September, the Central Election Commission adopted a resolution that suspended the Duma elections in Chechnya (District 31) altogether.<sup>5</sup> In view of the escalating conflict in Chechnya, there was little political controversy over the CEC decision. The CEC was correct in determining that the Federation lacked the ability to guarantee citizens’ electoral rights within the territory of Chechnya or guarantee the safety of candidates or voters.

From a legal point of view, however, the CEC had no specific legal basis on which to unilaterally formulate a decision to suspend elections in a Subject of the Federation. In fact, by doing so it can be argued that they overstepped their competence. Admittedly there is a gap in law in that there are no provisions that contemplate suspension of elections in certain areas in the event of military conflict, natural disaster, or other emergencies. A legal remedy that could have been pursued would have been to appeal to the President of the Federation to decree a state of emergency to be confirmed by the Federation Council.

Although the issue never became a point of controversy, one consideration is noteworthy. As a consequence of the armed hostilities, more than 200,000 refugees fled the Chechnya for neighboring territories. Under Russian legislation an internally displaced person (IDP) is guaranteed the right to vote in the territory of their temporary residence if they apply for status as a “forced migrant” through the Federal Migration Service of Russia or its territorial agencies.<sup>6</sup>

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<sup>4</sup> See page 14

<sup>5</sup> Appendix to Central Election Commission Resolution No. 17/169-3, 30 September 1999.

<sup>6</sup> Article 16 (6), Federal Law on the Election of Deputies to the State Duma of the Russian Federation.

In early November, Sergei Shoigu, Minister of Emergency Situations, announced that polling stations would be organized for IDPs outside Chechnya, Chechens in Russian-controlled areas, and Russian troops serving in the region. Such arrangements never materialized. According to information from the CEC, in spite of the large numbers of IDPs who could have applied for "forced migrant" status, very few actually did so. The fact that applications would have had to be submitted approximately three weeks before the election may have been an inhibiting factor.

## **ii. The "Silent Campaign"**

The Chechnya conflict was notable for its absence as a campaign issue in the lead up to the 1999 Duma elections. It remained below the surface throughout the campaign period in view of the war's broad popular support. In fact, Yabloko's public statement regarding a peaceful settlement of the conflict appeared to adversely affect the party's rating in opinion polls almost immediately.

The conflict and its sub-text of anti-terrorism and anti-crime had resonance with the population seeking stability and relief from faltering social and economic policies. The beneficiary was clearly the Unity Bloc led by Sergei Shoigu, Minister of Emergency Situations. In view of the swift rise in the popularity ratings of the government's leadership related to the military action in Chechnya, in particular the decisive style of Prime Minister Putin and Minister Shoigu, the opposition's voice was muted even in relation to other important issues. Based on early successes in Chechnya, the likelihood of imminent and steady victory bolstered national unity in a common cause as much as it rejuvenated Russian self-esteem and national will. This circumstance appeared to have created a diversion away from other domestic and economic priorities in the context of the political campaign. Any direct criticism of the government or expression of public or political frustration with its social and economic policies, at the forefront of the political debate only a short time earlier, became taboo.

From the beginning, it became clear that Unity's success in overcoming its primary opponent would depend on undermining Fatherland-All Russia's foothold in the early polls. A well-funded, slick and effective press-center, and behind-the-scenes support from the Kremlin were Unity's greatest resources. By the end of the campaign, legitimate questions had arisen as to whether the administration had stepped beyond legal boundaries that dictate a separation of public offices and resources from political campaign activities.

The most obvious state-controlled resources that served the interests of Unity were ORT Television and RTR Russian Television and Radio. Playing to the fears of the Russian public in late November, for example, video tapes of special forces showing how easy it was for terrorists to sneak past Moscow police and plant the bombs that killed hundreds only months before, were criticized as fake and an example of an unfair tactic employed to discredit Mayor Luzhkov.<sup>7</sup> The pro-Unity bias demonstrated on ORT, the state's largest television broadcaster covering 98% of the Russian Federation, combined with extensive positive coverage of Shoigu and his activities in Chechnya, and the Prime Minister, to promote Unity's positive image by association. Most notable were the repeated libelous attacks by ORT's influential *Vemrya* program anchorman Sergei Dorenko against Fatherland-All Russia, and particularly its leaders Primakov and Yakovlev, the Mayor of St. Petersburg. In

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<sup>7</sup> Moscow Times, 22 November 1999.

spite of CEC efforts to curtail such overt violations of media laws, state authorities, in particular the Ministry of Media and Mass Communications, failed to support the CEC. Dorenko's onslaught continued without restraint.<sup>8</sup> Over the course of a few weeks, Fatherland-All Russia's ratings began to show slippage in the opinion polls while Unity's ratings began to soar.<sup>9</sup>

Administrative actions taken during the pre-election campaign period also fueled speculation that the administration was a cooperative partner in an orchestrated campaign designed to weaken Unity's primary rival. The following are some examples:

- In an unexplained move, Interior Minister Vladimir Rushilo asked President Yeltsin to fire for "unspecified shortcomings" Moscow police chief General Kulikov, a close associate of the Mayor.<sup>10</sup> When President Yeltsin signed the decree on 4 December, some speculated that this act, timed only weeks before the election, was just another political maneuver to further damage Luzhkov.
- Just 9 days before the election, a low-profile Cabinet ministry slapped the Moscow city government with a US \$140 million fine for violating laws regulating foreign currency exchange operations.
- Three days before the election, the Ministry of Justice announced that it was investigating Fatherland for irregularities found in some of its original regional documentation filed a year earlier, and to determine whether its activities fell within the limits of its charter.
- There were also reports that hand-outs distributed through the educational structures of the military services about the Duma elections mentioned only Unity, and that the Army Chief Deputy of the Main Administration of Educational Affairs publicly called upon subordinates to promote Unity among the ranks.<sup>11</sup>
- Similar reports emerged about special "Unity support committees" being formed within departments of the administration and preparations of lists of administrators who were allowed, and not allowed, to appear in the mass media during the campaign period.

In the heat of a political campaign, it is not always possible to separate truth from fiction, and credible reports from calculated misrepresentations. However, it is clear that a number of questionable actions taken by the administration are well documented. And, some leave in question the degree to which the administration may have overstepped boundaries. Advantages of incumbency are universally recognized, but it is critical that the issue be effectively addressed. Abuses of executive authority with the purpose of influencing the election outcome, whether real or perceived, seriously jeopardize the integrity of a democratic election system. It is fundamental to a democratic state that the administrative structures maintain and demonstrate a level of neutrality that respects the obligation of the government to represent the interests of all citizens. This issue will deserve re-evaluation, especially in view of the presidential elections scheduled early in 2000.

