

Date Printed: 11/03/2008

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JTS Box Number: IFES\_11  
Tab Number: 17  
Document Title: The Election of President of the Russian  
Federation 1996: A Technical Analysis  
Document Date: 1996  
Document Country: Russia  
IFES ID: R01869



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International  
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for Election  
Systems



**International Foundation for Election Systems**

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**The Election of President  
of the Russian Federation  
16 June 1996  
3 July 1996 (Runoff)**

**A Technical Analysis with  
Recommendations for Reform**

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# ***The Election of President of the Russian Federation***

***General Election: 16 June 1996  
Runoff Election: 3 July 1996***

***A TECHNICAL ANALYSIS WITH RECOMMENDATIONS FOR LEGAL  
AND PROCEDURAL REFORM***

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***The International Foundation for Election Systems***

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# ***Table of Contents***

<b>Acronyms</b> .....	<b>ix</b>
<b>Foreword</b> .....	<b>xi</b>
<b>Executive Summary</b> .....	<b>xiii</b>
<b>I. Constitutional Basis for the Election System</b> .....	<b>1</b>
<b>II. Federal Laws Governing the Election of President</b> .....	<b>3</b>
The Law On Basic Guarantees of Electoral Rights of the Citizens .....	3
The Law On Election of President of the Russian Federation .....	5
The Right to Vote and to Be Elected .....	6
Calling the Election .....	6
<b>III. Administrative Structure</b> .....	<b>8</b>
Background: The Basic Guarantees Law .....	8
Rights of Candidates to Have Representation on Election Commissions .....	9
For Consideration .....	10
The Authority of the Central Election Commission .....	11
For Consideration .....	12
Lower Level Commissions .....	13
For Consideration .....	14
<b>IV. Transparency Mechanisms</b> .....	<b>16</b>
Transparency Provisions in the Basic Guarantees Law .....	16
Transparency Provisions in the Presidential Election Law .....	17
CEC Instructions and Resolutions Regarding Observers .....	19
Attempts to Expand Public Control Over the Election Process .....	20
Introduction of "Citizen" Observers .....	21
Expanding Rights of Observers .....	22
Provisions for Automatic Recount .....	22
Access to the State Automated System .....	23
Election System Performance .....	24
Observers .....	25
Deliberative Voting Members of Election Commissions .....	26
For Consideration .....	26

<b>V.</b>	<b>Nomination and Registration of Candidates</b>	<b>30</b>
	Preliminary Requirements of Nominating Associations, Blocs, and Groups	31
	For Consideration	31
	Gathering Signatures on Candidate Petitions	32
	For Consideration	33
	Registering Candidates	34
	For Consideration	35
	General Comments on Electoral Associations	36
	For Consideration	36
<b>VI.</b>	<b>Pre-Election Campaigns and the Media</b>	<b>38</b>
	Fundamental Principles in the Basic Guarantees Law	39
	Campaign Provisions in the Presidential Election Law	40
	For Consideration	42
	Table: Paid and Free Access to the Media Provided By Law and Regulation for the Pre-Election Campaign	46
	Provisions Subject to Potentially Subjective Interpretation and Selective Enforcement	48
	For Consideration	49
	Adjudication by the Judicial Chamber for Information Disputes	50
	The Multi-Dimensional Role of the Judicial Chamber	51
	Independent Intervention by the Judicial Chamber	53
	Limitations on Enforcement Capacity	54
	For Consideration	55
	General Issues Related to the Pre-Election Campaigns During the Presidential Elections	56
	Imbalance in Media Coverage	56
	Influence of Governmental Bodies	58
	Violations by the Media	60
	Questionable Activities on the Part of Campaign Organizations	63
	Conflicts Between Federation and Local Rules and Allowances Regarding Campaign Activities	63
	For Consideration	63
<b>VII.</b>	<b>Campaign Financing</b>	<b>66</b>
	Overview of Legal Provisions	66
	Campaign Finance Provisions in the Basic Guarantees Law	66
	Campaign Provisions in the Presidential Election Law	68
	CEC Regulation of Election Funds	70
	Election System Performance	72
	Pre-Registration Activity	74
	Supplemental Payment for Goods and Services	74
	Avoidance of Overt Political Purpose	74

Advantages of Incumbency .....	75
For Consideration .....	76
<b>VIII. The Ballot .....</b>	<b>82</b>
For Consideration .....	83
<b>IX. Conduct of the Poll .....</b>	<b>86</b>
Before Voting Begins .....	86
For Consideration .....	86
Processing of Voters .....	88
For Consideration .....	89
Special Voter Services .....	90
Voting in Remote Sites and Early Voting .....	90
For Consideration .....	93
Voters Who Need Assistance .....	94
Voting Outside the Polling Site .....	94
For Consideration .....	95
<b>X. Counting the Votes and Reporting the Results .....</b>	<b>98</b>
Before the Counting of Votes Begins .....	98
For Consideration .....	99
Counting the Ballots Cast Outside the Polling Site .....	100
For Consideration .....	101
Invalid Ballots .....	102
For Consideration .....	103
The Counting Procedure in Practice .....	104
For Consideration .....	106
Sample Instructions .....	106
No. 1 The Tally Method .....	107
No. 2 The Stack and Count Method .....	107
Test of Ballot Scanning Devices at Selected Sites .....	109
For Consideration .....	110
Completion of the Protocol .....	110
For Consideration .....	112
Format of the Protocol .....	113
For Consideration .....	113
Sample Protocol Form: Ballot Accountability Portion .....	114
Misunderstanding Ballot Accountability .....	115
Summarization of Results .....	117
The State Automated System .....	118
For Consideration .....	119
Processing Returns at the Level of the Territorial Election Commission .....	120
For Consideration .....	121
Observer Presence During the Counting and Summarization of Votes .....	123

For Consideration .....	123
Distribution of Certified Copies of the Protocols .....	124
For Consideration .....	125
<b>XI. Adjudication of Grievances .....</b>	<b>127</b>
Overview of Legal and Regulatory Provisions .....	128
Judicial Review of Election Complaints .....	129
Complaints Regarding the Registration of Presidential Candidates .....	130
Court Cases Involving Pre-Election Campaigns .....	132
Allegations of Election Fraud .....	132
Election Commission Review of Complaints .....	133
Channeling Complaints Under Present Law .....	134
For Consideration .....	135
Table: Potential Structure for Channeling Complaints for Adjudication .....	137
<b>XII. Determining the Winner and Second Round Voting .....</b>	<b>141</b>
Mid-Week Voting .....	142
<b>XIII. General Issues .....</b>	<b>144</b>
Citizenship as it Relates of Voting .....	144
For Consideration .....	144
Influence of Local Administration .....	145
Simultaneous Conduct of Federal and Local Elections .....	148
For Consideration .....	149
<b>XIV. Summary of Considerations for Potential Legal and Procedural Reforms .....</b>	<b>151</b>
Considerations for Legal Reform .....	152
Considerations for Procedural and Administrative Reform .....	178
<b>XV. Attachments .....</b>	<b>183</b>
• Comparison of Russian Election Laws	
• List of Federal Laws and Other Normative Acts Regulating Elections of the President of the Russian Federation	
• Examples of Laws Governing Media and the Pre-Election Campaign	
• Election Calender: A Quick Reference Guide For the Election of President of the Russian Federation 16 June 1996	
• Published Financial Reports of Candidates for President of the Russian Federation	



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## ***Acronyms***

<b>CEC</b>	<b>Central Election Commission of the Russian Federation</b>
<b>CNN</b>	<b>Cable News Network</b>
<b>DEC</b>	<b>District Election Commission</b>
<b>EIM</b>	<b>European Institute for the Media</b>
<b>IFES</b>	<b>International Foundation for Election Systems</b>
<b>KPRF</b>	<b>Communist Party of the Russian Federation</b>
<b>NIS</b>	<b>Newly Independent States</b>
<b>NTV</b>	<b>Independent Russian Television</b>
<b>OMRI</b>	<b>Open Media Research Institute</b>
<b>ORT</b>	<b>All-Russian Television</b>
<b>PSEC</b>	<b>Polling Site Election Commission</b>
<b>RTR</b>	<b>Radio/Television Russia</b>
<b>SEC</b>	<b>Subject Election Commission</b>
<b>SAS</b>	<b>State Automated System</b>
<b>TEC</b>	<b>Territorial Election Commission</b>

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## **Foreword**

While reflecting the cumulative findings of the IFES Russia team concerning the 1996 presidential campaign and election, this report is also the product of longer term observation of electoral reforms in the region and on-going consultations with successive election authorities in the Soviet Union and the Russian Federation since 1989. It has been designed as a reference tool for those tasked with legal, institutional, and procedural reform of the electoral process. The authors have made every attempt to represent the facts accurately and objectively, and in so doing, have cross checked information with several sources whenever possible.

It should be acknowledged that the 16 June 1996 presidential election and 3 July 1996 second round voting further advanced the democratization and professionalization of election administration in Russia, for which election administrators, campaign participants, and the Russian people should be congratulated. This report is nevertheless very detailed and offers many suggestions and options with regard to *refining* the electoral process. Therefore the recommendations presented are rather technical. To better facilitate use of this report and to direct those who may have specific interests, IFES has provided grid at the end of the document which indexes technical recommendations by number, page, and affected articles of law.

There is an extensive list of people who should be recognized for their contributions to the substance and presentation of this report. In particular, IFES would like to thank Central Election Commission Chairman Nikolai Ryabov and Vice-Chairman Alexander Ivanchenko for the access, cooperation, information, and expert analysis provided to IFES by members and staff of the Commission. IFES also owes much to the Head of the Judicial Chamber for Information Disputes, Anatoly Vengerov and his staff, and to Supreme Court Justice Alexander Fedin.

The IFES Russia team wishes to acknowledge the immeasurable benefit received from the insights of the representatives of the legislative and executive branches, candidate organizations and political parties, mass media, and subordinate election commissions who participated in IFES training events and responded to IFES mailings and surveys. Thanks are also extended to the authorized candidate representatives and deliberative voting members of the Yeltsin, Zyuganov, and Yavlinsky campaigns, who kept IFES advisors abreast of the relative success of transparency mechanisms and the adjudication of grievances process.

IFES is certainly indebted to the services provided by Alexander Postnikov of the Institute for Legislation and Comparative Law for frequently explaining and clarifying the intricacies of Russian election law and practice, commenting on the feasibility of various reform proposals, and assisting in the editing of this report.

IFES' technical assistance project in Russia was made possible through a grant from the US Agency for International Development.

## ***Executive Summary***

The 1996 elections for President marked a pivotal moment in political history for the Russian Federation. However, the elections did more than determine who will be the President of Russia for the remainder of the twentieth century. They demonstrated the advancement of democratization and professionalization of election administration in Russia. Despite the highly politicized debate about possible manipulation of election results in Russia, the federal electoral code, supplemented by administrative regulations and instructional materials, provides a comparatively extensive basis for access to election commissions and documents as well as opportunities for input and oversight by the full spectrum of political interests. While compliance with accountability provisions of the law has not yet reached uniformity and further legal and procedural reforms are needed, with each successive election, officials have exhibited increased professionalism, observers become more prevalent, and violations were more often exposed and adjudicated.

This report, which was designed for Russian lawmakers and election administrators as they evaluate the 1996 presidential elections and pursue legal and procedural reforms, includes a wide range of recommendations for improving the electoral process. The technical nature of the recommendations reflect the International Foundation for Election Systems' (IFES) desire to provide a series of feasible changes that, if implemented, will enhance the credibility and transparency of the Russian electoral process as a whole.

The report begins by discussing the legal basis for the 1996 presidential elections in Chapter 1, *Constitutional Basis for the Election System* and Chapter 2, *Federal Laws Governing the Election of President*. Building on some basic principles in the Constitution, Russian lawmakers developed a fundamental election law delineating the basic guarantees that citizens have in *all* elections in the Russian Federation. For presidential elections, lawmakers passed another federal law to address specific issues pertinent to the election of the President. The electoral process is also guided by other relevant pieces of legislation, such as those concerning the media and the responsibility of administrative authorities. There are also several procedural guidelines and clarifications set forth by the Central Election Commission of the Russian Federation (CEC).

Chapter 3, *Administrative Structure*, describes the structure underpinning implementation of the election process which is soundly formulated in the law. The CEC stands at the top of the administrative hierarchy with lower level commissions serving within each of the 89 Subjects of the Russian Federation. Subordinate to the Subject Election Commissions (SEC) are approximately 2,700 Territorial Election Commissions (TEC) serving raions, cities and other administrative subdivisions within each Subject. Under the supervision of the TECs are Polling Site Election Commissions (PSEC) serving at the actual polling sites. For elections to the State Duma, an additional layer of administrative authority is added with the formation of District Election Commissions (DEC) who supervise election preparations in the 225 constituencies.

This Chapter analyzes the administrative structure and makes recommendations regarding deliberative voting members (non-voting or consultative members) to election commissions and their rights, including the right to "receive certified copies" of documents and materials of the

respective and subordinate commissions. IFES examines the role of deliberative voting members at polling sites on election day, as well as the lengths of their terms. Recommendations are also made with respect to the role of the CEC during elections at the subject or local levels and the independence of election commissions from bodies of state and local self-government during the preparation and conduct of elections.

IFES examines transparency provisions in the law and in administrative guidelines, and the role of observers and deliberative voting members in the presidential elections in Chapter 4, *Transparency Mechanisms*. IFES discusses the presence of observers during the summarization of results. Recommendations are also made regarding the eligibility of local administration officials to serve as observers at polling sites and methods for identifying the status of observers. IFES points out the deficiencies in current election legislation with respect to making certified copies of the protocols available to observers. IFES also makes recommendations regarding the extension of the term of territorial level commissions, and deliberative voting members and candidate observers and presents arguments for consideration of new election legislation in order to improve the transparency mechanisms of the system.

In Chapter 5, *Nomination and Registration of Candidates*, IFES presents an analysis of this process, which includes a discussion of registration deadlines for electoral associations and the timing for conferences where authorized representatives are selected and candidates are nominated. The report makes recommendations regarding clarification of the legal status of electoral blocs and the role of the CEC. With respect to registration of candidates the issue of merging voters groups' petitions, as well as denial of registration and the process of appeal are analyzed. Recommendations are made regarding procedures for evaluating petitions, review of petitions at the subject level, denial of registration, and also the creation of a separate law to cover political parties, apart from the current Law on Public Associations.

Chapter 6, *Pre-Election Campaigns and the Media* explores the need to uniformly define key terms related to the pre-election campaigns and the legal provisions for access to the media for election participants, as well as legal provisions for the timing of withdrawal of candidates. IFES explores the legal issues related to the CEC's responsibilities regarding the conduct of campaigns via the independent media. Recommendations are also made regarding the role of election commissions in cases involving violations of campaign rules, the avenues through which election participants may bring complaints, and alternative penalties for campaign violations in lieu of de-registration. IFES also recommends that the body of decisions regarding pre-election campaigns and the media should be reviewed to determine where trends may have emerged in order to identify areas where legal reforms might be warranted.

In Chapter 7, *Campaign Financing*, IFES makes recommendations regarding the scope of regulatory jurisdiction related to campaign funding, and legal guidelines regarding campaign activities of electoral associations and other politically oriented organizations, as well as the need to address issues of political ethics. Also examined in this Chapter are issues such as the lack of guidance with respect to in-kind contributions, the overall limitations on political contributions and expenditures, and the need for an improvement in pre-election financial reporting. IFES makes suggestions regarding the transfer of campaign finance authority from the election commission to a specialized and independent agency. The report points out a need for appointment of "financial managers" by the candidates and electoral associations and blocs to be responsible for forming and maintaining the electoral fund accounts and compliance with reporting requirements, as well as transfers of funding from the federal budget for elections to be carried out in a timely and reliable

manner.

The technical report addresses the possible improvements that can be instituted in the area of ballot security, including transit and storage in Chapter 8, *The Ballot*. Another important security measure that is analyzed is the process of "certifying" of ballots by the PSEC. In its discussion of issues related to the ballot, IFES recommends setting the deadline for withdrawal of candidates early enough that ballots can be printed correctly.

