



Russian Legislation on Elections to the State Duma

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Abstract

The Russian authorities have made a number of changes in the country's electoral legislation since the first State Duma elections in 1993. The key features of the current system have been in place since 2007. This article describes the most salient features of the law.

Frequently Changing Electoral Laws

Two laws govern the election of State Duma members: the federal law "On basic guarantees of electoral rights and the right of citizens of the Russian Federation to participate in a referendum" and the federal law "On the election of Deputies of the State Duma of the Russian Federation". The former is a framework law that lays out the general provisions relating to all elections in the Russian Federation, while the latter is specific to the lower house of the parliament. There are some contradictions between these two laws, and determining which of them applies when a discrepancy occurs depends on the prevailing political climate.

Russian electoral legislation suffers from an unusual degree of instability. In the past, a new law was adopted for each Duma election: in 1995 for the 1995 elections, in 1999 for the 1999 elections, 2002 for the 2003 elections and 2005 for the 2007 elections. The amendments to the legislation that were passed in the period from 2005 to 2007 were more radical than those of the preceding ten years. The Duma election law of 2005 continues to apply, though it has been the subject of several amendments.

From 1994 to 2005 all legislators made an effort to adopt the amendments in packages, so electoral legislation was amended once or twice between elections. Since 2006 amending electoral legislation has become a continuous process. In 2006 and 2007 the authorities amended the law on basic guarantees eleven times and they amended the law on the Duma elections eight times. Between 2008 and 2011 the law on basic guarantees was subject to 28 amendments, while the law on Duma elections underwent 17 amendments.

Current Electoral Provisions

The fundamental provisions concerning the elections to the State Duma have been unchanged since 2007. All 450 members are elected through a system of proportional representation in a single federal district. The candidate lists that are drawn up by the political parties must be divided into one central section and one section listing groups of regional candidates, each of which must correspond to a specific territory (a region, one part of a region or a group of regions). The defini-

tion of the territories into which the list is divided is up to the parties themselves, with due regard to the legal regulations. These require that the territories are contiguous and, taken together, cover the entire territory of the Russian Federation. The candidates on the central section of the list are the first to be assigned seats in the Duma based on the election results. The other seats available to each party are then distributed among the regional groups on the list in proportion to the voting results from those regions. The parties set up their own campaign funds to finance their campaigns, and have the option to set up both a central budget for the party as a whole and one for each regional branch.

The regulations governing how the candidate lists are drawn up have undergone several changes. In 2007 no more than three candidates could be named on the central section of the list and there had to be at least 80 regional candidate groups. Now the central section can contain up to ten candidates and 70 is the minimum number of regional groups required.

The maximum permissible expenditure from election campaign budgets, the campaign financing "cap", has been raised. In 2007 the limit for the party's central campaign budget was 400 million rubles and that for the "consolidated" budget, i.e. the total sum of the maximums for the central and regional campaign budgets, was 1,818 billion rubles. The cap of the central budget has now been raised to 700 million rubles and the cap for the consolidated budget to 3,405 billion, making for an 87% increase.

The representation threshold remains at 7%, meaning that a party must obtain no less than 7% of the votes cast in order to obtain its share of seats proportional to the voting results. Under the new provisions though, parties that get between 5% and 6% of the vote are awarded one "consolation seat"; two seats are awarded for vote totals between 6% and 7%. It should be noted here that with a total of 450 Duma members, 5% corresponds to approximately 23 seats and 7% to approximately 32.

Pursuant to a constitutional amendment adopted in 2008, the State Duma is no longer elected every four years, but now serves a five-year term.

The most important changes that have occurred relate to the registration of party lists. The key change here is the elimination of electoral deposits. Four of the 11 lists registered in 2007 were registered on the basis of a deposit.

At present there are only 7 registered political parties. The lists of the four parliamentary parties were registered automatically. The other parties must submit signature lists in order to register their lists.

Reducing the number of signatures required has not made registration easier. In 2007, 200,000 signatures were required, as was the case in 1995, 1999 and 2003; now the figure is 150,000. The main problem in winning registration for the Duma elections is not the number of signatures required but the number of invalid signatures the lists are permitted to contain: invalid signatures may not exceed 5% of total signatures. Thus, of the seven signature lists submitted in 2007, three were not registered because they exceeded the five-percent rejection rate while the other four lists came close to reaching the cutoff line as well, at 4.6–4.8%. Minor changes have also been made to the regulations concerning submission of documents to the Central Election Commission and the arrangement and verification of the signature lists.