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<sup>8</sup> For a more detailed discussion, see Section 4, the Media Environment.

<sup>9</sup> According to All-Russia Research Center for Public Opinion (VTsIOM) polls between the first week in November and the last week in November, Fatherland-All Russia dropped from 15% in their prior survey to 12% while Medved's ratings grew from 9% to 18% in the same time period. Fatherland-All Russia claimed that it dropped from 19% to 14%.

<sup>10</sup> Kulikov was appointed Moscow Police Chief by Luzhkov, however the post also gives him federal standing as a Deputy Minister of Interior, and therefore, accountable to the Presidential authority. Although dismissal of a regional police chief requires consultation with the regional head, no such consultation appeared to have taken place.

<sup>11</sup> Daily Briefing, European Union's Project for Capacity Development in Election Monitoring, 25 November 1999.

## **2. De-registration of Candidates and the “Troika Rule”**

If substantial inaccuracies are found in a candidate's declaration, registration can be refused or annulled. Until 16 days prior to election day, the CEC can decide to reject a candidate unilaterally. After that period, the CEC can file a request to the court to remove a candidate. In the extreme case, investigations or exposure of deficiencies can re-emerge after the elections, and the court can be petitioned to remove the mandate of a deputy who has already been elected. The election commissions at both the central and district levels enforced their obligations in this regard thoughtfully. Almost 200 candidates were refused registration or were de-registered for breaches of the financial regulations at the central level.

A major flaw in the legislation is that, regardless of the magnitude of the violation or infraction, there is only one fatal penalty: rejection or annulment of registration. Any inaccurate or incomplete reporting in disclosure documents, engagement in campaigning activity prior to registration, excessive campaign spending or circumvention of the electoral fund rule, or any other violation of the election law incurs the same penalty. In order to protect the system from potential abuse or selective implementation, a structure of fines, penalties and punishments should be created that can be clearly defined, and are proportionate to the violation.

In addition to the seriousness of the penalty to individual candidates, the “troika rule” has devastating consequences for a party or bloc, if rejection or de-registration of a candidate involves individuals listed in the top three places on their federal list. Elimination or withdrawal of any of them results in the disqualification of the entire federal list.<sup>12</sup> During the distribution of mandates, a withdrawal results in the forfeiture of the mandates won by the list, and their redistribution to a list that has received fewer or no mandates at all.

## **3. The Zhirinovski Case**

The most widely-publicized cases in which the “troika rule” was invoked related to the federal lists of Zhirinovski's Liberal Democratic Party (LDPR) and the Russian Conservative Party of Entrepreneurs (RKPP).

The LDPR, one of the four parties with a faction in the previous Duma, had requested the registration of 256 candidates on its federal list. Thirty-five of them, however, were found to have had serious deficiencies or omissions in their financial disclosure statements or had failed to disclose outstanding convictions or arrest warrants, and were refused registration.<sup>13</sup> Among them, were two of the top three candidates on the party list. As such, the CEC rejected the entire LDPR list. To bypass this decision, Zhirinovski created a new “Zhirinovski Bloc” based on three small parties already registered: the Party of Spiritual Renewal, headed by his half sister, the Party of Free Entrepreneurs, and the Workers' Party of Russia, the latter two headed by members of the LDPR Duma faction.

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<sup>12</sup> Articles 51 (15) and 91 (11), Law on Election of Deputies to the State Duma.

<sup>13</sup> Rejected candidates included Sergei Mikhailov, reputed as Mikhas, the head of a notorious criminal gang. However, Mikhailov was subsequently registered as a candidate in the single-mandate contest in Taganrog. The DEC attempted to disqualify him for failing to disclose his dual citizenship in Greece, but was forced to register him when the Russian Embassy in Greece informed that he had given up his Greek citizenship.

The RKPP, however, filed an appeal to the Supreme Court to overturn the CEC decision. On 22 November, a chamber of the Supreme Court ruled in favor of the party indicating that the removal of individual candidates should not disqualify the entire list, and on the following day the CEC reinstated the party on the ballot.

Ten days later on 2 December, without a formal appeal from the party, the CEC decided to reinstate the LDPR as the 30th party on the ballot. The move was somewhat a surprise since a system of "legal precedent" is not fully entrenched in the Russian legal system. Each case is considered on its own merit. In addition, the CEC decided also to strike off Zhirinovski himself from the reinstated LDPR list for providing false information on his own original financial disclosure statement, since purportedly it differed from the version he submitted at the time he registered his new Zhirinovskiy Bloc.

Ultimately, the reinstatement of both the LDPR and RPKK on the ballot was short-lived because on 8 December, the CEC revoked its latest decisions in the wake of a Plenary Session of the Supreme Court. During the Plenary Session, prompted by a protest of the General Prosecutor, the original CEC decisions refusing the parties' registration were upheld and the previous rulings of the Supreme Court's chamber overturned.

## **VI. MEDIA ENVIRONMENT**

### **A. Overview of the Media and Ownership**

The role of the media in the election was unprecedented in terms of its impact on the electorate. The whole subject of the media was highly controversial due to the media structures and the difficulties in enforcing conflicting laws.

The extraordinary involvement of the media in this campaign was, in part, due to the ownership structure that was consolidated after the 1996 presidential elections. Since that time, much of the independent media and major shares in state-controlled media were bought by a few successful and politically connected businessmen who understood the role and importance of the media in forming public opinion. The situation was particularly vulnerable due to inadequate Federal laws capable of restricting the influence of media owners and the underdevelopment of civil society capable of exerting market leverage to control media behavior. Even though Russia's media laws were substantially reviewed and rewritten after 1991, the main emphasis was to liberate it from censorship. The laws governing television are some of the weakest and as a consequence this medium was abused the most during the 1999 parliamentary election.

Television is the most important media of communication, with 98 % of Russian households owning a set. There are only three television channels with All-Russian status, namely ORT-channel 1, RTR-Channel 2 and NTV, the main independent channel. There are three other main channels with 30-50 % coverage of the Russian Federation. However, in many regions, viewers only have access to two of the national television channels (ORT and RTR) and lesser quality local channels. Thus, the two state-controlled broadcasters are the only available major channels in many parts of Russia.

Annex 2 provides a list of major television and print media with their ownership information.

## B. Media Wars

The media played a high profile role during the build up to the Duma election. The “media war”, a term coined due to the aggressive and bitterly negative nature of the campaign, was waged between the media conglomerates siding with or controlled by the Presidential administration or its major competitor, the Fatherland-All Russia party, or those sympathetic to Mayor Luzhkov.