In Chapter 9, *Conduct of the Poll*, IFES examines the procedures that take place prior to opening of the precincts such as advance voting, displaying and sealing the ballot boxes prior to the beginning of the voting, proper recording of deliberative voting members and observers, and other pre-voting documentation. Recommendations are also made regarding entry of base line figures against which voter activity and ballot accountability would be based. This Chapter also analyzes the guidelines for the processing of voters using Absentee Certificates, and also the types of identification that are required for voting. The report considers the legal provisions regarding the establishment of polling sites to accommodate voters serving on military and commercial fleets and at remote or foreign sites, including foreign locations at sites other than embassies, and the counting procedures which need to be implemented during early voting. IFES also discusses the issues surrounding eligibility to vote outside the polling sites.

In Chapter 10, *Counting the Votes and Reporting Results*, IFES outlines the additional preparatory steps that should be taken before the first ballot box is opened for the vote counting to begin, in order to reassure observers and help them understand how ballots are being accounted for. IFES presents recommendations regarding a host of procedural details that currently need clarification. Issues covered in this Chapter include handling of ballots, recording of votes, and filling out the protocols (such as the counting of ballots from the mobile box versus those from the stationary box, the classification of ballots as invalid, making the counting procedures consistent at all polling sites, and improving the legal requirements regarding required entries on the protocols). The report also looks at the lack of legal provisions for the rights of observers to be present at the territorial or subject level commissions during the summarization of results, as well as their right to receive certified copies of the relevant protocols upon request.

In Chapter 11, *Adjudication of Grievances*, IFES makes recommendations regarding the channeling of complaints through the hierarchy of election commissions and exhausting available administrative remedies prior to court action, and clarifying the scope of authority and responsibility of the courts in reviewing election commission actions. This Chapter includes a discussion of the CEC's authority to investigate complaints, the need to train election commissions regarding the right of observers to receive certified copies of protocols and to observe in special polling sites, and the significance of certified copies of protocols as admissible evidence in the courts. This Chapter also analyzes issues related to access to official campaign finance information regarding pre-election and post-election campaign reports, the need for the development of a civic culture that supports disclosure and monitoring of campaign finance information, and the need for compiling, organizing, and publishing information about complaint adjudication.

Chapter 12, *Determining the Winner and Second Round Voting*, discusses issues pertaining to the 3 July 1996 second round run-off elections, such as revising voter lists and mid-week voting.

Chapter 13, *General Issues*, examines issues of citizenship, the influence of local administrations, and the need to develop administrative guidelines to assist subject and local officials in overcoming

procedural conflicts that may arise with the simultaneous conduct of federation-wide and local elections.

Finally, the report concludes in Chapter 14, *Summary Considerations for Potential Legal and Procedural Reform*, with an index of recommendations for consideration. The index provides a compilation of the recommendations spread throughout the report. Following the index is a set of attachments relevant to the issues raised in the report, such as comparative legal charts, an election calender, and the published financial disclosures of campaign spending.

# 1

## ***Constitutional Basis for the Election System***

The legal foundation for democratic systems are often based on a hierarchy of rights. The Russian system is founded on basic rights guaranteed by the Constitution, which was approved by Russian voters on 12 December 1993. Russia's current Constitution includes the following fundamental guarantees affecting electoral rights:

The recognition, observation, and protection of the rights and freedoms of man and citizen are the obligation of the state.

- Article 2

In the Russian Federation, political pluralism and a multi-party system are recognized.

- Article 13 (3)

The basic rights and freedoms are inalienable and enjoyed by everyone...

- Article 17 (2)

Everyone is guaranteed freedoms of thought and speech.

- Article 29 (1)

Freedom of the mass media is guaranteed. Censorship is forbidden.

- Article 29 (4)

Everyone enjoys the right to association...Freedom of activity of public associations is guaranteed.

- Article 30 (1)

Citizens of the Russian Federation have the right to assemble peacefully, without weapons, hold rallies, meetings, demonstrations, marches, and pickets.

- Article 31

Citizens of the Russian Federation have the right to participate in managing state affairs both directly and through their representatives.

- Article 32 (1)

Citizens of the Russian Federation have the right to elect and be elected to state bodies of power and local self-government bodies, as well as to participate in referenda.

- Article 33 (2)

Deprived of the right to be elected are citizens recognized incapable by the court and also those detained in places of deprivation of freedom upon a court sentence.

- Article 33 (3)

Further explication of rights and legal processes are provided in the Federal Law *On the Basic Guarantees of Electoral Rights of the Citizens of the Russian Federation*, and specific laws for elections to the Presidency of the Russian Federation and the State Duma of the Russian Federation, and laws regarding elections for subject and local offices.



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# 2

## ***Federal Laws Governing the Election of President***

Procedures for the conduct of the election of President are fundamentally dictated by the Federal Law *On Basic Guarantees of Electoral Rights of Citizens of the Russian Federation* adopted in 1994 and the Federal Law *On Election of President of the Russian Federation* adopted in 1995. In addition, a number of other federal laws peripherally impact specific components of the election process. For example, the Federal Law *On Mass Media of the Russian Federation* has specific relevance to issues surrounding the pre-election campaigns and candidate access to the media. Provisions of the *Criminal Code of the Russian Federation* apply to cases involving certain election violations, and the *Code of Administrative Misdemeanors of the Russian Federation* imposes obligations and penalties on officials bearing responsibility for various aspects of the election process.

### ***The Law On Basic Guarantees of Electoral Rights of the Citizens***

On 20 December 1993, Russian President Boris Yeltsin issued a decree (No. 2227) establishing the Central Election Commission of the Russian Federation (CEC) as a permanent institution and directing the CEC to draft new federal legislation on elections. After consulting with legislative and political leaders and legal scholars, a consensus emerged to develop a basic and preliminary law setting forth fundamental principles of democracy and enumerating voters' rights as an essential first step. Once enacted, this legislation would serve as the framework for all subsequent and specific election laws at all levels of government.

Throughout the drafting process, the CEC's Working Group on Election Law sought input from regional election authorities, parliamentarians and representatives of the executive branch. Some 25 Constituency Election Commissions (equivalent to the District Election Commissions administering the 1995 elections to the State Duma) submitted detailed reviews of the draft law and suggested specific modifications. Public associations (registered political parties and movements) were also encouraged to submit recommendations. The Federal Law *On the Basic Guarantees of Electoral Rights of the Citizens of the Russian Federation* was approved by the State Duma on 26 October 1994, approved by the Federation Council on 15 November and signed by the President on 6 December 1994. As anticipated, this law, which is unique within the former Soviet Union, expands upon the basic guarantees to voters expressed in the Constitution. It also lays the foundation for more specific requirements and procedures to be found in subsequent laws governing elections for executive and legislative offices at the federal, subject and local levels.

The Basic Guarantees Law encompasses a broad scope of fundamental principles upon which all other federal laws governing specific types of elections must be based. The following are among the most significant rights guaranteed by this law.

- The people of the Russian Federation have the right of self-government, and the legitimacy of the government depends upon the expression of free will of voting citizens.
- The scope of this law applies to all elections at all levels of government throughout the Russian Federation (although legislative bodies of Subjects are entitled to enact laws that provide additional electoral rights).
- Electoral associations (political parties and movements registered with the Ministry of Justice) and electoral blocs (temporary coalitions of electoral associations) are recognized as an institutional feature of the political system.
- Citizens have a right to voluntary, equal and direct political participation by secret ballot.
- Citizens have the right to elect and be elected regardless of sex, race, nationality, origin, language, religion, beliefs, associations, place or residence, property or official status.
- A hierarchy of independent election commissions is established and vested with responsibility for implementing the election laws at the federal, subject, district (constituency), territorial (local) and precinct (polling site) levels. Under the Basic Guarantees Law commissions at each level are required to carry out their functions in an open and public manner.
- Candidates are guaranteed the right to equal treatment under the election laws, the right to campaign, and the right to equal access to media and public facilities.

In addition to these fundamental guarantees, the Basic Guarantees Law also sets forth relatively specific procedural principles on which subsequent election laws are to be founded.

- The law addresses the preparation of voter lists and sets responsibility for their creation and maintenance with local authorities. The law also protects the rights of voters to be included on the voter list and to appeal decisions, errors or omissions which affect their franchise.
- Responsibility for forming electoral districts (constituencies) is vested in Subject Election Commissions (SECs). SECs must create approximately equal districts in terms of the electorate with a maximum deviation of ten percent of the average rate of representation relative to the existing administrative divisions (a deviation of 15% is allowed in remote areas).
- Local authorities are assigned responsibility for the formation of electoral precincts which may serve no more than 3000 voters. Special provisions are made to accommodate polling at extraordinary polling sites, such as military sites and rest homes.
- The Basic Guarantees Law sets parameters for the composition and qualifications of members of the CEC, defines their primary responsibilities, and grants the Commission

regulatory authority regarding procedures for voter registration, tabulating election returns and election administrative and campaign funding.

- Fundamental principles are defined for voting procedures and the general operation of election commissions. In particular, articles cover detailed descriptions of voting, counting and tabulation procedures, prohibitions against voting for other persons, procedures for guaranteeing the secrecy of the vote, and protections from undue interference or influence on the voting.
- The rights of citizens and election participants to appeal the decisions and actions of election commissions are articulated as are the general procedures for filing complaints.
- Procedures are generally defined for nomination and registration of candidates by electoral associations and blocs, including a requirement for use of secret balloting by electoral associations and blocs in selecting their nominees, and a procedure for direct nomination of candidates by voters.
- The law provides general coverage of rules and restrictions regarding campaign funding which encompasses financial support from funds of the federal budget and from private sources through voluntary contributions.
- Fundamental rights of candidates, electoral and public associations, and international observers to monitor the entire voting, counting, and tabulation process are defined.
- The law mandates the publication of election results within three months after an election as well as the preservation of voting materials for at least one year. The law also guarantees citizens and election participants immediate access to election results and election documents for their examination upon request.

## ***The Law On Election of President of the Russian Federation***

The original draft of the Federal Law *On Election of President of the Russian Federation* was passed by the State Duma on 12 April 1995. After an initial veto, the Federation Council passed the proposed law on 4 May 1995. President Yeltsin signed the bill into law 13 days later. The main issue of dispute between the legislature and the President was the threshold of signatures required to nominate a candidate. The presidential administration favored a higher threshold of two million voters, while some factions in the Status Duma called for a 500,000 signature threshold. A compromise worked out in committee (the Commission on Conflicts) set the requirement at one million signatures.

It is difficult to compare the current law with its 1991 precedent. The last presidential elections were held at a time when Russia was still the Russian Soviet Federative Socialist Republic (RSFSR) and an integral part of the Soviet Union. Therefore elections were conducted for a republican level office, as opposed to a sovereign, federal one. Moreover, the degree of specificity in the new legislation far exceeds that of its predecessor, which had only 17 articles compared with the 62 articles of the current law.

Specific provisions of the Presidential Election Law are discussed in detail throughout this report. The following will be a discussion of general provisions which set the stage for presidential elections.

### ***The Right to Vote and to Be Elected***

The first article in the Presidential Election Law declares that the President is to be elected by a direct vote of the people. The 'people' in this instance is defined in Articles 3 and 24 as Russian citizens who are at least 18 years old. Those citizens who are legally declared incompetent or imprisoned are prohibited from voting. Citizens who are in prison awaiting trial are permitted to vote. Special provisions are made for military personnel and dependents, temporary residents, voters residing outside of Russia as well as those voters in rest homes, sanitoriums, hospitals and spas.

Any citizen over the age of 35 is eligible to run for President provided that person has resided in the territory of the Russian Federation for at least ten years. Citizens who have been declared incompetent by a court or who are imprisoned are ineligible. Previous legislation included a cap on the age of candidates seeking the presidency. Those over the age of 65 were ineligible for office. Despite an effort in the Parliament to retain an age ceiling, such a restriction is not found in the current law. In accordance with the post-Soviet Russian Constitution, the current law stipulates that presidential candidates must reside in the territory of the Russian Federation for at least ten years.

The President is to be elected through a single federal election district encompassing the entire territory of the Russian Federation. The law reinforces the Constitution which sets the term of the president at four years.

### ***Calling the Election***

Article 4 of the Presidential Election Law dictates that the Federation Council (upper house) has the responsibility to call the date of the presidential election. Transition of power was not specifically addressed in the 1991 law and the new Presidential Election Law is not altogether clear in its provisions either. In accordance with Article 92 of the Constitution, the winner of the presidential election assumes the post from the moment he/she takes the oath of office, and serves until the expiration of his/her term which occurs when a newly elected president is sworn in. Article 4 of the Presidential Election Law is somewhat confusing and seems to misrepresent the constitutional provision in this regard because it establishes the day for the presidential elections as the first Sunday "after the expiration of the constitutional term" for which the incumbent president was elected. In spite of this puzzling wording, the law is clear in its requirement that the term from the day of setting the election and election day must be no less than four months. The date for the 1996 presidential election was set for 16 June.

Powers of the President of the Russian Federation may be prematurely terminated due to resignation, health or impeachment before the expiration of his/her constitutionally set term. In such cases the law requires the Federation Council to set a special election to be held on the last Sunday before the expiration of three months following the early termination of powers. Should the Federation Council fail to set elections under such circumstances, the CEC is tasked with announcing the election date. All election-related time-frames established in the law are reduced by one quarter for such a special election.

If the President permanently ceases to exercise the powers of the presidency, Article 92 of the Constitution of the Russian Federation states that the duties will be temporarily filled by the Chairman of the Government (Prime Minister) while new elections are called. Some analysts have pointed to what they believe is a serious flaw in the legal framework regarding early abdication of presidential powers. Specifically, there is concern that the Constitution fails to set criteria by which it can be determined that an incumbent president's health makes him incapable of carrying out the duties of his/her office. Nor is there provision that dictates by whom the final decision is to be made or by what instrument the resignation is made official. Article 92 also fails to describe how long the Chairman of the Government can temporarily fulfill the duties of the presidency before a new election must be called.

In the Chapters that follow, specific provisions of the Presidential Election Law are described and analyzed relative to the particular election component being discussed. In addition, recommendations are made for consideration by lawmakers and officials as they pursue procedural refinements and legal reforms.

# 3

## ***Administrative Structure***

The law soundly formulates the administrative structure underpinning implementation of the election process. The Central Election Commission of the Russian Federation (CEC) stands at the top of the administrative hierarchy with lower level commissions serving within each of the 89 Subjects of the Russian Federation. Subordinate to the Subject Election Commissions (SEC) are approximately 2,700 Territorial Election Commissions (TEC) serving raions, cities and other administrative subdivisions within each Subject. Under the supervision of the TECs are Polling Site Election Commissions (PSEC) serving at the actual polling sites. For elections to the State Duma, an additional layer of administrative authority is added with the formation of District Election Commissions (DEC) who supervise election preparations in the 225 constituencies.

### ***Background: The Basic Guarantees Law***

The existing election commission structure represents a major step forward in the evolution of an administrative hierarchy that is more independent and multilateral in its representation of diversified interests. Under the previous constitutional system, the CEC was appointed by the Supreme Soviet and consisted of 29 members (in accordance with the Federal Law *On Election of the Supreme Soviet of the Russian Federation* adopted in 1989). The term of the Commission was tied to that of the Supreme Soviet. Upon the premature dissolution of the Supreme Soviet in the fall of 1993, the activities of the CEC were also suspended. In the midst of the political crisis President Boris Yeltsin established a new commission by edict consisting of 21 presidential appointees. This body was responsible for the conduct of the December 1993 Parliamentary Election and Constitutional Referendum. Another edict was issued in December of 1993 whereby the President conferred permanent status on the CEC vesting in it the responsibility to conduct the elections to federal organs of statute authority, referenda, and elections to representative organs of state authority of regional and local jurisdictions. Having been appointed exclusively by the President, and due to its dependence on the presidential apparatus and the influence of the President and his/her staff on its policy and procedural decisions, serious questions were raised as to the independence of the CEC.

With the adoption of the Federal Law *On Basic Guarantees of Electoral Rights of Citizens of the Russian Federation* on 12 December 1994, the permanent status of the CEC was reinforced. Article 11 of the Basic Guarantees Law established the commissions at all levels as "legal entities" and provided the legal foundation for their autonomy stating that they "shall be independent within their competence of bodies of the state and local self-government during the preparation and conduct of elections." The law also specified the qualifications for CEC members requiring that they have a higher juridical education or a degree in law.