The 2007 version of the law included a provision requiring parties that received less than 3% of the vote to reimburse the media for the costs of the broadcast time and print media space provided to them at no cost during the election campaign. There was also a provision saying that parties that did not pay for the “free” broadcast time and print space provided to them were not eligible to receive free media exposure in the next elections. This regulation contributed in no small part to the decision of five parties that participated in the 2007 elections to disband within one year.

The OSCE recommended in 2004 that this regulation be revoked. While the authorities did remove the offending provision, they replaced it with a new regulation, under which a party that receives less than 3% of the vote automatically loses its entitlement to free broadcasting time and advertising space. In the 2011 Duma elections, Yabloko and the party “Patriots of Russia” fall under that provision. “Right Cause”, as a new party, is entitled to free broadcast time and advertising space.

Some changes that were supposed to ensure equal conditions for all parties have been introduced to the provisions regulating the use of venues for campaign events. The owners or occupiers of premises that are made available to a political party are now obliged to notify the relevant regional electoral commission in writing, setting out the terms of the arrangement. The electoral commission must then inform the other political parties about it.

There have also been some amendments to the regulations that govern voting by absentee certificate and voting outside of the polling station. Additional rights have been defined for persons with visual impairments.

Overall, the amendments to the legislation on Duma elections made between 2008 and 2011 do not concern matters of principle; they leave the existing foundation undisturbed. One of the new elements, the elimination of the electoral deposit, was intended to reduce competition, but its impact has been greater on elections at the regional and local level. Of primary significance for the Duma elections is the reduced number of parties. A whole set of amendments was designed to make the elections more just, but they are hardly of major significance and in all probability any positive impact from them will be diminished by inadequate application of the regulations in question.

Shortcomings

The strict regulations on registering candidates and party lists continue to represent one of the major shortcomings of electoral legislation in Russia; they effectively allow the electoral commissions to filter out unwanted candidates and engage in political discrimination.

Other faults can be found in the provisions of the law addressing the makeup of electoral commissions. Only parties that are already represented in the State Duma and the regional parliaments are guaranteed the right to send representatives with full voting powers to the electoral commissions at all levels. In most of the regions, there are only four such parties. There is also a provision stating that each party can only be represented by one person in the electoral commissions, with the result that party representatives form a minority in the vast majority of electoral commissions. The majority of the members of the electoral commission are individuals who are dependent, in one way or another, on the administration. Although the law asserts the independence of the electoral commissions from the executive authority, in reality the commissions are highly dependent on it and, in many cases, are quite simply an appendage of the executive.

With respect to the campaign, while the law asserts the principle of equality among the parties, provisions in the law itself deviate from that principle: as mentioned above, political parties that were less successful in the previous elections are no longer entitled to free airtime or advertising space. Of greater significance, however, is the fact that equality among the parties is not ensured in practice, as witnessed by the indirect electoral advertising for the governing party in the state-owned media, the use of officials and their subordinates to carry out the

campaign of that party, and the obstruction of opposition party campaign activities.

The law does not prevent the use of “locomotives”, i.e. when a party assigns top spots on its list to high-ranking officials (the president, ministers, governors, etc.) who have no intention of serving in the parliament and the purpose of whose candidacy is to use their prominent public office to confer advantages on the favored party.

The regulations governing the casting of votes, their count and the determination of election results are formulated in great detail, but they nonetheless have certain lacunae that can be exploited for the purposes of

falsification. More importantly, in many places, authorities do not comply with these regulations, leaving open broad opportunities for falsification.

The transparency of elections dropped considerably in 2005 thanks to a restrictive new provision. Since that time, only registered candidates and those parties whose lists have been registered for the election can send observers to the polling stations. At the same time the administration of Russian elections has improved because results from every polling station are promptly (within a few hours) posted on the Internet.

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About the Author

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Further information on the elections can be found on the following web sites:

www.golos.org (in Russian and English)

<http://www.kartanarusheniy.ru/> (in Russian)

www.european-exchange.org (in English)

<http://blog.boell-net.de/blogs/russland-blog/default.aspx> (in German)

Founded in 2000, the Russian NGO “The Association of Non-Profit Organizations ‘In Defense of Voter’ Rights’ GOLOS” organizes independent observation of elections in the Russian Federation and defends voters’ rights; since 1 September 2011 GOLOS has been monitoring the election process for the State Duma elections 2011 and the concurrent regional and local elections.

The European Exchange, Berlin, aims to strengthen civil society in the Eastern neighbor states of the European Union and supports local independent election observation networks in Belarus, Moldova and Ukraine since 2007.