Television was the main stage on which the media war played itself out. The worst offenders were the state-controlled television channels. However, it should be noted that only 51% of ORT shares are still owned by the state. According to ORT, the channel has not received any funding from the state since 1991. All investments have been made by private share holders, of which the most prominent is Boris Beresovsky.

Questionable engagement by the major players in the “media wars” were implemented in a highly sophisticated manner, often falling narrowly within the bounds of the election law. For example, although their pro-government/pro-Unity bias was clear, there was little direct glorification of Unity on ORT. However, Unity did receive higher coverage on ORT than most other parties. Instead, the news was dominated by the situation in Chechnya that provided ample opportunity for the first candidate of Unity, Minister for Emergencies Shoigu to appear on television in his “official capacity,” rather than as a “representative of his party.” The war also provided opportunity for extensive coverage of the Prime Minister on all channels. This allowed the Prime Minister to establish himself as a firm and credible leader, and focused voters’ attention on his positive leadership of the war effort rather than on other important issues such as the economy, unemployment, and social ills.

ORT was the worst offender in obviously siding with the government party and criticizing “Fatherland All Russia”, through political talk shows such as *Vremya*, hosted by its influential anchorman Sergei Dorenko. However, all television channels showed some political bias. RTR was also pro-government, while TVcentre showed obvious support for Luzhkov.

Another questionable incident occurred on RTR, the fully state-controlled channel, on its political program *Zerkalo*, shown between the two segments of the station’s main evening news program. Media Minister Lesin appeared on this program and commented negatively on a campaign announcement video prepared by Fatherland-All Russia, even though the electoral law forbids TV channels from making any commentary on political advertisements and campaign materials.<sup>14</sup>

NTV, the main independent TV channel, managed to maintain a level of journalistic ethics during its news programs but was considered sympathetic to Fatherland-All Russia in its analytical programs. NTV, however, was placed under substantial financial pressure by the authorities. During the election campaign, it was reported that, after investigations by the Tax Department and having to pay large tax arrears, the media conglomerate Media Most had to sell a certain percentage of its shares to Gazprom in order to alleviate its financial problems. Moreover, Video International, NTV’s advertising company announced that it

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<sup>14</sup> The EOM was advised that Lesin’s critical commentary on the Fatherland-All Russia video announcement occurred before the run of the ads had even begun, making Lesin’s commentary the first public exposure of Fatherland-All Russia’s advert copy. Lesin was closely associated with the organization of President Yeltsin’s 1996 re-election campaign.

intended to sever its long time relationship with the channel, and that as of 1 January 2000, it would be working for ORT and TV6.

### C. Interventions of the Central Election Commission

The Central Election Commission took several steps in trying to curtail improper activities and abuses of mass media in the campaign period. Early on, the CEC adopted a resolution that: (1) called for a stop of "unlawful propaganda activities"; (2) identified a detailed list of the kinds of violations that were taking place; and (3) made a plea to the General Prosecutor and Subject Election Commissions to intensify their control over compliance with the legislation and to prosecute violators. However they received little support from enforcement agencies.

Two other resolutions intended to neutralize the biased and often libelous commentary introduced by the media, were to result in more controversy.

The Basic Guarantees law provides a definition of "election propaganda" to mean "the activities of citizens of the Russian Federation, candidates, electoral associations, electoral blocs, public associations, permitted by law and conducted by legal methods which is aimed at encouraging voters to participate in the election and to vote for or against certain candidates (lists of candidates)."<sup>15</sup> However, relying on an interpretation of the Law on the Election of Deputies to the State Duma, campaigning in the mass media is only available to candidates, parties and blocs, and only after they are registered. In a resolution adopted on 13 August, the CEC reiterated this interpretation further stating that "no other participants in the electoral process may conduct an election campaign in the mass media." The implications were significant, especially as they related to journalists, editors and broadcast commentators who were advised that they could be culpable under the law if their articles or broadcasts were perceived as supportive or negative to a party, bloc or candidate. Interpreted strictly and enforced consistently, journalists would have had the impossible task of remaining in compliance and provide any meaningful news coverage about the campaigns for fear of prosecution.

Although there was cautious support from some political parties for the principles the CEC was attempting to uphold, their resolution drew a great deal of criticism for its obstruction of fundamental rights guaranteed in the Constitution in Article 28, that states:

- (1) "Everyone shall have the right to freedom of thought and speech...
- ...
- (4) Everyone shall have the right to seek, get, transfer, produce and disseminate information by any lawful means.
- (5) The freedom of the mass media shall be guaranteed. Censorship shall be prohibited."

Minister of Mass Media and Communications Lesin objected to this "moratorium" on freedom of speech during the election period and did not lend his endorsement. The Russian Association of Editors was openly critical and lodged a protest with the CEC. In Kazan, a

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<sup>15</sup> Article 2, Main Terms Used in this Federal Law, Law on Basic Guarantees of Electoral Rights and the Right of Citizens to Participate in a Referendum. In Russian, the term used in this context is "agitatsia".

seminar was organized by the Union of Journalists to focus on the CEC regulation and to give journalists special training on how to comply. And, Alexander Minkin, a well-known journalist and independent candidate in a Moscow District supported both by Fatherland-All Russia and Yabloko, challenged unsuccessfully the CEC decision in court. In the end, the resolution was violated repeatedly and enforcement agencies failed to address the violations.

In a subsequent resolution, the CEC addressed the *Vremya* program's continual barrage of libelous attacks against the leaders of Fatherland-All Russia, and asked the Ministry of Mass Media and Communications to take necessary steps against the ORT Broadcasting Company and Sergei Dorenko, the *Vremya* program host. Even in this case, the Ministry was soft in its findings determining that the issue could be resolved within the context of Article 60(4) that does not allow the publication of information which can damage the honor, dignity, or business reputation of a registered candidate. The parties involved in the dispute were invited to reach an agreement according to which ORT would compensate Luzhkov and Primakov with free air time to refute the libelous statements. Although Primakov agreed, Luzhkov refused to use the airtime and pursued his libel suit against ORT and Dorenko in court. His successful lawsuit resulted in the imposition of a small fine insufficient to be a deterrent. Dorenko continued his barrage in the weeks that followed.

#### **D. Negative Campaign**

The media war was primarily conducted by journalists and presenters and not by political parties directly. Campaigns were also predominately negative in nature with tactics referred to as "dirty tricks" in the Russian press. In general, the contents of this negative campaign were almost exclusively associated with corruption. In part, the typical tactic was to target opposing personalities as there were few obvious ideological differences. However, at the heart of the dispute was an attempt to blacken the reputation of Primakov. The campaigns waged frequently attempted to paint the main opposition leaders with a corrupt image.