Perhaps the most significant provision of the law, however, was the introduction of a more equitable formula whereby nominations for membership on the CEC institutionalized its political diversity and enhanced its independence from any one political body. The provisions of this law provide for balanced membership with appointments coming from a cross section of legislative and executive bodies of power. Under this law one-third of the CEC's 15 members are appointed by the State Duma from nominations proposed by political parties and factions within the lower house. Five members are appointed by the Federation Council from nominees proposed by the legislative and executive bodies of state power at the subject level. The final five members are appointed directly by the President of the Russian Federation. Leadership within the CEC is determined internally by its own members by secret ballot.

The new CEC seated on the basis of this law was formed in March of 1995. Several members of the previous Commission were named to the new body, among them the Chairman, Nikolai Ryabov, by nomination of the President, and the Vice-Chairman, Alexander Ivanchenko, nominated by the State Duma. Both Ryabov and Ivanchenko were re-elected to their previous leadership posts. Sponsors of the five members nominated by the State Duma, included the New Regional Policy Group, Russia's Choice, Liberal Democratic Party of Russia, the Communist Party of the Russian Federation and the Agrarian Party. The ramifications of the new nomination procedure were immediately apparent with the CEC publicly taking a more independent stance on Yeltsin's proposals on issues of electoral reform, in some cases outwardly criticizing them.

According to the Basic Guarantees Law which delineates the four levels of election commissions in Articles 10-18, the CEC and the 89 SECs are established as permanent bodies. The remaining two lower level commissions are created in the days prior to the election. The TECs are created no later than 60 days prior to the election and the PSECs are formed no later than 44 days prior to the election date. Under the 1991 law, which only called for three levels of election commissions (central, territorial and polling-site), rights and responsibilities of the commissions were not specifically enumerated.

### ***Rights of Candidates to Have Representation on Election Commissions***

Another significant feature of the Basic Guarantees Law relates to opportunities for candidates or their nominating groups to have representation on the various election commissions. The Presidential Election Law reinforces this right by providing that each registered candidate is entitled to appoint one deliberative (non-voting or consultative) member to represent them on every election commission at every level. These representative members have the right of deliberative vote for the purposes of discussion and debate as issues come before the relevant commissions. However, they are precluded from participating in the deciding votes as formal decisions are adopted. The representatives of the candidates serve to provide a level of transparency that has true merit. As envisioned by the law, the interests of candidates can be represented at all levels of the administrative structure. The presence of deliberative voting members provides an important guarantee that candidates have access to full information regarding the policies, decisions and actions of commissions that will affect their participation in the process.

Under Article 13 of the Basic Guarantees Law, the terms of deliberative voting members expire 30 days after the final election returns are made public, except those deliberative voting members representing candidates or electoral associations who are actually elected. Deliberative voting members of elected candidates retain their posts until the elected official's registration is terminated

in the next election to the same body. In effect, since second round voting must take place no later than 15 days after the estimation of the results of the initial election, these provisions seem to mean that deliberative voting members at all levels remain in their posts for both first and second rounds of an election should a run-off election be necessary. As the winner of these presidential elections only President Yeltsin's deliberative voting member will be retained in his post until the President's registration is terminated at the time of the next election cycle.

During their terms deliberative voting members are entitled to have access to any materials and documents of their respective commissions and are to be notified of any and all sessions. They also have the right to speak at any of the sessions of their commissions. Article 19 of the Presidential Election Law expands these provisions by including additional detail. For example, in the Presidential Election Law, notification of meetings must be given to deliberative voting members "in advance." The right to have access to materials and documents is augmented to include not only materials of their respective commissions, but also any subordinate commissions. In addition, the expanded language in the law ensures that deliberative voting members also have the right to receive certified copies of documents and materials.

### ***For Consideration***

- 3.1 The Presidential Election Law affords the privilege of appointment of the representative members with deliberative vote exclusively to registered candidates. However, Article 13 of the Basic Guarantees Law states that "upon the registration of a candidate (list of candidates), the nominating electoral association *or* the nominee proper" are entitled to a deliberative voting member (emphasis added). If the intent of the Basic Guarantees Law is to state that in elections involving a "candidate list" the nominating group appoints the deliberative voting member, but in single mandate elections, the candidate makes the appointment, it is not clearly stated. Consideration should be given to clarifying this point, or bringing the two laws into conformity. Presumably the Basic Guarantees Law is the foundation law setting the fundamental principles to which all other electoral laws must conform. It is confusing as to which law prevails when the two have conflicting provisions. This conflict points to the need for the Basic Guarantees Law to provide specific guidance as to which of its articles may be waived in lieu of other federal laws.
- 3.2 There also seems to be a subtle difference between the stated rights of commission members with deciding vote, and those with deliberative vote. Under Article 19 of the Presidential Election Law, members with the right of deciding vote are entitled to be present at "all" sessions of the commission. However, the word "all" is omitted in a more general statement of this right which refers to both members with deciding vote and members with deliberative vote. In the general statement of their rights, the law refers to their right to be "informed of meetings" of a respective election commission. They are also entitled to speak at "meetings" and to ask questions and receive reasonable answers from other participants at the "sessions." The fact that the word "all," used in reference to members with deciding vote, is not reiterated in text that includes reference to members with deliberative vote leaves it open to question as to whether there are sessions or meetings in which they may not be entitled to participate. Additionally, if there is a difference between the terms "meetings" and "sessions" in these contexts, they should be defined in the law.



- 3.3 The rights of deliberative voting members to receive certified copies of documents, and to have the same access to documents and materials of subordinate commissions, should be duplicated in the Basic Guarantees Law. These privileges are very important to the overall transparency and openness of the process, and should be uniformly applied for any type of election.
- 3.4 The laws are very sparse in descriptions of the functionary role of deliberative voting members, particularly on election day. In order to avoid confusion that was apparent during the presidential election cycle, duties and activities in which deliberative voting members may and may not engage on election day should be delineated. (Additional discussion of this issue appears in Chapter 9, *Conduct of the Poll*, and Chapter 10, *Counting of the Votes and Reporting Results*.)
- 3.5 Article 19 of the Presidential Election Law should be augmented to clarify the terms of deliberative voting members who represent candidates who fail to advance to the second round election. Subject to interpretation, the law implies that all deliberative voting members, regardless of the success or failure of their candidate, remain in their posts during the second round election. However, there is a technical question which provides opportunity for subjective interpretation since the right to have deliberative voting members belongs only to "registered candidates." There is room to question whether a defeated candidate who will not appear in the second round retains his/her status as a "registered candidate." It might be beneficial for the law to be clearer as to the status of deliberative voting members who represent candidates who have failed to advance to the second round.

### ***The Authority of the Central Election Commission***

The CEC is charged with responsibility to organize the preparations for the conduct of the elections, and to guide the activities of lower level commissions, establish policy and oversee the uniform application of election legislation. Within its competence, the CEC is also authorized to adopt decisions which are, in turn, binding on lower commissions, state bodies, bodies of local self-government, public associations, state enterprises, agencies and organizations throughout the Russian Federation. Under the law, the CEC is authorized to issue instructions and other normative acts on questions of application of the law. In addition, the CEC registers presidential candidates. Although public associations (political parties) are registered by the Ministry of Justice, coalitions of electoral associations or non-political associations called electoral blocs are also registered by the CEC. In coordination with SECs, the CEC organizes the national system for the registration of voters.

The CEC bears the burden for significant administrative and logistic management functions including the distribution and use of funds allocated from the federal budget for the conduct of the election, and the provision of lower level commissions with facilities, transport, communications and other material and technical support. The CEC also allocates funds to registered candidates for use in their campaigns, and formalizes the instructions governing the granting of air time on the mass media to candidates on a free and paid basis. Although actual printing is accomplished through lower level commissions, the design and content of forms, protocols and other election documents as well as the text of the ballots are the responsibility of the CEC.

The Commission is vested with the authority to adjudicate complaints or appeals regarding decisions or actions of subordinate election commissions. As warranted, the CEC is authorized to take decisions regarding complaints. Ultimately, the CEC has the authority to override decisions of lower commissions.

Under the law, it is the CEC which is mandated to establish uniform procedures for the processing of the election results. It is also required to make the announcement of final results in the mass media and establish the process for the transfer of documents related to the conduct of the election to the archives. As necessary the CEC is also responsible for organizing and conducting second round and repeat elections.

Under Article 12 of the Basic Guarantees Law a member of the CEC may be relieved of duty by decision of the body which appointed the member. Further, only under certain circumstances may such an action occur, including:

- voluntary withdrawal by means of a written application;
- loss of citizenship of the Russian Federation;
- entry into force of a conviction by a court of law;
- a ruling of a court that the member is incapacitated, of limited capacity or declared deceased by a ruling of a court; and,
- death of the member.

### ***For Consideration***

3.6 Article 12 of the Basic Guarantees Law and Article 15 of the Presidential Election Law use conforming language that indicates that the CEC acts on a permanent basis. Although Article 12 of the Basic Guarantees Law implies a term of some specific duration given its description of the grounds on which a member may be relieved of duty "before the expiry of the term," there is no provision in law which sets the terms of individual members. This is an omission that should be rectified.

In setting a term for members of the CEC, it is recommended that the terms be staggered so that no more than half of the members expire at any one time. In addition, staggered terms should also apply to the groups of five delegates appointed by each of the three appointing bodies.

Staggered terms would serve two important purposes. First, the election process would be enhanced by the continuity and institutional memory that would be preserved due to the fact that there would always be some experienced members remaining on the Commission at the point new members were appointed. Second, the independence of the CEC would also be strengthened. Under a staggered term system, only a certain number of members would be appointed by any sitting State Duma, Federation Council or President. The remaining members would be carried over until after the next elections when their terms would expire and they would be replaced by appointment of the newly elected bodies.

- 3.7 Under Article 11 of the Basic Guarantees Law the specific authorities and procedures of the CEC and the other election commissions formed for the elections to federal bodies of state power are to be established under the federal laws governing the specific types of federation-wide elections. This article also dictates that election commissions formed for the elections to the bodies of state power at the subject level or elected bodies of local self-government are to be established by the statutory acts of the relevant representative bodies.

The law does not address the authorities of the CEC in relation to elections at the subject and local levels. The omission will more than likely provide fuel for controversy as Subjects exercise their increasing autonomy relative to the passage of their own election laws. The question of jurisdiction is likely to become an even greater issue in the Republics and Autonomous Oblasts. Whether it is ultimately decided that the role of the CEC in subject and local elections is to be consultative or supervisory, the parameters of their authority should be defined in the law.

## ***Lower Level Commissions***

For the presidential elections, there are three subordinate levels of election commissions: Subject Election Commissions, Territorial Election Commissions and Polling Site Election Commissions.

- **Subject Election Commissions (SEC)** are appointed to serve in each of the 89 Subjects of the Russian Federation. They are comprised of 10 to 14 members who are appointed by the representative and executive bodies of the Subjects. Under Article 13 of the Basic Guarantees Law, the representative and executive bodies of the Subjects must take into account the suggestions of public organizations, elected bodies of local self-governments, and groups of voters convened through their places of work, service, study or residence. At least one-half of the members of the SECs must be appointed by the representative bodies of the relevant Subjects. As a general rule, the Chairman, his/her Deputy and the Secretary of the Subject Election Commissions are required to have a higher legal education. SEC members serve four year terms.

The SECs provide for the interaction of the CEC with bodies of state power within the Subjects, and coordinate the activities of subordinate election commissions within the boundaries of their respective Subjects. The SECs are vested with the authority to hear complaints and adjudicate disputes regarding actions or decisions of lower commissions and to overturn their decisions when warranted. It is the SECs that are responsible for the printing and distribution of the ballots in the format directed by the CEC. The SECs enumerate the polling sites within its jurisdiction and are ultimately responsible for summarizing the voting results within the Subject as a whole.

- **Territorial Election Commissions (TEC)** are appointed in each territorial subdivision within the Subjects. However, based on a joint decision of the relevant SEC and the CEC, more than one TEC can be established within an administrative territorial unit if the area has an exceptionally large number of voters. The TECs have five to nine members who are appointed by elected bodies of local self-government within the city, raion or other local unit making up the territory. In making their appointments, these elected bodies are required to take into consideration the suggestions of public associations, and meetings of voters at places of work, service, study and residence.

The TECs are responsible for informing the voters as to the locations of the polling sites, for ensuring that ballots, materials and supplies are distributed to the polling sites, and for overseeing the work of the PSECs within their Territories. The TECs also play a key role in providing equal legal conditions for the pre-election campaigns of the candidates at the territorial level through coordination with their supervisory SECs. In addition, the TECs are authorized to hear complaints about actions or decisions taken by PSECs and may overturn their decisions as warranted. The TECs are responsible for summarization of the election results reported from the polling sites within their jurisdictions. The terms of TEC members expire after the official publication of results of the election of President.

- **Polling Site Election Commissions (PSEC)** have five to nine members who are appointed by the elected bodies of local self-government who are also required to consider suggestions from public associations and citizens groups. The PSEC plays a significant role in notifying voters about its members, working hours, as well as the polling hours and location of voting on election day. They also compile the final list of voters assigned to the voting site and make the list available for public scrutiny so that errors and omissions can be corrected. On election day, the PSEC is responsible for the organization of the polling site, the processing of voters, and the counting of votes at the end of the polling day. The terms of PSEC members expire after the official results of the election of President are published.
- **District Election Commissions (DEC)** represent an additional layer in the election administrative structure. These commissions serve at the constituency level and are responsible for coordination of activities and the supervision of PSECs during elections to the State Duma.

### ***For Consideration***

- 3.8 Article 13 of the Basic Guarantees Law, and Article 12 of the Presidential Election Law dictate that appointments to the SECs are to be made by the appointing representative and executive bodies of the Subject based on proposals of public associations, elected bodies of local self-government, and groups of voters convened through their places of work, service, study or residence. Similar provisions are made for the appointment of members to TECs and PSECs. However, the laws fail to specify the degree to which appointing bodies are obligated to select members from the proposals submitted. In order to ensure that there is a cross section of members representing diverse interests, the law should impose parameters and guidelines by which members must be selected and limit the number of members that can be appointed from any single group submitting proposals.
- 3.9 Article 11 of the Basic Guarantees Law provides that election commissions are "independent within their competence of the state bodies or bodies of local self-government during preparation and conduct of elections." However, election commissions at the lower levels are totally dependent on local executive authorities for their financing, staffing, resource and logistical support. Local executive authorities also play a role in the appointment of lower level commissions. Therefore, there is reason to be concerned that the independence of these commissions may be in question, especially in view of the degree of power local administrations maintain over the events and activities in their jurisdictions. In order to further dilute their potential influence over lower level election commissions it is recommended that the law state that individuals employed by or proposed

by an executive authority may not be appointed to more than one-third of the seats on any election commission. In addition, it is recommended that the law dictate that no member employed or proposed by the relevant executive body may be elected chairperson of an election commission. (For a further discussion see the section *Influence of Local Administrators* in Chapter 13, *General Issues*.)

- 3.10 The laws make no provisions for premature relief from duty of members of SECs, TECs and PSECs. Consideration should be given to specifying circumstances or grounds on which a member may withdraw from service or be relieved for cause. The procedure for replacement of the member should also be dictated by law.

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# 4

## ***Transparency Mechanisms***

Reviewing the various laws governing the presidential election gives clear evidence of lawmakers' efforts to ensure that the election process is open to public scrutiny. By attempting to establish mechanisms that promote transparency throughout the process, these lawmakers have taken important steps in enhancing prospects for elections that are worthy of public confidence.

### ***Transparency Provisions in the Basic Guarantees Law***

The Federal Law *On the Basic Guarantees of Electoral Rights of Citizens of the Russian Federation* establishes certain fundamental mechanisms for transparency. Subsequent electoral legislation and administrative guidelines build on these provisions concerning the availability of information and the accessibility of election commissions.

Article 8 of the law allows for the availability of voter registry lists. It requires these lists to be disclosed to the public at least 30 days prior to election day.

In Article 13 provisions related to the presence of deliberative voting members of election commissions, established in 1993, are retained. Upon registration of a candidate or list of candidates (in the case of parliamentary elections), the nominating electoral association or the nominee proper is permitted to appoint one deliberative voting member to the registering election commission and all subordinate commissions. These members are entitled to access any materials or documents of relevant election commissions. They must also be notified on a timely basis of all sessions of the commission and be permitted to speak at those sessions.

In an improvement to the 1993 Decree of the President of the Russian Federation *On Elections to the State Duma of the Russian Federation*, deliberative voting members representing winning candidates or lists of candidates are permitted to retain their seats until the next election to the same body. The terms of those representing losing candidates or slated lists of candidates expire 30 days after the final election returns are announced. In either instance, deliberative voting members are permitted access to commissions and election documents during the time-frame in which election results must be announced and during the likely period in which cases questioning the validity of election returns would be lodged.

Article 14 of the Basic Guarantees Law speaks specifically to issues regarding the publicity of election commission activities. The article contains the following provisions:

- the activities of election commissions are subject to publicity and openness;
- candidates and their authorized representatives, representatives of electoral associations and the mass media are entitled to attend sessions of relevant election commissions;
- decisions of election commissions are required to be published in the press or announced through electronic media within the time-frame established by law; and,
- observers sent by public associations, electoral associations and candidates, and international observers are granted the right to be present at Polling Site Election Commissions (PSEC) from the commencement of the PSEC's activities to the signing of the official protocol of returns.

Issues pertaining to voting returns are dealt with in Articles 31 - 33 of the Basic Guarantees Law. Article 31 stipulates that PSECs are obliged, upon demand, to provide a certified copy of the official protocol of results to any observer. Article 32 provides for the same at the District Election Commissions (DEC) level (in the case of parliamentary elections). Inexplicably, no mention is made of Territorial Election Commissions (TEC) or their superior Subject Election Commissions (SEC), either in terms of observers' rights to receive copies of results, or even the role of these commissions in the determination of voting returns. Finally, Article 33 lists certain information that must be made available for examination to any voter, candidate observer, or representative of the mass media. This information includes voting returns from each precinct, the outcome within each electoral district (in the case of a parliamentary elections), and the corresponding data included in protocols or relevant election commissions and subordinate commissions.

### ***Transparency Provisions in the Presidential Election Law***

The Federal Law *On Election of President of the Russian Federation* builds upon the rights established in the Basic Guarantees Law. The Presidential Election Law further elaborates the rights of deliberative voting members, specifically requiring that they:

- must be informed of meetings of election commissions in advance;
- have the right to speak at election commission meetings, make suggestions on issues, and demand a vote on them;
- have the right to ask other participants in the meeting questions and demand answers; and,
- are allowed access, for the purposes of familiarization, to any documents or materials of the respective election commission and its subordinate election commissions and to receive certified copies thereof.

Article 20 of the Presidential Election Law is devoted to the publicity of activities of election commissions, while also expanding upon language of the Basic Guarantees Law. Election

commissions are obliged to conduct their activities publicly and openly. Candidates, their agents, authorized representatives of electoral associations and blocs, voters' initiative groups, and representatives of the mass media are entitled to be present at all sessions of election commissions.

As with the Basic Guarantees Law, Article 20 also requires decisions of election commissions be published or announced in the mass media. Issues pertaining to candidate registration, background information on candidates, and election returns are among the types of information which election commissions are required to disclose to the public.

With respect to observers, this article provides for observers designated by candidates, public associations, electoral associations and blocs, international associations, and media representatives. These observers are entitled to be present on election day from the beginning of the work of PSECs until the official protocol of results are completed. No mention, however, is made in the law concerning access to TECs and SECs throughout election day or during the tabulation and aggregation of votes.

The article continues by stating that observers are not required to give preliminary notification of their arrival at PSECs. Again, building upon provisions of the Basic Guarantees Law, observers are entitled to:

- accompany the mobile ballot box to observe voting of the polling site premises;
- familiarize themselves with the list of voters;
- apply to PSECs with suggestions or remarks; and,
- appeal actions or inactions of PSECs to TECs.

The Presidential Election Law has provisions guaranteeing accessibility to relevant proceedings and to information. For example, aggrieved parties have the expressed right under Article 21 to be present at sessions of election commissions during the adjudication of complaints. Under Article 27, the provision in the Basic Guarantees Law requiring that voter registry lists be made publicly available for review no later than 30 days prior to the election is reiterated.

One important innovation in the Presidential Election Law, the introduction of a third copy of the official protocol of results, is found in Articles 52 - 54 and is consistent with a practice initiated under the Federal Law *On Election of Deputies to the State Duma of the Russian Federation*. The third protocol is specifically for the purpose of "familiarization" by candidates' agents, observers, deliberative voting members, and media representatives. At the TEC and SEC levels, summary tables of results from subordinate commissions must also be attached.

Responsibility for the violations of electoral rights, including those of observers, is established in Article 61. The article clearly states that any person preventing the legal activities of observers shall bear administrative and criminal liability.



## ***CEC Instructions and Resolutions Regarding Observers***

On 26 February 1996 the Central Election Commission of the Russian Federation (CEC) issued an explanation on the rights of observers and others entitled access to election commissions and documents. This explanation was issued for the purposes of ensuring the transparency and accountability of the system and to reinforce these rights. Noteworthy clarifications and interpretations, departing from the original provisions of the two federal laws outlined above, are apparent in the CEC's explanation.

- Candidates' agents are expressly permitted to visit polling sites -- including those in military units -- during voting, vote counting, and the determination of results.
- Deliberative voting members of election commissions are to participate in the work of internal control groups to monitor compliance with the law in such areas as conduct of the election campaign and use of the State Automated System (SAS).
- Authorized candidates' representatives, electoral associations, blocs, and voters' initiative groups are entitled to attend the verification of signature lists and other documents by the CEC.

Although the right of observers to get access to protocols of relevant election commissions and to receive certified copies is acknowledged, there is no language in the CEC's explanation specifically permitting observers access to TECs and SECs on election day and during the aggregation of vote totals. This omission is consistent with both federal laws.

However, on 12 April 1996 the CEC issued a landmark resolution to encourage uniformity in tabulating results and compiling official protocols at all subordinate levels of commissions. Language in the CEC's *Uniform Procedure for Tabulation of Vote Returns and Compilation of Protocols of Polling Sites, Territorial Election Commissions and Election Commissions of the Subjects of the Russian Federation in Elections of President of the Russian Federation* provided further reinforcement -- if not actual expansion -- of observers' rights. The following enhancements were among provisions of the Uniform Procedure guidelines that served to strengthen the transparency mechanisms institutionalized by the election laws.

- In the premises where votes are counted (PSECs) and aggregated (TECs and SECs), and displayed to the public, the CEC recommended that an enlarged copy of the protocol be posted into which data on vote returns would be marked.
- The CEC dictated that the official protocol be compiled in triplicate in the presence of all PSEC members, observers including international observers, candidate's representatives, and representatives of the mass media. This provision applied not only to PSECs, but -- for the first time -- to TECs and SECs.
- The regulation stated that the third copy of the protocol of results was to be provided for examination to candidate representatives, observers, deliberative voting members of the election commission, and representatives of the mass media, as well as any citizen of the

Russian Federation upon his/her request. It also stated that failure to comply with this requirement would entail a fine. Imposed on the Chairman of the PSEC, the fine would equal five to ten minimum monthly wages in compliance with Article 40 (13) of the Administrative Code. Again -- for the first time -- the presence of observers at TECs and SECs is specifically mentioned. At higher levels, summary tables were to be attached to the third protocol for review by observers. The regulation also indicated that fines for non-compliance would increase at each superior election commission.

- Upon oral or written request of any observer, the PSEC, TEC, and SEC is obliged to issue a certified copy of the official protocol of results to him/her.

Beyond the law and the CEC's instructions and resolutions, training materials developed for PSECs and TECs also address the rights of observers, candidate representatives, and the mass media. In the *Flip-Chart for Members of Polling Site Election Commissions* prepared by the CEC, the rights of observers and authorized candidate representatives are outlined. The *Flip-Chart* also provides guidelines on how to handle observers who may be in violation of the law, for example advising voters on their choice, attempting to assist the commission in the administration of its duties, etc.

The *Guide Book of the Territorial Election Commissions Concerning the Election of President of the Russian Federation* reinforces the requirement that the third copy of official protocols, along with the summary tables of PSEC results, be provided for examination to observers, candidate representatives, deliberative voting members, representatives of the mass media, and voters. It does not, however, deal with the provision of certified copies of the official protocol or (consistent with the Uniform Procedure for Tabulation of Vote Returns and Compilation of Protocols) the rights of observers to be present during the aggregation of vote totals.

## ***Attempts to Expand Public Control Over the Election Process***

In mid-April 1996 a draft piece of legislation, the stated intent of which was to improve public confidence in election results, was sent by the State Duma (lower house) to the Federation Council (upper house). The draft Federal Law *On Public Control Over Elections and on the Openness and Publicity of Vote Returns*, however, failed to be enacted into law. However, its introduction and passage in the lower house, in the months leading up to the presidential elections, ignited a highly politicized debate about the letter and intent of existing laws and the actual practice of transparency and accountability mechanisms.

At the time, the legislation's supporters attempted to foreclose on perceived opportunities for alterations or manipulations in the summarization and reporting of election results. The main emphasis of the bill appeared to be an attempt to provide a layering of oversight. This oversight would allow partisan and non-partisan observers to track individual vote totals from the PSEC level through the aggregation at TECs and SECs to the reporting of consolidated results for the Federation as a whole.

Despite the bill's failure to be enacted, the issues that were raised the proposed legislation gained a lot of attention in the months preceding the election. The particular issues in the bill included the introduction of "citizen" observers, the expansion of observers' rights, provisions for an automatic recount, and access to the State Automated System (SAS).

## ***Introduction of "Citizen" Observers***

The proposed legislation represented an interesting approach to the commonly accepted practice, recognized in most western democracies, to allow neutral domestic monitors to observe balloting, counting, and aggregation of votes on election day. Typically, such observers are organized by non-partisan organizations and work under the umbrella of an entity which directs their activities, accumulates their findings, and formalizes and publishes their observations into a consolidated report.

An innovation of the proposed legislation was to place the emphasis on individual observers who would act independently. Under the bill, any citizen included in the voter registry of a particular polling site could become an observer by gathering signatures of ten persons also included in the voter registry for that precinct. Upon presentation of the signature list to the PSEC Chairman, and with no advance required, the citizen was to be accredited as an observer. As such, he would be entitled to remain present throughout election day including vote counting. Persons wishing to observe the aggregation process at superior level commissions could do so if they registered within the jurisdiction and collected signatures of 50 citizens also eligible to vote in that jurisdiction.

The intent of the bill was to add a layer of transparency beyond that which currently exists and to clarify the rights of non-partisan observers, whose rights under extant laws have been subject to varying legal interpretations. The bill placed no restrictions on how many "citizen" observers could be at any one polling site, nor did it require advance notice.

The expectation that individuals would independently pursue options such as observing, submitting proposals or comments to PSEC Chairmen, file complaints regarding alleged violations of the law, or appeal cases to higher commissions or a court may be unrealistic. Moreover, the implementation of such legislation in actual practice may not have ultimately achieved the desired ends. It is unlikely that, on an individual basis, such observers would have access to the kind of information or training that would contribute to effective and productive observation. Without guidance or coordination, "citizen" observers might not be familiar with their rights relative to the authorities nor legal restrictions placed on their activities, nor be equipped to evaluate the performance of officials accurately. This approach poses a scenario which could produce "anecdotal" observations with no means of identifying trends. It is the latter type of information which is considered most valuable in determining the degree to which election day processing, counting, and reporting of results was accurate, free, and fair.

For that very reason, in most democratic contexts, provisions for the participation of domestic, non-partisan observers rely on the involvement of non-governmental organizations to fill this void. Working within such an organization, observers benefit from a coordinated effort. Through a more cohesive focus and systematic approach to the observation missions, there is a greater likelihood that their cumulative findings would be reported in a meaningful way. It is important to note that even if the findings do not reveal pervasive violations or purposeful manipulations, they can help officials and legislators made decisions about how laws or regulations need to be changed or where additional clarification, information, or training is required.

## ***Expanding Rights of Observers***

The bill also sought to address lingering questions and provide clarifying language concerning other categories of observers, whose range of rights was deemed unclear under the current electoral code. In particular, it attempted to expand rights of access by observers to superior level election commissions and election documents, voter lists, protocols of results, and summary tables. Although the bill was not adopted, virtually all of these issues were dealt with by the CEC in the Uniform Procedure for Tabulation of Vote Returns and Compilation of Protocols, issued in the midst of the parliamentary debate on the public control bill.

The draft law stipulated that observers could be present from preparations for the opening of the polls through the completion of the official protocol of returns. Observers were to be specifically entitled to observe the conduct of voting via the mobile ballot box. Key language was also added to ensure "visibility of the ballots" which would allow observers "to see the contents of the ballots as they were being counted." That was, likely, a response to some situations which arose during the parliamentary elections where observers were made to watch vote counting from outside a doorway, or in an area where their vision was restricted. Similar rights were also afforded to observers monitoring at TECs where the summarization of results is accomplished. At this level they were also entitled to copy the information from the summary tables on which the cumulative data is recorded for the Territory as a whole.

Violation of observers' rights was also addressed in the bill. One provision stated that infringement on or a rejection of the rights of observers by the election commission could result in invalidation of the election should such a finding be dictated by a higher commission or the court. This particular proposal raised questions about the relative rights of voters, candidates, and political entities, since the violation of their "lessor" rights would not result in nullification of the election. The draft would also have required the Chairman of the relevant commission to "immediately consider" an observer's comments or proposals. Under the provisions of the draft another safeguard was proposed requiring that all entries in electoral documents and protocols regarding the results would only be recorded after they were announced aloud, and then, only in ink.

## ***Provisions for Automatic Recount***

The bill also attempts to build a systematic method of verifying the results reported from polling sites through a mandatory recount of ballots based on a sampling of polling sites selected by lot. Under the proposed provisions, at least four precincts, but no less than two percent of the total number of polling sites within each Subject, were to be selected for an automatic recount. Recounts were to occur the day following elections. The law required relevant commissions to give advance notice of those who are eligible to be present at the proceedings. Candidates, their agents, authorized representatives of electoral associations and blocs participating in the election, representatives of the mass media, and members of the DEC or SEC with deliberative and deciding votes were entitled to be present for the drawing of lots.

Verification of vote counts were to be conducted by the PSEC in the presence of members of superior election commissions and observers who were present for the original count on election day. The protocol used for the reporting of the results of the recount were to contain the same categories of information entered on the original protocol.

This verification process could involve as many as three stages with progressively more polling sites subject to verification. This could happen if discrepancies in the total votes reported were identified in even one polling site subject to recount and sufficient to change the range of the individual candidates on the ballot. If such a discrepancy was found among the initial precincts undergoing a recount, then further verification would have to be conducted in at least five percent of the precincts within the jurisdiction of that District (only in the case of parliamentary elections) or Subject. If additional recounts were found to be necessary, they would have to be accomplished within three days of the decision. The SEC could ultimately call for recount of all precincts if the results of the first two stages exposed sufficient discrepancies to change the range of candidates.

While the concept of sample testing of the accuracy of reported results is commendable, the bill did not sufficiently take into consideration the means of implementing the legislation and facilitating compliance with all its requirements. For example, it was not clear how polling sites and all the observers and participants could be notified in time to actually be present if, indeed, the recounts were to occur on the day following the election. Also unclear was the location where the recounts would take place, although the implication was that they would be conducted at polling sites. The law did allow the recounts to be delayed if selected polling sites were in remote locations. If recounts were to occur at the polling site, no consideration was given to how members of superior election commissions could disburse themselves to be present at several locations simultaneously and at a time when aggregation and reporting of results was taking place at TECs, DEC's, and SECs. It does not seem likely that the recounts could occur at the subject headquarters under the anticipated time-frame either. Under the Presidential Election Law, ballots and materials do not need to be forwarded to the headquarters until up to ten days following the election. No provisions addressed the issue as to how ballots and supporting documents would be safeguarded in the interim.