#### **E. Media in the Regions**

The media environment in the regions varied considerably across the Russian Federation. It ranged from liberal environment to a state of total censorship by local ruling power structures. In general, the situation in the regions was more restrictive than in Moscow, due to the lack of medium sized businesses to support independent media outlets through advertising. Many local newspapers and TV stations are either owned, part-owned or receive large subsidies from local authorities. The worst examples are seen in regions where there is a dominant governor with no real opposition, and where local media and local versions of national newspapers are severely curtailed from expressing an independent view.

Out of regions monitored by the EOM, the Republic of Kalmukiya, the Republic of Bashkortostan, Primorski region (Vladivostock) and the Republic of Tartarstan had the most restrictive local media. A journalist who was critical of the President of Kalmukiya was murdered in 1998, whereas in Bashkortostan, Tartarstan and Vladivostock, troublesome journalists were either sacked or pressured in other ways by the local administration.

Examples of suppression of freedom of the press have already been referred to but an obvious abuse was the treatment of Grigory Yavlinskii, the leader of Yabloko, who was due to travel and appear live on a local TV channel "TV-6-UFA" in the Republic of Bashkortostan on 25 November. The program was cancelled by the station's director on 21 November, and the

cancellation was confirmed the Ufa City Administration. The local state television channel refused to carry any information about Yavlinskii's visit and local officials forbade a scheduled meeting with voters in the Ufa Central Hall. Yabloko's office in St. Petersburg also suffered a coincidental fire during the election campaign in which campaign materials were destroyed.

Other examples of media coercion were also reported in Primorski Krai, where the Chief Editor of *Moskovski Komsomolets*, one of Russia's largest circulating newspapers, was removed from his post after the local administration first refused to extend the newspaper's office lease. Later, companies were advised against advertising in this newspaper. Also, a number of critical programs on NTV were simply not broadcast.

Larger cities, such as Yekaterinburg, Novosibirsk, Krasnoyarsk and Rostov, with competing businesses or political groups appear to have a freer media environment. However, even though the media choice might be more extensive with a larger number of local TV channels, most programs tend to deal with entertainment rather than news. Most local channels and newspapers are financially dependent on the local administration, but their independence ultimately varies depending on the power of the governing administration.

The freest areas for the press are Moscow and St. Petersburg, mainly due to the diverse number of publications that compete for the same audience. Both cities have a much greater number of possible advertisers to financially support their publication and are therefore not so reliant on local subsidies. However, even in the case of these two cities, there are only a limited number of fully independent publications not owned by a business conglomerates.

In other regions, where the EOM did not have any representation, it was reported that journalists and directors of media companies, such as the Kaskad media company in Kaliningrad, were beaten and hospitalized. As in the case of the Kaskad media group, which owns two independent TV and radio networks, the media had been critical of local administrative, accusing them of misappropriating funds.

#### **F. General Findings of the European Institute of the Media**

The conclusions of a monitoring effort by the European Institute of the Media (EIM) were in many ways similar to those of the EOM, but they obtained more specific data by monitoring actual daily coverage in the press, and on television and radio for almost one month prior to the election.

In brief, their summary concluded that most media in Russia was biased and heavily biased against Fatherland-All Russia, while the tone of reporting about Unity was generally favorable. They assessed that the smear campaign by media supported by Berezovsky and the government on the one hand, and Luzkov and NTV's director Gusinsky on the other, had featured prominently in the information sphere for the past year, but that it had intensified during the campaign.

All Television channels were considered biased. The printed press was also considered partisan but there was a sufficient number of publications available to help counteract the domination of one political force. However, newspapers unlike television did not always clearly label their political advertising. Radio was the least biased medium of communication.

EIM found that the election law failed to incorporate laws from the international agreements that the Russian Federation has agreed to, such as those of the Council of Europe which requires news programs to be fair and unbiased. They also noted that the Judicial Chamber for Media disputes had no power to impose sanctions. EIM recommended that the Chamber should have a separate budget from that of the Presidential Administration.

The state-controlled media provided the favoured blocs and candidates with preferential support that was not available to the opposition. It also had an undesirable affect on the image of journalism as a profession and eroded the level of public confidence in news reporting. In a society already cynical about government and elected officials, it has also contributed to the degradation of public attitudes by instilling the assumption that most successful politicians in Russia gained their position through crime and corruption. Finally, this may indirectly affect the development of civil society, as general mistrust towards government and power is further decreased and those with an interest in politics are further alienated.

## VII. POLLING AND COUNTING

### A. Voting Process

On election day, 93,000 polling stations were established to serve the 107 million voters in the Russian Federation. About one million polling station officials had to be recruited and trained. In almost all cases observed, precinct officials appeared to be well informed about their duties, and knowledgeable about the legal and procedural requirements.

In addition to processing voters on election day, Precinct Election Commissions were responsible for preparing the polling stations, maintaining and securing sensitive materials such as the ballots, voter registers and ballot boxes. They were also responsible for the counting of ballots after the close of the polls, and preparing the protocols that report the precinct results. The technical procedures involved in the conduct of the poll were complex and detailed because of special accommodations provided under the law for voters who require special services, including absentee voters and homebound voters who are unable to come to the polling station due to age, illness or disability. Maintenance of documentation on various types of voters, and accountability for the multiple ballot types issued over the course of the day put extraordinary demands on polling station commissions. Accountability also had to be maintained relative to voters registered in their precinct who voted in advance.

The system of documentation and procedures for the conduct of polling designed by the CEC provided an exceptional basis for transparency, accountability and accuracy. They included detailed protocols on which a full record of voting activity could be recorded. Each page of the voter list, for example, included a mandatory "work sheet" which ultimately assisted commission members in counting the number of voters who voted in person at the polling station, the number of absentee voters visiting from another region who had to be added to the supplemental register, the number of regular voters who applied to vote elsewhere, the number of voters who voted at home through mobile ballot boxes, and the number of eligible voters who had been inadvertently omitted from the official register and had to be added on election day.

The “work sheet” also helped maintain accountability for ballot usage which in itself was a complex exercise. Each voter was given a single-mandate ballot and a federal list ballot with the exception of absentee voters casting their ballot at a polling station in one district, but registered in a different district. In this circumstance, the voter was only entitled to receive the federal list ballot. This meant that there was a possibility that more federal list ballots were issued than single-mandate ballots. Each voter, therefore had to sign the register in separate columns to acknowledge receipt for each type of ballots actually received. In addition, since local elections were conducted at the same time in many regions, voters received gubernatorial and local assembly ballots as well. These also had to be accounted for against the actual number of voters who participated in the election.

Almost universally, observers commended the performance of Precinct Election Commissions on election day. In virtually every element evaluated, EOM observers rated their compliance with laws and procedural regulations between 98% and 99%. Scores at this level were consistent in terms of all basic steps in the processing of voters including demanding identification, having the voter sign the voter list, and issuing of properly signed and stamped ballots.

Where infractions were noted, they were generally categorized by observers as minor, and not symptomatic of a deliberate intention to compromise the integrity of the process. However, there were a few observations that are worthy of note.

- The most common concern was the frequency with which voters marked their ballots in public view. In 20.48% of the sites visited, voters did not vote in secret. In fact, in a significant number of stations, desks or tables were actually arranged for voting purposes and used instead of voting booths. Observers noted that such arrangements may have been a response to the fact that often, the number of polling booths available was insufficient to handle the traffic of voters.
- Another concern was that in spite of efforts to curtail such activities, proxy voting was observed in 31.97% of the polling stations visited. While in most case observers rated the infraction as minor, in 4.98% of the polling stations visited, observers rated the instances as “serious” in nature.
- The layout of most stations was conducive, providing observers a fair view of the process. However, some polling stations were situated in locations that were not particularly conducive for the purpose, such as in narrow hallways or L-shaped rooms which made it difficult for observers and commission members to view activities in some areas of the room. One issue that should be re-evaluated relates to visibility of the mobile ballot boxes when they were not in use. At some polling stations the portable ballot boxes were not in view when they were not use.
- A very positive development was the fact that at 98% of all sites visited, observers of parties, blocs and candidates were present. Overall, Fatherland-All Russia and the Communist Party were best able to organize their observers with representation at 83.81% and 79.22% of the polling stations observed respectively. Unity’s observers were encountered at 58.15% of locations, followed by the Union of Just Forces with representatives at 56.54% of the polling stations visited. 86.86% of polling stations had at least one observer representing an independent candidate.

## **B. Counting Process**

### **1. At Polling Stations**

Counting procedures were initiated immediately upon closing of the polls. Here too, polling station officials were rated well by EOM observers for their extraordinary effort in counting the votes accurately and completing the complicated and time-consuming documentation required. However, their high overall rating was in spite of circumvention of some of the technical requirements outlined in the law and the procedural guidelines governing the counting process.

The procedures involved in the counting were very complex requiring numerous steps to be taken in a strict order. The rules were also strict in dictating that various tasks cannot be accomplished simultaneously. For example, the procedures appropriately specify that unused ballots must be cancelled first, and that no ballot box can be opened until the completion of the "worksheet" calculations and certification of the voter lists is accomplished. The order in which the ballot boxes could be opened was also dictated with the ballot box containing ballots cast in advance first. Mobile ballot boxes were then opened in sequence so that the ballots they contained could be accounted for before they were commingled with ballots in the stationary ballot box.

Strict compliance with the technicalities required that different officials could not work on different tasks simultaneously. Since multiple elections were being conducted simultaneously, the counting process took a very long time.

The procedures defined by the CEC were technically sound and sophisticated. They were designed to provide maximum transparency and accuracy. In particular was a new requirement that during the count, each ballot was to be held up and the mark announced to commission members and observers before it was placed on the appropriate stack.

Thus, observers noted that Precinct Commissions sometimes by-passed the rigid order dictated in the rules. The infractions were seen as attempts to speed up the process rather than indicators of intentional improprieties to disguise manipulations. In fact, observers generally agreed that they did not seem to affect the accuracy of the results. Nonetheless, they should be assessed to determine if changes in procedures might be in order if they can be accomplished without jeopardizing the integrity of the result and the transparency of the process, or whether additional training might be necessary.

- In 21.21% of polling stations observed by the EOM, ballot boxes were opened and counting was begun before officials finished performing the calculations and certifying the voter registers.
- In 54.47% of the stations visited, officials did not make the initial entries on the protocol before opening the ballot boxes as required in the regulations.
- Officials did not announce and display each ballot as it was counted in 58.73% of the polling stations observed. In about 1/3 of the locations where this procedure was not adhered to, EOM observers believed officials were simply motivated by a desire to save time. However, in about the same number of cases, observers interpreted the actions of the Precinct Commissions as intentional rejection of the new procedure.
- Under the law, when ballots are counted, observers have the right to stand close enough to see the markings on the ballots. This provision was honored in 91.47% of polling

stations observed. In addition, 94% of commissions prepared the multiple copies of the protocols of results before leaving the polling station as is called for in law. One copy was delivered to the Territorial Election Commission where results were tabulated, and the Chairman of the PEC kept one. The preparation of multiple copies was also intended to provide an opportunity for observers to request copies for their own record. However, in 19% of sites visited, observers reported they were not given a copy when they requested one. In addition, officials failed to post a copy of the results in 14% of stations observed, in spite of the fact that a poster-size copy of the protocol form was provided for this purpose.

## **2. At Territorial Election Commissions**

According to CEC procedures, polling station officials were to take the protocols of their results to the Territorial Election Commission where they were to be entered into the state automated system (GAS Vybori) so that they could ultimately be integrated into the nationwide results. When the Chairman of the PEC delivered his materials, the TEC was to review the protocol and ensure its mathematical accuracy relative to parameters defined in the state automated system. No corrections were allowed on the formal protocols. If errors were found, the PEC was required to try to find the error and prepare a corrected protocol. A data entry clerk would then enter the data from the protocol into the computer, print out a report and allow the PEC to confirm the accuracy of the input. Where this process was implemented, it provided reason for high level of confidence in the system. Unfortunately, observers found that the process envisioned was not consistently implemented and that processing at the TEC level varied from region to region.

The entered data was stored in the data file until all precincts in the Territory had reported. Once all returns were in, a summary of the results was generated in an aggregated form for transmission to the District Election Commission where the process of tabulation of results continued at the District level. Their summary was eventually transmitted simultaneously to the Subject Election Commission and the CEC until the results of the entire Federation were consolidated.

Voting returns tabulated through the GAS Vybori system are preliminary results that technically have no legal status. Manual summaries are prepared in parallel with the automated summaries. Each summary generated by the computer must be attached to the concurrent manually prepared summary tables. Ultimately, the CEC was to certify the results based on the manual protocols and summary tables. The primary purpose of the automated system currently is the rapid reporting of preliminary results throughout the country. The system proved itself very effective for the purpose.