The bill was also silent as to how the recounts are to be addressed in the final reporting of results. There was no language to the effect that the recounted results would be considered as the official results to be identified in the consolidated summary of returns. The bill also fail to answer how the CEC would be able to summarize federation-wide results by the 15th day after the election if recounts resulted in delays in reporting by Subjects. According to Article 55 of the Presidential Election Law, the CEC is required to publish the final results no later than 18 days after the election. Article 40 of the Administrative Code holds officials accountable for failure to submit or publish information concerning the election results on time.

### ***Access to the State Automated System***

The bill also attempted to provide users of public information telecommunications networks to access all data on the CEC's State Automated System via modem. Access was to be on a "read only" basis. If such a system were to be instituted, the CEC would need time to prepare an advance campaign which not only describes the services, but also presents information geared to promote reasonable expectations among users. In particular, a public information campaign would include a description of the time-frame in which data will be forthcoming with an explanation of normal delays which should be anticipated. There should also be an effort to develop a public information campaign to forestall suspicion or distrust which could result if technical shortcomings or data entry errors result in adjustments or other changes in the entries comprising the overall summary of results.

# ***Election System Performance***

## ***Observers***

In general, the presidential election demonstrated continued improvements in the practice of election observation. The facilitation of observation by election authorities improved as did the observers own level of preparation and scope of activities. There was also increased diversification of political and public interests represented. At the same time, however, discrepancies emerged in certain localities regarding the handling of observers and their requests. There were also discrepancies in the effectiveness and engagement of and coverage by observers. These discrepancies varied at different levels of election commissions and from site to site. In most, but not all cases, interaction between domestic observers, election commission members, and international observers appeared to be cordial and constructive.

IFES team members noted a significant increase in the number of observers present at urban and suburban sites compared with the number of those deployed for the parliamentary elections just six months earlier. This increase was predominately noted at urban and suburban polling sites, as coverage in rural areas remained sporadic. Due to the significant number of electoral associations and blocs participating in the parliamentary elections, it was theoretically possible for a polling site to have in excess of 100 persons observing the process. Instead many had none at all. With the exception of the Communist Party of the Russian Federation (KPRF), most electoral associations were unable to mount comprehensive grass-roots monitoring efforts in December, although certain regions exhibited broader monitoring efforts based on relatively developed political structures. Even when present, observer actions were, at times, questionable. For example, during these elections some partisan observers assumed responsibilities reserved for election administrators, such as assisting in the validation and counting of ballots.

For the presidential elections, KPRF and Gennady Zyuganov were the most consistently represented, not only throughout Russia but also in polling sites abroad. They also appeared to be the best organized and prepared. Coordinators were recruited to direct and support KPRF observer activities. In areas where IFES team members were present, KPRF observers were found to be extremely diligent in their duties, a few to the point of overstepping their mandate. Specialized training manuals were developed for KPRF observers and deliberative voting members of PSECs and TECs. These materials clearly outlined observer tasks; offered helpful hints to boost effectiveness; contained coordinator contact information; elaborated legal rights and restrictions of observers; provided a check-list of what observers should do at each stage of the process on election day; highlighted possibilities for violations such as political propaganda in polling sites, vote buying, and abuse of absentee and portable box voting. These guidelines also instructed observers how to fight violations of the law. The final reminder to observers: "Remember! The law is on your side. Violations of the law may result in administrative and criminal penalties." KPRF observers also came to the polls equipped with copies of the protocol form to fill in and have certified, once PSECs completed their official protocol of results.

Yeltsin observers were also prevalent and tended to include supporters as well as a great many representatives of administrative authorities. The use of the latter, however, tended to confuse the official role of these authorities (supposedly a non-partisan one) with that of observer and may have had a symbolic impact, if not influence, on voters and election officials. Authorities serving as

observers were rather passive in their observations, but were well briefed in the specifics of the law. Other Yeltsin observers, whether political activists or everyday supporters, tended not to have such a clear understanding of their function and a proactive posture, although this varied from site to site. One Yeltsin observer in Moscow, who had been provided with instructional materials and attended three separate training sessions, did not understand what she was to do with the certified copy of the official protocol of results which she had requested and received from a PSEC Chairman. When she asked the Chairman what to do with it, he suggested that she return it to the candidate organization which asked her to observe.

Observers representing Grigory Yavlinsky and Alexander Lebed were also commonplace with Vladimir Bryntsalov and Vladimir Zhirinovskiy representatives frequently visible. Yavlinsky observers were provided with written instructions and received some preparatory training. IFES team members did not encounter many observers representing other candidates, but did notice an increase in the number of persons representing public associations at polling sites. In addition, partisan observers representing political entities not running candidates in the presidential race, such as the Agrarian Party, were also present. Similarly, persons observing on behalf of candidates eliminated in the first round of voting appeared to monitor the integrity of the process during second round voting on 3 July 1996.

Informal inquiries of observers on election day by IFES team members revealed general satisfaction with the conduct of the election. Only minor infractions, such as open voting, in the form of failure to utilize secrecy booths, were noted. In a few instances, IFES team members encountered observers who had been informed by PSEC Chairman that they would not receive certified copies of the official protocol of results until vote totals had been reviewed for mathematical accuracy and accepted by TECs. By and large, however, IFES found election commission Chairmen to be much more familiar with the rights of observers and, specifically, the third copy of the official protocol of results and the provision of certified copies of results.

It was interesting to note different strategies employed once vote totals had been determined at polling sites. Yeltsin observers consistently followed the official protocol of results to TEC where they were reviewed by TEC officials for mathematical errors or technical errors in the completion of the protocol form, particularly the ballot accountability section. The input of data into the State Automated System at the TEC was also observed. KPRF observers, on the other hand, proceeded to party headquarters to turn in their certified copies of the official protocol to their assigned coordinator who subsequently compared each certified copy with official protocols of (aggregate) results and summary tables at superior level election commissions. With the exception of some Yabloko representatives, virtually none of the other partisan or public observers proceeded to the TECs on election night.

While the KPRF approach failed to provide further control at the TEC level during the review of PSEC protocols and data entry into the SAS on election night, it was the most successful in tracking aggregate totals and collecting and forwarding documents and information up through the party hierarchy. KPRF representatives in Moscow consolidated this information, creating tables which listed alleged violations by region, the entities to which formal complaints were forwarded, and the status of each case. Such a document is an important record of election day observations, a testament to the KPRF observer effort, and a tool in identifying trends of mistakes or malfeasance. No other political entity provided such a formal or comprehensive report of findings, offering only verbal anecdotes instead. It should be noted, however, that such information -- especially when formalized -- does not appear to be considered "public information" by partisan

observer entities and is extremely difficult to obtain. At this stage it would appear that observer findings are being used largely in the adjudication of grievances process and for the purposes of political propaganda rather than for public edification.

It should also be noted that based on the information IFES was able to obtain, observers succeeded in exposing election day errors, improprieties, and, in some cases, localized manipulation of results such as the influence of local administrations. Other complaints, however, illustrate the need for continuing education and training of observers to better familiarize them with the laws governing the election and the administrative regulations. Post-election interviews with select observer coordinators and deliberative voting members by IFES revealed that despite criticisms of the process, the outcome of the election was accepted as reflecting the will of the Russian people.

### ***Deliberative Voting Members of Election Commissions***

Despite significantly improved coverage by observers on election day, the participation of deliberative voting members at all levels was sporadic and random below that of the CEC. At the level of the CEC, deliberative voting members reported that they were able to work together to lobby the Commission for expanded access and privileges. Although some deliberative voting members of the CEC complained that they were being denied access or were excluded from various control mechanisms, further inquiries by IFES revealed that these allegations were more political than substantive.

Deliberative voting members representing incumbent President Yeltsin and candidate Zyuganov were most visible at lower level commissions. However, claims by Yeltsin's campaign organization and the KPRF that they would have near universal coverage of deliberative voting members were, clearly, exaggerated. Yavlinsky succeeded in appointing deliberative voting members to each of the 89 Subject Election Commissions, but had virtually no representation at the TEC and PSEC levels. Beyond these three candidates, representation of deliberative voting members dropped off considerably.

Although deliberative voting members representing losing candidates retained their seats for 30 days after the official announcement of the first round results, which would have provided them with continued input and control during second round voting, most opted to discontinue their duties prematurely. In this area of election system performance, candidate organizations clearly failed to exercise -- much less optimize -- their rights of access, input, and oversight. This is particularly disturbing given the fact that deliberative membership on election commissions, although expanded in the new election legislation, has been a prerogative of candidates and electoral associations since 1993. Given that deliberative voting members have all the rights of election observers plus more, strategies concerning use of human resources by candidate organizations should be considered. Finally, election commissions also have a responsibility to provide better information to candidates and their authorized representatives on the role, rights, and responsibilities of deliberative members.

### ***For Consideration***

- 4.1 Article 14 of the Basic Guarantees Law and Article 20 of the Presidential Election Law should be amended to specifically allow access by all categories of observers to TECs and SECs on election day through the official announcement of results. This would resolve



continued confusion about rights of observers at superior level commissions. It would also facilitate the realization of Articles 53 and 54 of the Presidential Election Law regarding access to the third copy of the official protocol of results. To further improve upon access, Articles 53 and 54 should be revised to require posting of the third protocol and summary tables at SEC and TEC sites to accommodate "familiarization." These articles should also specifically stipulate that certified copies of the third protocol are to be provided upon request. These issues are currently addressed by the CEC through its regulations and instructions, but should be incorporated into the law.

- 4.2 The use of local administrators as observers on behalf of incumbent President Boris Yeltsin blurred any distinction of their function at the polling site. It is unrealistic to presume that the presence of local administrators went unnoticed by voters or PSEC members, whose actions may have been influenced as a result. In some cases, local administrators were not merely "present" in the capacity of observers, but actively directed the work of commissions. In the future, revisions to federal electoral code and CEC administrative regulations should make exclusive the roles of local administrators with supplemental responsibilities to election commissions in the conduct of elections and partisan observers of the election process.
- 4.3 To facilitate the work of observers on election day, PSECs should be provided with hand-outs to distribute among observers. Such a hand-out should clearly stipulate the rights and responsibilities of observers and outline activities forbidden under the law, as well as provide contact information for the PSEC and superior level election commissions. The hand-out itself, should be presented in a "user friendly" format and viewed by election commissioners as a "layman's tool" which compliments the "legalize" of the electoral code and administrative regulations. By preparing and distributing such materials, election commissions can facilitate, in a positive and pro-active manner, the work of observers and their understanding of and compliance with legal and regulatory requirements, while reinforcing the notion that poll workers and observers share the goal of ensuring the integrity of the election process.
- 4.4 Significantly more emphasis must be placed on the provision of training for election administrators in "special" PSECs, such as hospitals, prisons, consulates, and military installations regarding the legal rights of observers to be present and receive information.
- 4.5 In many polling sites, poll watchers are seated in a special area created for and marked "observers." Often, seats are placed behind a table which may or not be located near the ballot boxes or, at the end of the day, the area where ballots are being counted. Depending upon the PSEC Chairman, poll watchers may be restricted in their movement beyond the "assigned" area. In the future, PSECs should consider providing identification badges or stickers to poll watchers. This would allow them freedom of movement around the polling site, while at the same time clearly identifying them as "poll watchers" to voters and others present at the polling site. The partisan affiliation of each observer need not be made public. To ensure that the badge not become a form of political propaganda, it should be provided by the PSEC when the poll watcher signs in with the Chairman on the morning of the election.
- 4.6 Despite significantly improved directives from the CEC concerning the provision of certified copies of the official protocol of results (see the CEC's Uniform Procedure for

Tabulation of Vote Returns and Compilation of Protocols), it is clear that supplementary instruction and training is required to bring all PSEC into compliance with the letter, as well as the intent, of the electoral legislation and administrative regulations. In particular, PSEC Chairmen must understand that certified copies of the official protocol of results must be provided at the time of request, once the vote totals for the precinct have been calculated by the members of the PSEC and the official protocols completed in triplicate. In particular, provision of certified copies is not to be delayed until the polling site's protocol has been reviewed and accepted by the appropriate TEC. If mistakes are found in the official protocol and the PSEC is required to prepare a new official protocol, the onus is placed on the PSEC Chairman to contact observers and inform them that corrections were required by the TEC. A certified copy of the new official protocol must then be offered to observers. In the future, administrative regulations should deal with the timing of the provision of certified copies of the official protocol of results. In addition, flip-charts or instruction booklets targeted at PSECs should directly address and disallow the temptation to deny the provision of certified copies of results until TECs have accepted them.

- 4.7 PSEC Chairmen must also be counseled on the importance of certified copies of the official protocol of results, particularly the fact that these copies are admissible as evidence in a court of law. Despite its time saving value, the practice of pre-certifying blank protocol forms for observers to fill in once vote totals are known or of certifying copies without reviewing their accuracy must be eliminated. Posting the third copy of the official protocol or announcing the results allows observers to prepare their own copies, which then must be thoroughly reviewed for accuracy by members of the PSEC prior to certification. Discrepancies between the official protocol of results and certified copies, even if the returns are valid, can lead to investigation, litigation, and a public perception of impropriety.
- 4.8 CEC administrative regulations should expressly allow observer access to SAS data processing centers at the TECs. These guidelines should also make mandatory the provision -- upon request -- of a computer print-out based on official protocol of the PSEC to observers, which is already an informal practice of some such centers.
- 4.9 With regard to TECs, Article 18 of the Presidential Election Law should be amended to stipulate that the term of powers shall expire ten days after the official publication of results rather than on the same day (according to Article 55 the official publication of results must take place within three days after the CEC signs the official protocol of results). Under current practice, PSECs appear to be forwarding all election documents to TECs on election night or in the immediate aftermath of the election, and once TECs have forwarded official protocols to superior election commissions, they close their doors, whether their term has expired or not. An extension of two weeks during which TECs must continue to be publicly accessible and responsible to service requests and inquiries of voters, observers, candidates' representatives and agents, and the mass media, would better fulfill the letter and intent of the Presidential Election Law and CEC regulations with regard to transparency. The closure of TECs in the days immediately following the election, supposedly having fulfilled their duties, significantly obstructed attempts by observers and the mass media to "track" protocols of results up the election commission hierarchy. Thus, they were unable to compare the consistency of certified copies of protocols from PSECs with the summary tables attached to the official protocol of results

prepared by the TECs, obtain certified copies of TEC level protocols, or to receive an explanation about corrections that may have been required at the precinct level.

- 4.10 In the future, some consideration should be given to adopting a practice giving deliberative voting members and domestic observers an option to also sign the official protocol of results prepared by the respective election commission or to attach a dissenting opinion at the time the vote totals or aggregates are determined. This practice could further enhance public confidence in returns or immediately expose perceived or real problems to higher level commissions. It requires that observers publicly disclose their assessment of the integrity of results at that time and at the particular commission observed. It does not preclude challenges at some later date, especially if discrepancies are found between subordinate and superior commission reporting. However, this practice may discourage late or unsubstantial challenges to results based more on political strategies than the actual conduct of election officials.
- 4.11 Election commissions need also to provide improved information to candidate organizations, and electoral associations and blocs on the purpose, role, and rights of deliberative voting members and how these differ from election observers. For their part, political entities -- which it is acknowledged have limited human resources -- should develop better strategies for use of those resources. In particular, deliberative voting members, who have rights to observe the polls on election day, also have significant rights of access to commissions, information, and election documents during the campaign period and after election day. That is to say, deliberative voting members have all the rights of observers plus more. Nonetheless, most political entities used their limited human resources in the observer capacity rather than the deliberative voting member capacity. Thus, they failed to take full advantage of rights of input, access, and oversight provided for in the law and administrative regulations.
- 4.12 During the course of the presidential election campaign, a number of proposals were introduced concerning the expansion of transparency mechanisms, most notably the draft *Federal Law On Public Control Over Elections and on the Openness and Publicity of Vote Returns*. None of these were, ultimately, enacted into law. Should policy makers determine that significant adjustments are necessary to the system of transparency and accountability which has been developed to date, these proposals should be put forth in the current debate on reform of federal election legislation with greater attention to technical, administrative, and resource considerations, rather than initiated in the midst of politicking during the election campaign.

# 5

## ***Nomination and Registration of Candidates***

Generally speaking, the law provides a reasonable framework for the nomination of candidates and their access to the ballot based on principles which would generally meet commonly accepted international standards. The process will continue to be vulnerable in those areas where the law lacks sufficient procedural detail to ensure consistent interpretation, equal application and uniform enforcement.

Under the Federal Law *On Basic Guarantees of Electoral Rights of Citizens of the Russian Federation* and under Article 3 of the Federal Law *On Election of President of the Russian Federation*, any eligible voter who has reached the age of 35 and who has permanently resided on the territory of the Russian Federation for ten years is eligible to be elected to the presidency. Articles 6, 32 and 33 of the Presidential Election Law not only provides for candidates to be nominated by electoral associations and blocs (temporary coalitions of electoral associations), but also by unaffiliated citizens.

In a strict sense, the law does not contemplate a candidate proposing himself independently. Rather, an individual must be nominated by an officially registered organization, even if the organization is temporary. Even the rights of citizens to propose candidates is contingent on their organizing and registering as a voters' initiative group of at least 100 persons. Whereas electoral associations are registered by the Ministry of Justice, blocs, and voter's initiative groups are registered by the Central Election Commission of the Russian Federation (CEC).

In order to be eligible to participate in the election, an electoral association must have been registered by the Ministry of Justice no later than six months prior to the announcement of the date of the election. Under Article 29 of the Presidential Election Law, electoral associations joining in a bloc may not appear individually under their own legal status during "the period of the conduct of the election." Nor may a member electoral association of one bloc join another bloc. Each nominating group may promote only one candidate. Electoral associations and blocs are entitled to nominate individuals who are not from their membership. There are no limits to the number of separate voter's initiative groups that can nominate the same individual.

The process of proposing candidates involves the nomination of individuals through meetings of the nominating groups, subsequently supported by the circulation of petitions to which at least one million eligible voters must affix their signatures. No more than seven percent of the required number of signatures may come from any one Subject. There is no difference in this respect

between the requirements for electoral associations and blocs than for citizens' groups who have no "political" identity or legal status.

## ***Preliminary Requirements of Nominating Associations, Blocs, and Groups***

Under provisions of Articles 30 and 32 of the Presidential Election Law, each political or citizen nominating group must appoint representatives who will be authorized to represent them on all issues related to their participation in the election, including those related to financial matters. Once an electoral association has held its congress during which a candidate has been nominated by secret vote, its authorized representatives make a formal submission to the CEC to present its candidate. The submission must include the minutes of the association's meeting and formal decision identifying the candidate by full name, place of work, occupation and place of residence. In addition, the electoral association must include a copy of the certificate of its registration by the Ministry of Justice, its registered charter and its list of authorized representatives. The data on authorized representatives must be accompanied by their powers of attorney. If the nomination is forthcoming from a bloc, the submission must also include the minutes of the congresses of the separate associations at which the decisions were made to join the bloc.

Similar requirements are imposed by Article 33 on voter's initiative groups. These groups apply to the CEC for registration. They, too, must include the minutes of the meetings at which they selected their candidate, data on the candidate, as well as on their authorized representatives and their powers of attorney.

According to Article 34, the CEC is responsible for checking the documents included in the submissions to confirm their compliance with the law. The second paragraph of this article states that the CEC "must adopt a decision on the registration of the authorized representatives" of the nominating groups and "issue registration certificates to them within five days after receipt of the documents."

If the CEC determines that it must refuse to register the authorized representatives, it must issue a decision to that effect. This decision may be appealed to the Supreme Court of the Russian Federation, which is required under the law to adjudicate the case within three days. It is not clear whether it must merely take up the case, or must complete its review and render a decision in that time.

### ***For Consideration***

- 5.1 Article 28 of the Presidential Election Law dictates that an electoral association must be registered by the Ministry of Justice no later than six months prior to the "announcement of the day of election" in order to be eligible to participate in the election. Despite the fact that Article 4 specifies the date of the presidential election as "the first Sunday after expiration of the constitutional term" the deadline for the registration of electoral associations is left uncertain since it cannot be anticipated when "the announcement" of the election date will take place. Since the regular election day is "date certain" it is recommended that the deadline for registration of an electoral association be tied directly to that date instead. This change would also make more sense in terms of making the deadline clear under special circumstances when elections must be called earlier than normally scheduled.

- 5.2 Article 35 of the Presidential Election Law establishes the deadline by which signature sheets and other nominating documents must be submitted to the CEC at 6 p.m. no later than 60 days prior to the election. However, the law provides no guidance as to when electoral associations may first convene their conferences to select their authorized representatives and nominate their candidates. There is no official beginning to the nomination period.
- 5.3 Provisions specified in Article 29 of the Presidential Election Law concerning the formation of electoral blocs only provides cursory information about their status and formation and leaves a number of issues unaddressed. For example, the law provides no deadline for the formation of blocs. Under such circumstances the CEC is forced to establish one in as a regulation. However, without a legal reference or specific regulatory authority, any date they choose could be subject to challenge in the event their decision were to have an adverse affect on an applicant.

The law also fails to provide any guidance as to how blocs are to be identified or named. Except for indicating that electoral blocs are created for the period of the election, no other guidance is given about the status of a bloc. Nor does the law preclude or otherwise suggest what happens in the event an electoral association participating in a bloc chooses to leave the bloc during the circulation of a petition, or after a candidate has been registered. The issue can become significant in terms of development of any platform or campaign strategy if dissention arises. Although it may not be particularly relevant in the immediate term, as stronger political parties emerge the identification of the successful presidential candidate with the association or bloc that nominated him may become more significant as an influence throughout the course of his term in office. Ultimately, blocs may emerge as a particularly relevant force within the Duma. Therefore, it is recommended that lawmakers consider laws that more clearly define the status of blocs as legal entities.

- 5.4 Article 30 of the Presidential Election Law dictates that each nominating electoral association, bloc or voters' initiative group appoint its own authorized representatives. Under Article 34 the CEC adopts decisions on the "registration of authorized representatives." The law does not specify a minimum number of authorized representatives who must be appointed. The law fails to address whether new authorized representatives can be added, or whether they can be withdrawn and replaced. Since the law does not impose any qualifications whatsoever on authorized representatives, it is not clear on what basis they would be denied registration, except on technicalities. Even if some had to be rejected on this basis, would it cause the group as a whole to be denied? In contrast, there are specific requirements related to the eligibility of the various types of nominating groups on which decisions could reasonably be based to grant or deny registration. It is suggested that it would be more appropriate if the CEC's decision related to the registration of the electoral association, bloc or voters' initiative group rather than the individuals who represent them. This approach would not necessarily preclude the issuance of certificates to the group's authorized representatives.

## ***Gathering Signatures on Candidate Petitions***

Key to Article 34 of the Presidential Election Law is the mandate that from the moment registration certificates are issued, the authorized representatives of the various nominating groups are entitled

to collect signatures of voters in support of their candidate's nomination. Prior to issuance of the certificates, solicitation of signatures is prohibited.

Article 34 also dictates the contents of petitions and establishes some ground rules as to how the signature gathering process is to be carried out. Under its provisions complete information regarding the candidate is to be included on each signature sheet as is the information about the electoral association or bloc soliciting the signatures. In addition, the specific Subject in which the signatures are being collected must be identified. Voters signing the petition are required to enter their full names, date of birth, permanent residence address, passport or other identification number and date on which they affixed their signatures. Under the law, a voter is entitled any petition he/she chooses as long as he/she does not sign more than once for the same candidate.

The law grants liberal opportunities to solicit signatures at places of employment or service as well as in academic settings, residences, and pre-election events. Administration and work groups of enterprises, agencies and organizations are required to provide assistance in affording equal conditions to petitioners. In addition, nominating groups may gather signature from eligible citizens outside the Russian Federation. The law makes it clear that forcing or bribing voters "in any manner" by a person collecting signatures is prohibited.

Article 34 also sets the rules for the manner in which petitions are to be submitted. After collection, authorized representatives are to count the number of signatures collected in each Subject and from outside the Federation, and are to calculate the total number gathered on the petition as a whole. The signature sheets bound in groupings by Subject and numbered are submitted with the final protocol and document acknowledging the candidate's consent to be nominated. In addition, the candidate must provide declarations of income for the two preceding years. Upon submission, the CEC issues a written confirmation of receipt of the documents.

### ***For Consideration***

- 5.5 The law allows for the collection of signatures at places of employment. While Article 34 of the Presidential Election Law states that forcing and bribing voters is not allowed, subtle forms of undue pressure may not be easy to recognize or to prove. There have been allegations that signatures have been solicited at places where workers were receiving their pay. It has been suggested that this circumstance may have caused employees to feel real or perceived pressure to sign a petition whether or not they would have chosen to do so on their own. Political activity can easily become a sensitive issue at places of employment, especially if employers are in a position to apply overt or implied pressure on the workers under their supervision. In order to minimize opportunities for abuse, if signatures will continue to be gathered at work places, perhaps the law could restrict such activities on pay days or at places where employees receive their pay. Such a restriction should also be considered regarding the collection of signatures at locations and at times where citizens apply for or receive entitlements, pensions, services or other subsidies.
- 5.6 As written, Article 34 seems to contain language that may result in some confusion as to the status of signature collectors. Under the fourth paragraph authorized representatives of electoral associations, blocs, and voter's initiative groups are entitled to collect signatures "from the moment registration certificates are issued." However, under the ninth paragraph, the law requires that each signature sheet is to be confirmed by the person collecting the signatures "and by an authorized representative." This language suggests

that the person collecting signatures may not necessarily be an authorized representative. It seems inconsistent with the wording of the earlier paragraph. If, indeed, electoral associations, blocs, and voter's initiative groups can solicit help from persons who are not among the authorized representatives, the law should make that clear and provide adequate guidance as to any qualifications or requirements applicable to their recruitment. The law should also provide clearer guidance as to whether collectors can be paid for their services.

- 5.7 As a technical matter, in requiring that each signature page be "confirmed" by the person collecting signatures as well as by an authorized representative, in neither case is it clear that "confirmation" requires the signature of the individual.

## ***Registering Candidates***

If there is a single element in the election process that is vulnerable to misunderstandings and ultimately to controversy and legal challenge, it is the process by which petitions are evaluated to determine whether candidates are to be granted or denied registration. Once electoral associations, blocs or voter's initiative groups submit their petitions and nomination documents, the CEC has ten days in which to decide whether they meet the requirements of law and whether or not the candidates should be registered. Authorized representatives, candidates and their agents are entitled to be present at the review of the signature sheets, although it is not clear as to how they will be notified as to when the review will take place. If the candidate is granted registration the CEC must issue a dated certificate to the candidate. Information about the registration of a candidate must be given to the mass media within two days of the registration.

If registration is denied the candidate is to be advised. A refusal of registration may be appealed to the Supreme Court where the case must be adjudicated within three days.

According to the law, if "doubts about the accuracy of the data contained in the signature sheets, or in the validity of the voters' signatures should occur," the CEC may organize a presumably more in depth review of the petitions. Unfortunately, the law provides very little guidance as to how the process of evaluation is to be carried out. The degree of scrutiny with which each petition can be evaluated is not likely to be very scientific in view of the practical limitations. It is unlikely that each and every signature can be verified individually, especially due to the time constraints, and the sheer number of candidates each submitting over one million signatures. The difficulty posed for election officials is how to manage a meaningful evaluation under these circumstances while at the same time trying to apply uniform standards without sufficient guidance from law.

The law does not identify the specific grounds on which registration must be denied. Rather, Article 35 of the Presidential Election Law provides only a vague statement that a candidate may be refused registration "only in the event of a violation of the Constitution of the Russian Federation and this Federal Law." Obviously the law provides a number of requirements which are mandatory on nominating groups. However, this language offers no distinction between technical deficiencies and true violations. Therefore, it is left for administrators to make judgement calls which can be subject to arbitrary and subjective interpretation.

One of the key decisions to be made is how to deal with petitions in which signatures are not accompanied by the complete information required, or in which a series of signatures appear to be written in the same hand, or a situation when a verification is attempted and there seems to be



no record or documentation of the person's existence. In these latter instances the question arises as to whether they represent a "violation" which should cause the petition to be denied or whether it is possible to create rules to disqualify questionable signatures without rejecting the entire petition. The issue is particularly complex if, in spite of the signatures believed to be invalid, the number of remaining signatures is sufficient to meet the one million signature threshold. The law is inadequate in setting reasonable parameters for making these kinds of determinations. Without legal clarifications the system will remain vulnerable to the controversies and challenges which are likely to result from potentially inconsistent and subjective application.

In most democratic contexts, denial of registration based on conclusions that some signatures on a petition may be invalid does not usually pass court scrutiny if the required threshold of valid signatures has been met. First of all, errors or infractions of this type are usually beyond the immediate control of the candidate. In addition, a very restrictive approach not only disenfranchises the candidate, but also the one million legitimate voters who signed the petition in good faith.

### ***For Consideration***

- 5.8 Provisions of law should be developed to clarify the procedures which will be followed in evaluating petitions, and to identify the specific grounds on which they are to be rejected. Of key importance would be the development of rational and fair standards that accommodate human error short of automatic disqualification of the candidate. One option that might be worthy of consideration is to create a threshold for error. Such a threshold could be stated as a percentage or as a specific number. Under such a scenario, the law would state a double threshold: 1) that the petition must contain at least one million "valid" signatures; and, 2) that errors or invalid signatures in excess of an established threshold will cause the petition to be declared null and void. Augmented by a statement of the grounds on which a signature could be declared invalid, officials would have a clear direction as to how to proceed in their evaluation and would know precisely when a petition would have to be rejected on the basis of invalid signatures.
- 5.9 Officials and lawmakers may want to investigate the possibility of having signature lists compiled within a specific Subject verified by Subject Election Commissions (SEC) with the support of local administrative authorities. Their access to relevant records and the fact that they would be dealing with smaller numbers of signatures could enhance the effectiveness of petition verification. An amendment to that affect should be very clear that the SEC is directly and specifically responsible to supervise and oversee the verification work done by local government agencies. The SEC could prepare a protocol of their findings to be forwarded with the bound petition packets to the CEC where cumulative summaries could be compiled for the submissions of each nominating group. Based on the cumulative totals and its own review of the documents and protocols, the CEC could render its decisions as to whether the nominating groups had fulfilled the requirements of law. If such an alternative would prove feasible, attention would have to be given to details related to how submissions of petitions and related documents would be coordinated, and to the restructuring of deadlines to accommodate the intermediary processing by SEC. Such an amendment would have to make clear that the CEC would retain its authority to reverify petitions and to overrule recommendations of the Subjects.

- 5.10 Under the current law there are no limits as to the number of separate voter's initiative groups that can nominate the same candidate. Rather, each group works separately to gather the one million signatures. As a result, many millions of signatures could be gathered in support of the same candidate when only one million are actually required. In an extreme case, it could be possible that a candidate was supported by several million signatures but still failed to get on the ballot because no individual group gathered enough signatures on its own. The feasibility of merging the petitions of voters' initiative groups under a single umbrella should be considered, even if their initial applications were submitted separately.
- 5.11 According to the law, if a candidate is denied registration and files an appeal to the Supreme Court, the decision of the Court is final. Interestingly, in at least one recent appeal when the ruling of the court overturned a decision of the CEC to deny registration, the Commission filed its own subsequent appeal. The court's initial decision was upheld, however, it raises a legitimate question as to how this event was allowed to occur. If the court's ruling is not final, and there is an avenue for appeal of the Supreme Court's decision by either side then it should be described in law. Participants should be able to understand when they can expect final closure of their case. The event also points to another issue that deserves review. It would be helpful if the law required that the grounds on which the CEC denies registration be described fully and inclusively in the advisory notice given to the rejected candidate. A legal question should also be addressed to foreclose on opportunities whereby new grounds can be brought up related to the evaluation of petitions once the initial appeal is filed and a decision is rendered by the Court.

## ***General Comments on Electoral Associations***

As the election process continues to evolve, revisions in the construct of law may be warranted regarding the organization, registration and rights of electoral association. Changes may be necessary if a stronger and more dynamic multi-party system is to develop. As yet candidates are more likely to run on the basis of nominations by voter's initiative groups than by electoral associations. This situation may be reflective of the relatively weak state of most political parties. In addition, there seem to be few institutionalized and legislated incentives for forming strong, cohesive electoral associations.