Although GAS Vybori has been in use for a period of time, it has not been approved by the State Duma as the source of "official" results. And, in spite of its apparent successes in these and past elections, critics still express concerns about its vulnerability to manipulation. At the core of these doubts is discomfort with the lack of transparency that surrounds the system. Regardless, the CEC adopted a number of resolutions that unified the manual counting procedure with the use of the automated system at the Territorial level. Since the data entered into the system at that level had already been cleared by the TEC, and any errors on original protocols were corrected, the preliminary results obtained from the automated system became, de facto, the final results that were ultimately reported by the CEC apart from what changes were made as a results of challenges and court cases.

In addition, the system was flawed because data from a precinct protocol could not be accepted and therefore could not be entered into the system unless it was first balanced, an unrealistic expectation in any election setting. For example, the number of ballots in the ballot box would not balance to the number of ballots issued if a disgruntled voter decided not to vote and kept the ballot paper instead of dropping it into the ballot box. Nor could a protocol balance if a voter inadvertently passed through without signing the voter register. In either of these instances, the protocol would not balance, but still would be accurate, and a polling station commission would have no way of "correcting" it. Under the current requirement that a protocol must balance in order to be entered into the computer, it is very likely that "corrections" would often require artificial adjustments to satisfy the technical requirements of the system. It would be better if the protocol and the computer program were designed to show such discrepancies rather than disguising them.

Another concern is that the transparency mechanisms contemplated in the law are undermined by inconsistent processing from territory to territory at the point when polling station protocols are delivered to the TECs. Observers reported, for example, that in a few instances they were denied access to the TEC altogether. At some sites, the data entry was carried out in a different room outside the view of PEC members or observers. In others, the data entry procedures were not implemented and upon delivery, polling station materials were merely stored, and not processed. It was presumed that processing would be accomplished later without the presence of any observers. Many observers noted that although parties, blocs and candidates were well represented at the polling stations, there were virtually no domestic observers at the TECs.

The EOM also encountered an incident that was never satisfactorily explained. In the early hours of 20 December, it already appeared from the results arriving from the east that Unity and the Communist party each had about 25% of the votes reported. Fatherland-All Russia was lagging behind below 10%. However, when results from Moscow City and Region started to flow in, the situation in the area showed a quite different picture: in the 15 districts of Moscow City, Fatherland-All Russia fared much better at over 40%; and in the 11 districts of the Moscow region, Fatherland-All Russia had gained over 27%, while in these areas Unity hardly reached 7 and 10%, respectively.

Statements released through the media by high ranking officials explained that, in spite of their major showing in Moscow, Fatherland-All Russia's Federation-wide share remained below 10% because the results from the Moscow area were not yet entered in the overall tabulation as a result of irregularities that had appeared in the counting process in those regions.

The EOM tried to learn more, but its usual interlocutors at the CEC, were not able to give any explanation except to confirm rumors that irregularities in the Moscow area were delaying integration of their results. The EOM tried to contact the Moscow Subject Election Commission, but was informed that all officials were summoned at the Presidential Administration offices. For the whole day of 20 December, it was impossible to receive any clear information on the issue.

When on 21 December, the EOM again inquired about the Moscow results and whether they had been cleared. The surprising answer was that there was nothing more to be cleared, and that Moscow results were already part of the overall returns that had been progressively

released. Telephone calls to Fatherland-All Russia headquarters and Yabloko confirmed that the parties had no concerns to raise.

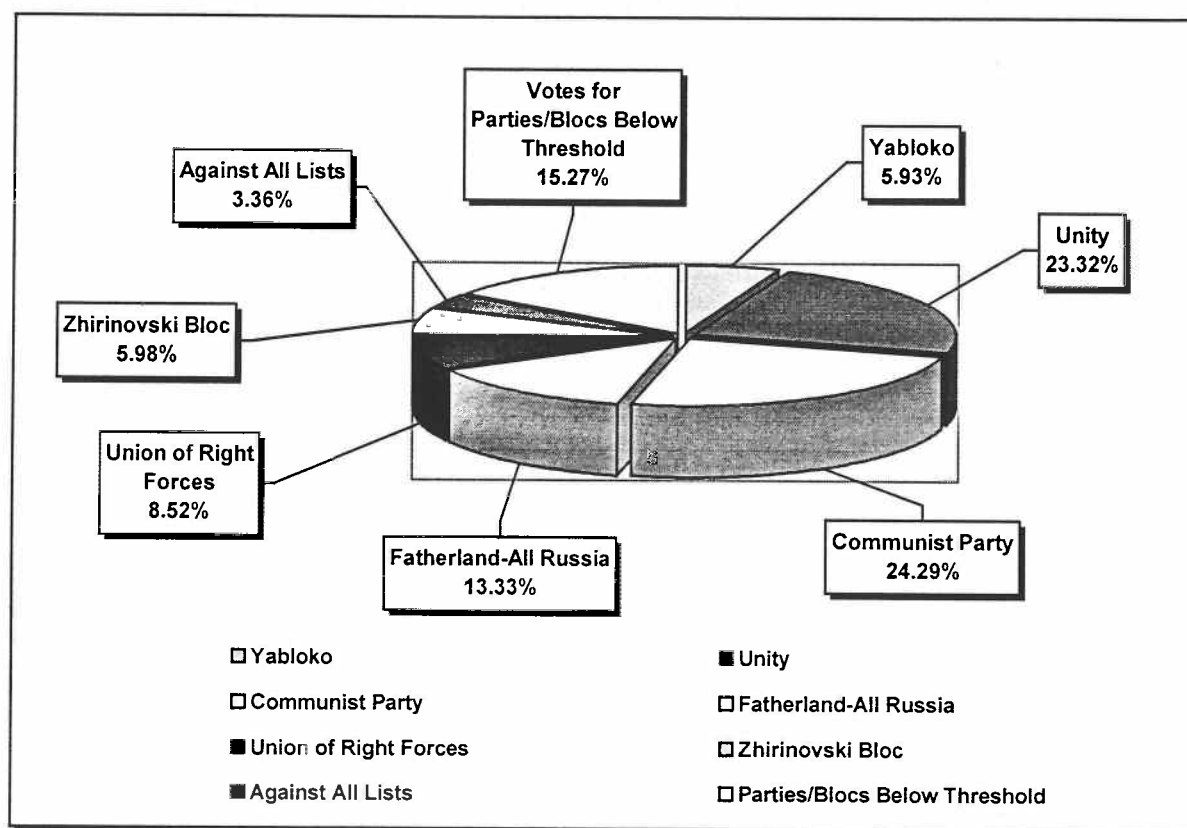
Some days later, Lushkov was pronounced the winner of the Moscow Mayoral race and his victory in the local elections was publicly acknowledged by Prime Minister Putin. However, the results published on the web site of the CEC, through which it had been possible to follow the aggregation of results for each Subject of the Federation, were no longer available.

It would be imprudent to read more into these events than they warrant. However, these are not the kinds of incident that are likely to promote public confidence. The fact remains that the use of GAS Vyboriy will deserve particular care in any future elections. GAS Vybori has potential and already has a proven track record for swift reporting of results. It will be important for election administrators to assess what additional measures could be taken to overcome concerns that linger about its use in the tabulation process.

## VIII. FINAL RESULTS

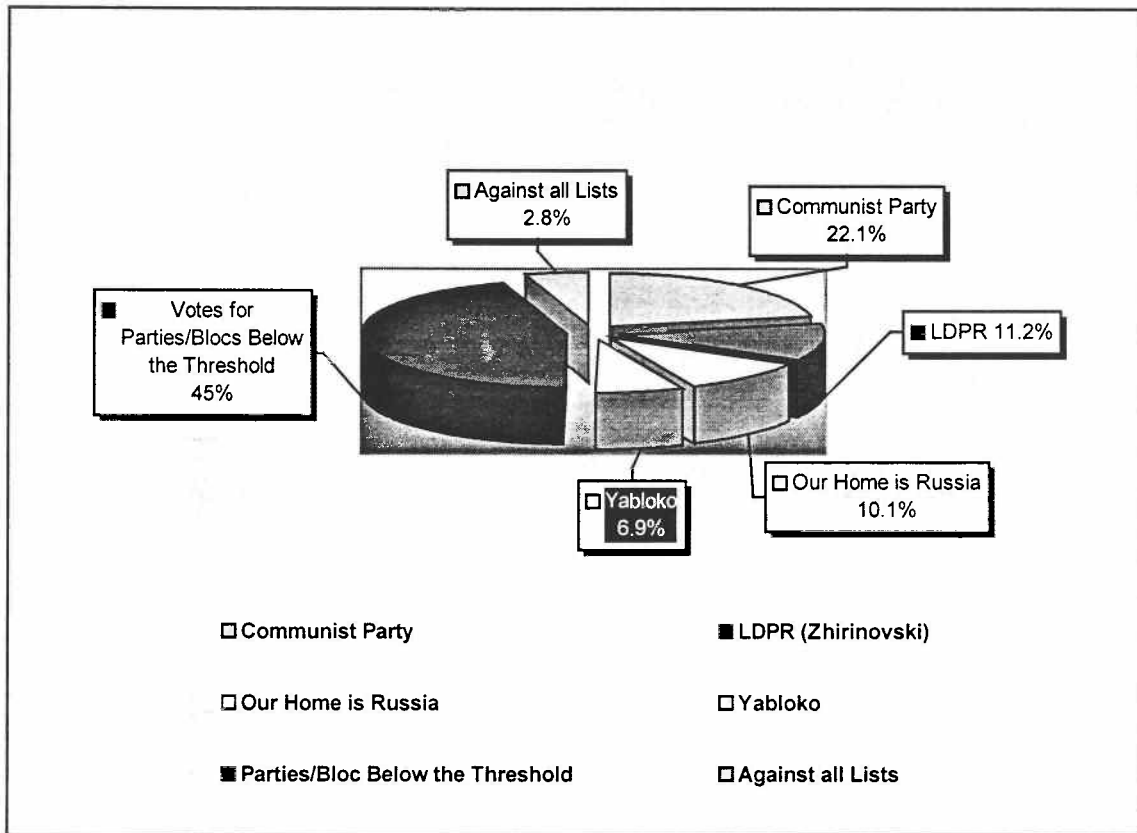
In the following tables, the federal list final results of the 1999 elections are compared to those from 1995.

**1999  
Federal List Results  
Elections to the State Duma  
Russian Federation<sup>16</sup>**



- Voter Turnout was 61% of total registered voters.
- 6 of 27 (22.2%) Federal Lists competing in the election passed the 5% threshold and participated in the distribution of mandates, up from 9.3% of the lists in 1995.
- Federal Lists actually winning seats in the State Duma represented about 80% of the total positive votes cast on the federal list ballot, up from 50.3% in 1995.

**1995  
Federal List Results  
Elections to the State Duma  
Russian Federation**



- Voter Turnout was 64.4% of total registered voters.
- Only 4 of 43 (9.3%) Federal Lists competing in the election passed the 5% threshold and participated in the distribution of mandates.
- Federal Lists actually winning seats in the State Duma represented only about 50.3% of the total positive votes cast on the federal list ballot.

invitation to voters to sign a petition, would be a violation. In addition, candidates' electoral funds must already be established during this period as the cost of collecting signatures for a petition must be expended through the electoral fund. However, a solicitation to contribute to the fund could be interpreted as illegal campaigning. A ban on campaigning during this period deprives candidates and parties the opportunity to generate public interest, and deprives voters of information needed to make a choice. Thus, the nomination period should be considered as part of the election cycle and campaigning, possibly limited, and solicitation of funds should be permitted.

- 6) The law is extraordinarily liberal in ensuring the rights of domestic observers to have full access to sessions of election commissions at all levels, and to have access to election results and documents, inspect voter lists, observe the counting of ballots, present concerns, and appeal decisions or actions of election officials. The law does not specifically articulate the same detailed list of rights of international observers. The CEC overcame this deficiency with its Resolution No. 13/89/3 in which it clarified in detail that international observers had virtually all the same rights as their domestic counterparts. The notable omission from the Resolution, however, was the right of international observers to be present at special polling sites established at military installations, hospitals and institutions. This point should be reconsidered as it is not clear what interest is served by denying international observers access to such polling stations. Their presence at "closed sites" can be instrumental in promoting public confidence.

## **B. Polling and Counting**

The laws and comprehensive set of regulations and instructions issued by the CEC provided a sound basis for orderly conduct of polling, and a transparent and accurate counting of the votes. However, some issues deserve re-evaluation.

- 7) Additional training and voter education are needed regarding the importance of voting in secret. Voters frequently voted in full view of those present in polling stations. In many instances, an insufficient number of voting booths were provided. Training is also necessary to ensure that instances of proxy voting continue to decline.
- 8) In the interest of promoting transparency, the new law required that each ballot be displayed and announced as it was counted. However, in over ½ of the sites visited this procedure was not adhered to, primarily for expediency reasons. The choice of counting methods may need to be re-evaluated to determine if an alternative method can satisfy the objectives of the CEC while at the same time speeding the process.
- 9) The law dictates that counting at the polling stations is to continue without a break until the results are established. The law should impose similar requirements during the stages of summarization of results, particularly at the Territorial level.
- 10) Uniform procedures for the immediate processing of protocols upon delivery at the Territorial Election Commission should be implemented at all locations. PEC members should be present when the data entry of their results is accomplished and should be able to verify the accuracy of the input before leaving the TEC. The data entry process should be transparent at all locations and observers should be allowed to view the operation. TECs should not be allowed to set materials aside for processing at a later time.