### ***For Consideration***

- 5.12 One important consideration should be to create a separate law to cover electoral associations and blocs independent from the law governing public associations and organizations in general. The new law should more definitively reflect the unique role of electoral associations and blocs in political and legislative affairs. Political parties have a very specific agenda and an explicit purpose as players in the political and legislative arenas. A separate and specific law regarding electoral associations (political parties) would allow lawmakers to cover issues related to their participation in the election process more thoroughly.

In actual practice the current system of nomination has posed a number of complex and difficult problems as participants and officials have tried to carry out its mandates. The system has proved burdensome and difficult to enforce uniformly. There are legitimate

questions as to whether the law, as written, has been successful in establishing fair, meaningful and enforceable thresholds that provide sufficient access to a broad spectrum of viable and serious candidates, while at the same time discouraging frivolous or less serious candidates. As lawmakers and officials review the current law and its effectiveness, in actual practice they may want to consider alternative mechanisms for qualifying candidates for the ballot.

Under the current law qualifications and the procedures for the nomination of candidates by electoral associations and blocs are not significantly different than those for independent candidates nominated by citizens. Associations which have already qualified as "electoral associations" for the purposes of engaging in the nomination of candidates still have to re-qualify their nominations by gathering one million signatures. One option might be to redirect the emphasis to establish substantive criteria by which a group qualifies as a electoral association (political party). In many established democracies the system of registering a political party is established through the petition process whereby the number of qualifying signatures is sufficiently high to demonstrate a broad base of support. Once a party has been officially recognized it is not usually required that candidates nominated by the party would have to submit a petition like those candidates who file as independents or who are nominated by citizens.

Usually the purpose of a signature requirement for candidates is to show that the candidate can demonstrate a modicum of support. Solicitation of signatures on a petition is intended to show that the candidate is serious about the obligations of competing for elected office. In the case of candidates put forth and sponsored by a registered political party, the fact that the party has an established membership and a proven degree of popular support through its initial petition is sufficient to show that its candidate will more than likely be viable. Once qualified, the party maintains its official status as long as its candidate receives a threshold percentage of the votes cast in the election. Typically such a threshold is established at one to five percent the votes cast. If the party's percentage of the vote falls below the threshold, it loses its official status as a political party and would be required to resubmit a new petition to be reinstated. This type of streamlined access to the ballot is one of the intended purposes and incentives for going through an extended and formal organizational process to achieve official political party status. Augmented by a requirement that the candidate nominated by the party acknowledge affiliation with the party can help to promote the development of meaningful and identifiable party platforms to which voters can relate, strengthening the overall effectiveness of a multi-party system.

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# 6

## ***Pre-Election Campaigns and the Media***

There is little question that one of the most important components of the election process is the period of the pre-election campaign. The degree to which an election is considered free and fair is often measured by the success or failure of the system to ensure fundamental safeguards. They include:

- providing fair opportunities to competing candidates and political entities to actively inform citizens about their programs;
- articulating rules that are well defined, rational and enforceable;
- guaranteeing consistent compliance and unbiased enforcement by government officials, election administrators, and relevant adjudication and enforcement authorities; and,
- promoting a professional and responsible media environment.

A review of the Federal Law *On Basic Guarantees of Electoral Rights of the Citizens of the Russian Federation* and the Federal Law *On Election of President of the Russian Federation* makes it clear that lawmakers attempted to provide a comprehensive foundation to underpin a rational and fair campaign process. In spite of soundly construed intentions, however, the current legal framework is not totally sufficient to secure the desired results in the still delicate democratic environment. The pre-election campaign period heralded significant advancements in opening more liberal campaign opportunities to candidates representing a variety of political orientations and giving rein to a more independent press. While the newly freed media often displayed an immature understanding of their role in the post-soviet campaign environment, some candidates and their organizations openly strategized to circumvent and manipulate what were, on occasion, confusing and contradictory new rules. The issues are complex and seem to mirror the growing pains of the evolving democratic society as a whole. In spite of the difficulties, controversies, and inequities experienced during these elections, the campaign process represented a significant step toward productive political competition and meaningful elections.

## ***Fundamental Principles in the Basic Guarantees Law***

Fundamental ground rules are established in the Basic Guarantees Law that are intended to set the tone for all elections in the Russian Federation. Under its tenets citizens and electoral associations are entitled to campaign for or against any candidate or electoral association by any legal method. In addition, Article 23 of this law provides that the "state shall secure to the citizens and electoral associations free (open) pre-election campaigning," and guarantees candidates and electoral associations equal access to the mass media. (Article 2 grants electoral blocs all the rights afforded electoral associations.) Article 24 makes it obligatory for mass media promoted or co-promoted by state or municipal bodies, organizations or institutions which are funded in full or in part from the federal budget, the budget of a Subject, or local self-government budgets to provide equal opportunities to candidates or electoral associations of "varying political orientations."

In the Basic Guarantees Law, the rights of voters' initiative groups are not specifically addressed, leaving their entitlement to "equal access to the mass media" in question except as they may or may not be covered in other federal laws. Article 24 also indicates that candidates "or" electoral associations shall be entitled to time on state and municipal radio and television operating "within the territories of the relevant electoral districts" free of charge and on an equal basis. Likewise, candidates "or" electoral associations are guaranteed the right to additional paid time to be made available under equal conditions for all candidates or electoral associations. There is no guidance suggested in the law as to how, why, or under what circumstances it would be determined which entity would be eligible for the air time at no charge.

Another important aspect of Article 23 of the Basic Guarantees Law is the prohibition placed on pre-election campaigning by members of election commissions, state bodies, bodies of local self-government, or their officials. An exception is made for candidates nominated from among local government officials who are guaranteed to the right to campaign on an equal basis with other candidates. The provision also attempts to curtail unfair opportunities for abuses by candidates or authorized candidates' representatives who, by profession, are journalists, officials of mass media, or creative workers employed by state radio and TV. Under the law, they are banned from participating in coverage of the pre-election campaign.

The Basic Guarantees Law also establishes fundamental rules and limitations on use of the mass media during the pre-election campaign period. For example, Article 24 requires that printed propaganda materials contain information related to the organizations and persons responsible for the printing or publication. The law dictates, in Article 26, that the official time period for the pre-election campaign is from the date a candidate is registered until one day prior to election day. Further, it prohibits the publishing of any public opinion polls or forecasts five days prior to and on election day.

Article 25 identifies as "impermissible" activities and abuses which could ultimately cause the candidate's registration to be canceled. Among restricted acts are campaigning activities or messages that promote social, racial, national, or religious hatreds or animosity, appeal to the seizure of power, violent challenge to the constitutional system or state integrity, or promote war.

This provision replicates the language of Article 29 of the Constitution of the Russian Federation dealing with guaranteed rights of freedom of ideas and speech. However, the constitutional

provision extends the prohibitions to also cover agitation or propaganda which promote language supremacy. This language is not included in the Basic Guarantees Law.

Provisions of the Basic Guarantees Law place election commissions at the center of monitoring the pre-election campaign process and making judgements as to when and where there may be violations. Under Article 25 election commissions are required "to audit the observance of the procedure established for pre-election campaigning."

### ***Campaign Provisions in the Presidential Election Law***

While the Basic Guarantees Law sets the general tone in establishing a basis for equal campaign opportunities, the Presidential Election Law adds additional guidance as to how its objectives can be carried out. It embellishes the fundamental rules in several ways.

Article 38 clarifies and extends the list of individuals and bodies who are restricted from conducting pre-election campaigns or distributing propaganda materials. Whereas the Basic Guarantees Law prohibits participation by members of election commissions and, state bodies and bodies of local self-government or their officials, the Presidential Election Law extends the list to include military units, institutions and organizations, as well as charitable organizations and religious associations.

Clarification is provided regarding the official end of the campaign period by defining that campaigns shall terminate at midnight local time prior to the day preceding the day of the election.

Additional restrictions regarding the content of campaign propaganda are imposed by Article 38 of the Presidential Election Law. In particular, the law prohibits campaigns involving free or preferential giving of goods, rendering of services, securities or payment. Article 39 stresses that candidates, electoral associations, blocs, and voters' initiative groups, and their authorized representatives may not provide money, presents, or other material value to voters, or arrange for the preferential sale or distribution of free goods. This prohibition is extended to include promises to voters for such rewards. These restrictions do not extend to distribution of printed materials and badges prepared for the campaign, or to payments and goods given to individuals for their work during pre-election organization such for gathering signatures on candidate petitions, or serving as an observer on election day.

The Presidential Election Law rectifies the omission of the Basic Guarantees Law by identifying voters' initiative groups in its provisions related to media access. Article 40 spells out parameters for access to broadcast media. This article attempts to clarify the eligibility of candidates, electoral associations, blocs, and voters' initiative groups to receive broadcast time on a free or paid basis. Under these provisions only candidates are entitled to media time free of charge and the privilege is only extended to air time on radio and TV companies which are funded by the federal budget or budgets of the Subjects of the Russian Federation. Electoral associations, blocs, and voters' initiative groups are provided the right to campaign on state and municipal radio and TV, presumably on a paid basis.

Certain requirements are also imposed on broadcast stations in their management of broadcast time utilized in the pre-election campaign. For example, Article 40 identifies the kinds of propaganda which can be conducted on broadcast media including debates, round tables, press conferences

"and other forms not prohibited by law." In addition, the law prohibits the interruption of programs containing pre-election campaign propaganda by advertisements for goods or services. Stations are also required to identify programming that presents campaign propaganda offered by election participants. This information is to be aired in a separate bloc without additional comment. The law suggests that this informational bloc should be presented at the beginning of the election participant's broadcast. The law also requires that broadcasts containing campaign propaganda be simultaneously recorded on tape and that the tape be stored for six months from the day of the broadcast.

Article 41 of the Presidential Election Law establishes fundamental rules regarding campaign opportunities in the print media. The law attempts to ensure that periodicals founded or co-founded by state or municipal bodies, state enterprises, agencies or organizations, or funded in whole or in part from the federal budget or budgets of the Subject, treat all candidates or nominating groups equally in terms of granting space for their campaign materials. Under Article 41, it is prohibited for these periodicals to refuse to grant space to a candidate, electoral association, bloc, or voters' initiative group, if they have already granted space to an opponent. They must provide space under the same conditions and in the nearest subsequent issues. On the other hand, periodicals established by bodies of legislative, executive, or judicial powers exclusively for publication of their official messages and materials are prohibited from publication of campaign materials. In addition, periodicals founded by candidates, electoral associations, blocs, and voters' initiative groups as well as public associations which are part of electoral associations are relieved from having to grant space to their opponents.

Both Articles 40 and 41 mandate that the Central Election Commission of the Russian Federation (CEC) establish formal regulations regarding the granting of air time and print space for campaign purposes. In formulating their regulations regarding broadcast time, the CEC is to develop instructions taking into account suggestions of candidates and nominating groups. In both instances the CEC is to seek the cooperation of "state bodies that provide adherence to constitutional rights and freedoms in the field of mass media."

The Presidential Election Law also places an obligation on state bodies and bodies of local self government to assist candidates and nominating groups in arranging for pre-election campaign assemblies and meetings with voters. Article 42 dictates that applications for such public gatherings must be considered by the relevant authorities within five days under "orders" established by Territorial Election Commissions (TEC). Upon request of the election commission, premises owned by state or municipal authorities, state enterprises, agencies, and organizations are to be donated for these events free of charge. In making such arrangements, the law mandates that the election commissions provide equal opportunities to all election participants.

The Presidential Election Law also augments rules only superficially prescribed in the Basic Guarantees Law regarding distribution of campaign materials. Article 43, for example, requires that local administrations allocate special places for hanging or posting campaign materials no later than 20 days prior to the day of the election. Suitable space must be provided in at least one location within the area served by each polling site, and must be sufficient to equally accommodate all candidates, electoral associations, blocs, and voter's initiative groups. The law also stresses that public or private buildings, edifices, or premises may be used with the permission of the proprietor or owner, although restrictions are imposed on the posting of materials on monuments, or structures of historical, cultural, or architectural significance. The law makes it clear that

campaign materials may not be hung in the premises of election commissions or in the voting areas.

Whereas the language in the Basic Guarantees Law indicates only that the election commissions "shall audit" the observance of the procedures established for the conduct of the pre-election campaign, Article 39 of the Presidential Election Law implies an obligation that they will also take action upon becoming aware of violations. Under its provisions, once informed of unlawful speeches or distribution of unlawful propaganda materials, election commissions "are entitled to undertake measures" to prevent the activities from continuing. Further they are entitled to apply to respective bodies with "requests for prevention." The CEC, in particular, may appeal to the Supreme Court to cancel the registration of a candidate if he/she has committed pre-campaign violations. Under this law the Supreme Court is obligated to consider the CEC's request within three days, or immediately if the request is submitted within three days of the election. Article 43 reinforces the prohibition against the distribution of anonymous campaign materials. It also reiterates similar language regarding the entitlement of election commissions to take measures to prevent the dissemination of unidentified or counterfeit printed materials and to apply to respective authorities for assistance as necessary.

### ***For Consideration***

While the spirit and general scope of the Basic Guarantees Law and the Presidential Election Law provide a positive foundation for the conduct of free and fair election campaigns, officials and candidates alike are hampered by a number of technical deficiencies which need to be explored. The following are examples of some technical omissions and deficiencies that, if not resolved, are likely to result in continued controversies and misunderstandings.

- 6.1 There are a number of terms utilized in the various laws governing elections that are not adequately defined. Ideally, the laws must be articulated clearly and to the extent possible, devoid of opportunities for subjective interpretation or selective application. Sometimes even the inadequate or ambiguous definition of terms will be sufficient to cause misunderstandings and challenges to the system. A few examples, listed below, serve to illustrate the kinds of problems which can arise when terms and applications are ill defined. It is recommended that lawmakers review these terms and make determinations as to their actual intended meaning in the election context, and that the terms and their definitions are used consistently in all applicable laws.

**Equal Conditions:** The powers ascribed to the CEC in Article 15 of the Presidential Election Law include, in particular, the power "to create equal conditions" for the pre-election campaign. The question arises as to what that phrase is intended to mean. The specific definition can have significant bearing on how procedural regulations are formulated and how judgements are made regarding the degree to which the participants and the media carry them out. Is the law intended to mean, "exactly equal terms" or does it mean "creating equal opportunities" for candidates? When it comes to use of the state radio and TV media, for example, does it mean exactly equal air time, or access to air time on equal terms? Under the latter, there may be less concern about seeing that every candidate receives the exact same number of minutes or the exact same number of lines of newspaper space, and more concern about ensuring that each candidate has access to media under equal conditions. If free campaign time is given to one candidate, it is given to all candidates. Or, if time is purchased, the terms and fees applicable to one candidate



are the same for all candidates. This holds true even if, ultimately, candidates or nominating groups each use more or less time or space.

**State Radio and TV:** In the laws governing presidential elections, candidates are guaranteed free air time on "state radio and TV" at no charge. While it might be relatively straightforward to determine how many minutes will be allocated taking into consideration the number of candidates, such a determination is dependent on how "state media" is defined. Again, the manner of definition plays on how relevant regulations are drafted. Does "state media" mean federation-wide state media...or does it mean media which is sponsored or funded from the budgets of state bodies? Does it mean media sponsored totally by the state or those which receive partial funding by the state? How much funding...any?...51%? Would it cover media operating under an agreement for funding by a state agency but for which no funds have actually been received? The various laws and regulations tend to use the term "state radio and TV" slightly differently in each context.

Under Article 40 of the Presidential Election Law, the CEC is charged with formalizing the procedures for the granting of broadcasting time on "state TV and radio companies" to candidates, electoral associations, blocs, and voters' initiative groups. In the its *Resolution Concerning the Regulations of the Procedure for Granting Air Time on the Channels of State TV and Radio Companies to Candidates for President of the Russian Federation, Electoral Associations, Voters' Initiative Groups, and Publication of Campaign Materials in Newspapers/Periodicals*, the CEC made strides in filling the gaps left vacant by the laws, including its own definitions of what constitutes state media. Whereas Article 40 of the Presidential Election Law refers to channels of TV and radio which are "financed at the expense of funds of respective budgets (federal budget, budgets of the Subjects of the Russian Federation)," the resolution refers to TV and radio companies "the founder (co-founder) of which is a state agency." Whether there is room for a distinction between a founding agency and actual financial support, is not clear. It would be helpful if the same terms were used consistently to avoid the potential for confusion.