- 11) The GAS Vybori program requires that each protocol balance perfectly before it can be accepted by the system. When a manual review of the protocol shows that there are "errors" or discrepancies, the PEC must prepare a corrected protocol, since under the rules corrections cannot be made on the original protocol. This requirement leaves no room for human error. Such expectations encourage artificial adjustments in entries to force a balance. Protocols should be an accurate reflection of polling activities even if minor discrepancies exist. The protocol form should have space in which officials can record the discrepancy and if possible explain how it occurred. The system should incorporate a tolerance factor for "minor" errors that should be recorded.
- 12) In addition, it would be preferable if arithmetical errors or other verifiable corrections were entered on the original protocol, rather than creating a new record. The corrections should not obliterate the original figures, but should be noted in red ink with the initials of the person responsible for making such adjustments. Maintaining an accurate and well-documented audit trail is important to the overall credibility of the process. This is especially true in view of the fact that protocols reviewed by the TEC are *de facto* the final results ultimately reported by the CEC. It is also important since copies of the original protocol were distributed to observers at the completion of the count and differences reported in the summaries may very well require explanation.
- 13) In spite of the track record of the GAS Vybori system, cynicism still lingers among those concerned about the lack of transparency surrounding the system. The CEC may want to explore measures that could be taken to increase general confidence in the system. Such measures might include the creation of an independent quality assurance working group to conduct independent tests of the software periodically in the pre-election and post election period. This group could be appointed from recommendations of parties and blocs represented in the Duma, with strict technical qualifications requirements.

### C. Violations and Sanctions

Various provisions of the law and regulations promulgated by the CEC address improper activities of government officials and representatives of the mass media in the context of the election period. However, the major emphasis of the framework remains focused on wrongdoings and violations committed by candidates, parties and blocs.

- 14) The law defines activities that constitute "taking advantage of an official position or status." However, they relate specifically to candidates holding government and municipal offices and their improper use of premises, assets and resources of their office, and the involvement of subordinates or staff in activities related to the nomination process, collection of signatures or campaigning during working hours. Consideration should be given to expanding the provisions to cover not only officials who are candidates but also others who improperly misuse their offices in support of a political campaign.
- 15) Neither the Basic Guarantees law nor the Law on the Election of Deputies to the State Duma contemplates the imposition of any administrative or civil penalties for public officials who violate the rights of candidates, parties or blocs, or take advantage of their offices to exert undue influence over the media, or to influence the outcome of the elections. The incidents of questionable practices and improprieties that emerged in this regard during the Duma Elections suggest that the issue warrants additional assessment.

- 16) A serious flaw in the election law is that any violation on the part of a candidate can incur the ultimate penalty involving rejection of candidacy or de-registration, regardless of the type of violation or its severity. No other sanctions exist under the current law, regardless of whether infractions or violations involve signature collection, omissions or misrepresentations on financial disclosure forms, violations of campaign spending limits or reporting requirements, or misuse of mass media. This leaves the process vulnerable to abuse if selective application becomes a political tool to eliminate certain candidates to the advantage of favored candidates. It is strongly recommended that a graduated scale of penalties be developed to ensure that sanctions can be appropriately matched to the severity of a violation. Alternative penalties could involve fines, forfeiture of filing fees, and reduction of or disqualification from using free air-time.

#### **D. Mass Media**

The electoral legislation is comprehensive and detailed in its coverage of candidate and party access to the mass media, obligations of state-controlled and private media, allotment of free airtime and print space, equal access terms for political advertising, and other elements related to the use of mass media during the election campaign. Several factors contributed to difficulties encountered to enforce provisions related to the use of mass media in the Law on Election of Deputies to the State Duma and supporting regulations adopted by the CEC.

- 17) Although the CEC is charged with ensuring compliance with electoral laws, it has no enforcement authority when it comes to the use of mass media and compliance with media legislation. The CEC may only bring its resolutions and appeals to the Ministry of Mass Media and Communications or other enforcement agencies which failed to respond. The issue requires further consideration in order to develop a more effective mechanism for sanctions.
- 18) The provisions in the law on Election of Deputies to the State Duma regarding the use of mass media in the campaign period are at variance with provisions in the Law on Mass Media, and, indeed, the Constitution. As interpreted by the CEC through its regulations, strict limitations dictated that only candidates, electoral associations and blocs could campaign in the mass media, and that no other election participants were entitled to do so. Other "election participants" in this context include citizens, as well as journalists and media commentators. The regulations were so restrictive as to make any meaningful coverage of the elections or the campaign of various candidates and blocs vulnerable to prosecution. They were justifiably criticized as being in conflict with the Constitution and fundamental rights regarding freedom of expression, speech, freedom of information and the prohibition against censorship. These are serious issues that must be overcome. Otherwise, the regulations will remain unenforceable.

The regulations of the CEC were intended to block undue bias and mobilization of mass media to support or oppose candidates or parties based on the personal biases and affiliations of their owners. Although well intended, they failed to be effective. The most prominent example of the current system's weakness involved ORT's onslaught against Fatherland-All Russia, primarily perpetrated by its popular commentator on the Sunday night political program, *Vemrya*. One of the major causes of the failure in that instance may also be the root of a more practical solution.

- 19) Sanctions for slander and libel under the current Civic Code are too weak to deter perpetrators from repeating their offences. Luzhkov's victory in his slander suit against Dorenko and ORT was a shallow victory, at best. The nominal fines imposed were simply insufficient to act as a deterrent and the slanderous attacks continued. Consideration should be given to significantly increase the penalties for slander or libel during a election period. Knowledge that the penalty for violations in the context of a campaign could be significant may discourage some individuals from making false statements or unsubstantiated allegations intended to damage the campaign of a political party or candidate.
- 20) The laws also provide that broadcasters or publications which violate the dignity or reputation of a person may be required to give free airtime or space to the victim. A structure could be articulated that requires retractions to be aired or published with a duration or frequency commensurate with the frequency of the false allegations or information disseminated.
- 21) In several reported instances, journalists and editors of state-owned or controlled media lost their jobs after critical reports on the local administration or other power structures. State-owned media have a special responsibility to provide neutral and balanced coverage and to protect journalists in the performance of their duties.