**The Campaign Period:** Although the laws are quite clear as to when the campaign period officially ends for all candidates, the official beginning of the campaign period is different for each candidate. Each candidate's "campaign" begins on the date of his/her registration. In addition, the narrow time-frame envisioned in the laws does nothing to address the realities of pre-registration activity which is virtually unavoidable. As evidenced in the presidential elections, the media was covering activities of individuals seeking nomination well in advance of their registration. Certainly, the act of seeking the nomination and the process of gathering signatures on petitions provided fertile soil for mass media publicity. In news stories and interviews prominent nominees were openly discussing their anticipated registration as well as their programs and their political differences with opponents who were also expected to be registered. There was little doubt about the intentions of the more prominent individuals, including incumbent President Yeltsin, to seek nomination and to be registered as a candidate. The media gave no appearance of recognizing any obligation to withhold coverage of individuals as candidates until after they were registered. Early on, when Zyuganov was the first and only candidate registered, the campaign rivalry between the President and him was already being covered extensively in the mass media. Questions and allegations about premature,

and therefore, illegal campaigning were being brought to election officials left with little to draw upon in developing an adequate response.

It is suggested that alternatives be explored as to the manner in which the campaign period is defined in law. Perhaps the day of registration should be used as the opening date for purposes of receiving and using campaign funds allocated from the federal budget, and for the initial granting free and paid air time on state media. It would be helpful, however, if the law contemplated pre-registration campaign activity under separate provisions. The law might, for example, separately define allowable activities and give recognition to the kinds of expenses that can be incurred in promoting oneself for the purposes of seeking nomination. It can be argued that there is a valid public interest served in providing voters with information about those seeking nomination.

**Campaigning:** In view of allegations regarding premature campaigning, it became clear that "campaigning" was not adequately defined. Did mass publicity and media coverage of various individuals before they were actually registered constitute campaigning? The distinction became particularly blurred in determining the difference between coverage of Yeltsin, the President, and Yeltsin, the candidate. The general rule of thumb was that in order to be considered a campaign message, the content had to include a specific appeal for the support or defeat of a particular candidate. Although not totally satisfactory in responding to concerns and challenges, at least this definition was an attempt to apply a measurable standard. As legal reform is pursued, this is an issue which should be given further attention.

- 6.2 As currently written, the laws invite a degree of uncertainty regarding the entitlements of various participants to paid and free air time on state, regional, or municipal radio and TV because each law treats them slightly differently. As already discussed, the Basic Guarantees Law omits any reference to voters' initiative groups. Article 24 of that law guarantees candidates "or" electoral associations access to free media. With regard to paid time, the same article provides candidates "or" electoral associations access, "by agreement" with state TV and radio companies. Article 40 of the Presidential Election Law, on the other hand, gives only candidates the right to free access. Yet, when it lists the entities entitled to use state and municipal TV and radio (presumably on a paid basis) candidates are not specifically identified while electoral associations, blocs, and voters' initiative groups are. In a later paragraph of the article candidates are afforded the right to use municipal radio and TV (presumably on a paid basis) but state and regional media are not identified in the reference.

In another example, the Basic Guarantees Law implies an entitlement that is not carried through in the Presidential Election Law or the CEC's Resolution On Procedures for Granting Air Time. Under Article 24 of the Basic Guarantees Law, candidates "or" electoral associations are entitled to free time on state and *municipal* radio and TV "within the territories of 'relevant' districts." Taken literally, the right to free air time on municipal radio and TV would seem to be a right guaranteed to any type of candidate regardless of the kind of election being conducted. In actual practice and in the different treatment of municipal media in the Presidential Election Law, however, it appears that the entitlement implied in the Basic Guarantees Law is subject to waiver. Perhaps as lawmakers contemplated use of municipal media in presidential campaigns, it was argued

that since presidential candidates do not run on a "district" basis as would candidates for the State Duma, for example, the free use of municipal radio and TV should not apply.

The table that follows illustrates the subtle difference in the approach to media access employed by the two relevant laws, and the CEC resolution. It is recommended that lawmakers revisit this complex subject and consider bringing clarity and uniformity to the various laws and their numerous provisions which address the same issues.

## Paid and Free Access to the Media Provided By Law and Regulation for the Pre-Election Campaign

Medium	Entity	Legal Basis					
		Law on Basic Guarantees of Electoral Rights		Law on Election of President		CEC Resolution On Procedures for Granting Air Time	
		Free	Paid	Free	Paid	Free	Paid
All-Russia State Run Radio/TV	Candidate	X*	X*	X	*Not Specified	X	X
	Electoral Association	X*	X*	Not Specified	X	Not Specified	X
	Electoral Bloc	X*	Silent*	Not Specified	X	Silent	Silent
	Voters' Initiative Group	Silent	Silent	Not Specified	X	Not Specified	X
Regional State-Run Radio/TV	Candidate	X*	X*	X	Not Specified	X	X
	Electoral Association	X*	X*	Not Specified	X	Not Specified	X
	Electoral Bloc	X*	Silent	Not Specified	X	Silent	Silent
	Voters' Initiative Group	Silent	Silent	Not Specified	X	Not Specified	X
Municipal Radio/TV	Candidate	X*	Silent	Silent	X	Not Specified	X
	Electoral Association	X*	Silent	Silent	X	Not Specified	X
	Electoral Bloc	X*	Silent	Silent	X	Silent	Silent
	Voter's Initiative Group	Silent	Silent	Silent	X	Not Specified	X

- Article 24 guarantees right to access at no charge to candidates "or" electoral associations. Also provides for free access on networks broadcasting "within the territories of the relevant electoral districts," leaving meaning unclear in presidential elections in which electoral districts have no relevance.
- Article 24 provides right to paid access to candidates "or" electoral associations by agreement with state radio and TV companies.
- "Silent" is used to indicate that the issues or entities are not addressed at all in the context of the law.  
 "Not Specified" is used to indicate that while others are specifically granted an entitlement, this entity is not identified in the particular provision reference. Based on standard rules of legal construction the omission usually implies the entity has been purposely excluded and is therefore not granted the entitlement.

- 6.3 Article 37 of the Presidential Election Law allows a candidate to withdraw his/her candidacy "at any time prior to election day." During the presidential election, it was generally understood that Aman Tuleev was planning to withdraw although he delayed submission of his withdrawal until the final days of the election campaign. Until his actual withdrawal, Tuleev continued to enjoy the benefits of media access as guaranteed him under the law. Tuleev's use of his allotted time, however, gave rise to an issue that had not been anticipated. In the period immediately prior to his withdrawal, the messages of his broadcasts did not focus on his candidacy. Rather, Tuleev used his time to attack the current regime and steer support toward Zyuganov. The tactic, in effect, doubled the allotted time to which Zyuganov was entitled in this time period. Without a realistic deadline for withdrawal, this window of opportunity could be subject to calculated manipulation. It is recommended that a strategy for closing this loophole be investigated.
- 6.4 The omission of language in the laws governing elections stipulating the obligations of independent media in the pre-election campaign prompted significant and unresolvable questions by election officials and administrators and left a whole sector of the media with no guidance whatsoever. Article 23 of the Basic Guarantees Law provides for equal access by candidates and electoral associations to "mass media" which, generally, would include independent media. No indication is given, however, as to whether independent media are bound by the same principles as state media in providing access to candidates. Just as importantly, the question arises as to whether the umbrella of the CEC's mandate to "create equal conditions" for the pre-election campaigns is sufficient to allow it to adopt regulations covering independent media. The full text of the CEC's specific authority under the Basic Guarantees Law related to "auditing the observance of the procedure established for pre-election campaigning" makes no reference to independent media. In fact, Article 40 of the Presidential Election Law limits the CEC's responsibility for developing instructions on the procedure of granting broadcast time to "channels of state TV and radio companies." If the CEC were to attempt to provide guidance to the independent media, it could find itself vulnerable to challenges for overstepping its mandate.
- If the CEC is not the authority to regulate the independent media for the purpose of pre-election campaigns, what entity is? In the absence of adequate guidance and legal authority, it is equally unclear on what basis complaints about alleged violations involving independent media would be adjudicated. These are questions that will need to be addressed for the future.
- 6.5 Both laws require the CEC to develop regulations to define rules pertaining to the granting of access to mass media. It is recommended that Article 40 of the Presidential Election Law and Article 24 of the Basic Guarantees Law include a deadline for the promulgation of the appropriate regulations which should pre-date the end of the candidate nomination and registration period. Every participant must have full access to all the rules *and* they must also have the rules well in advance. The campaign period is very short. For this reason, it is crucial for candidates, electoral associations, and mass media to have time to absorb the regulatory requirements and to plan their activities and establish their strategies.
- 6.6 It is also recommended that the laws affirmatively address strategies by which the CEC should disseminate regulations and instructions to those directly affected. At the very least, candidates and electoral associations, blocs, and voters' initiative groups should be

issued copies of the regulations. As meaningful competition continues to grow in the evolving democratic environment, the traditional practice of passive outreach by simply relying on the publication of critical materials in the official gazette may no longer be sufficient. This suggestion is also prompted by a concern that, despite a legally mandated obligation to publish regulations of the CEC, newspapers have refused to do so based on financial constraints or perceived lack of public interest.

- 6.7 The CEC's Resolution On Procedures for Granting Air Time should be thoroughly reviewed by lawmakers to determine which details provided in the resolution should be formalized into law. It offers significant details which should provide ample material for meaningful discussion and resolution. For example, it provides rules for the granting of air time and print space in the event of second round voting. This aspect of the campaign process should be legislated. Another aspect that should be reviewed is how and by whom stations and publishers are to be paid or reimbursed for the free air time or space they provide to candidates. The resolution also attempts to make a distinction between propaganda and political advertising, which might be fruitful in developing more meaningful legal definitions. Special attention should be given to the resolution's attempts to clarify the procedure and the jurisdiction of various election commissions and other relevant bodies in accepting and dealing with complaints about alleged violations. These are issues which should be formalized in law.

### ***Provisions Subject to Potentially Subjective Interpretation and Selective Enforcement***

Laws must be such that they can be applied uniformly and consistently. This is probably the most fundamental ingredient in creating free and fair conditions. If there is one area that may be particularly fragile in meeting such standards, it is the application of vague and potentially subjective language to legal provisions ensuring order and propriety in the campaign. These include the many references to prohibitions against campaign propaganda which "violates standard ethical norms" or references to propaganda, speech, or use of a person's name in a way that "insults the honor, dignity or reputation" of another person. These concepts which linger from soviet-style traditions remain well ingrained. In responding to an informal survey of participants at an IFES sponsored round table on media and campaign issues, 68% of the respondents indicated that broadcast or dissemination of propaganda in violation of "standard ethical norms" was "very likely to occur."

Legitimate questions arise as to how these terms can be interpreted in a way that can be uniformly and consistently enforced. This is particularly true in the heat of campaigns, when candidates confront each other, and criticize their opponents' records in office or programs for the future. To avoid subjective bias and selective enforcement, it is essential that the standards and criteria by which violations will be judged are clearly defined and measurable.

Some might argue that violations involving promotion of racial, religious, or national intolerance or animosity, seizure of power, or violation of state integrity should be readily obvious. These concepts may, in fact, be muddled depending on the circumstances. For example, it is not so farfetched to imagine that under these restrictions, a candidate would have to be careful about any statement or position he put forward on the crisis in Chechnya. A proponent of harsh and aggressive measures in Chechnya could be vulnerable to allegations that the advancement of such a view promoted intolerance or animosity. In contrast, a candidate's espousal for increased

autonomy, if not independence, for Chechnya might fall into the trap of disseminating a message that calls for violation of state sovereignty.

It is even more questionable whether clear standards can be effectively articulated and consistently and uniformly applied in judging actions or words that allegedly violate "standard ethical norms" or constitute "insults" to honor, dignity, or reputation. It can also be argued that adjudicating grievances on such nebulous matters is vulnerable to subjective interpretation. These are questions that are certainly not unique to the election laws of the Russian Federation. It is like asking "How do we define art," and conversely, what is "obscenity?" Ultimately the answer seems to be, "I don't know how to define it, but I know it when I see it!" When it comes to "standard ethical norms" in political campaigns, one must consider whether the answer isn't ultimately the same.

Equally important is who should be responsible for bringing such complaints? Should it be incumbent on a candidate who believes he has been "insulted" or aggrieved by the words or actions of an opponent to bring such complaints? Or, should officials of state bodies or members of election commissions independently monitor the campaigns and make decisions as to which candidates have been sufficiently "insulted" that judicial review and punishment are warranted? As written, the laws imply that officials are responsible for monitoring the process and initiating action on these kinds of violations. In fact, among election participants referenced in the earlier survey, there seems to be a general expectation and reliance on election commissions. Sixty-nine percent of the respondents indicated that the CEC carried the major burden in ensuring that violations be addressed. Fifty-eight percent assigned a similar level of responsibility to Subject Election Commissions (SEC). The difficulty in the option of intercession by election officials is safeguarding against selective and politically motivated targeting as well as the potential for subjective bias to be interjected into the process. Without such protections, preferential advantage to some candidates over others by election authorities could ultimately influence the outcome of the election. Election officials should generally be removed from such potentially subjective and controversial arenas whenever possible.

In most established democracies of long standing, questionable words or actions of candidates are challenged and fought by the individuals in civil court proceedings, where rulings are determined on the basis of the rules normally applied to libel and slander cases. While the press might cover such cases and publicize the nature of the conflict and the outcome, the disposition of the civil case is not generally related to the status of the candidate and his/her eligibility to stand for election. Campaigns remain in the public domain, with virtually no interference or intervention by the state or election administrative bodies. The electorate is left to observe the campaigns and to decide for themselves how to judge the character, honesty, discretion, and dignity of the candidates. When it comes to fairness, credibility, and adherence to "standard ethical norms," they may not be able to define it, but they'll know it when they see it.

### ***For Consideration***

- 6.8 It is recommended that serious consideration be given to removing election commissions from the lead position of having to audit and intercede in campaign activity, especially in cases allegedly involving "insults to the honor, dignity, or reputation" of another person. It is preferable that these cases should be addressed through the normal civil proceedings as provided for under Article 152 of the *Civil Code of the Russian Federation*. This law provides a sufficient and appropriate venue for dealing with such cases without

intermediary intervention on the part of the election administrative structure. Such cases should remain in the public domain where the electorate can judge for themselves.

Under the provisions of Article 152, any citizen may appeal to the court if he/she has been aggrieved by the dissemination of information discrediting his personal honor, dignity, or professional reputation or if his rights and legal interests have been so discredited. Such cases are tested against whether or not the person disseminating such information can prove it in court. If the defaming information has been spread by mass media sources, the law provides that it must be retracted in the same source. If the information was contained in a document, Article 152 requires that the document be replaced or rescinded. If the aggrieved person's rights or legal interests have been impaired, he/she has the right to publish his/her response in the same mass media sources.

The Civil Code also provides for the imposition of fines and payment of compensation to the aggrieved person, in addition to the mandated retraction or correction of the damaging information. Article 152 even contemplates circumstances whereby the source of the information cannot be identified. In these instances the person whose dignity, honor, or professional reputation has been violated can request that the anonymous information be officially declared wrong or untrue.

Exercise of citizens' rights under the Civil Code has the capacity to satisfy the urgency of such complaints in the time constrained campaign environment. Advancing such complaints through the election commission hierarchy tends to result in delays, as questions of jurisdiction are not clearly answered in the law and have not yet been thoroughly established in administrative practice. Article 152 also provides a graduated course of appropriate remedies which are not available within the realm of election commissions' authority. In addition, it allows for recommendations to be made by election commissions or the Judicial Chamber for Information Disputes. (The Judicial Chamber, discussed below, hears a broad range of media related complaints and disputes, not just those related to elections.) If the recommendations made by these bodies are not accepted or acted upon, the current process for initiating and dealing with these types of complaints must still ultimately rest on a ruling of the court. Under these circumstances, the current law only provides one recourse. The CEC or the Judicial Chamber can appeal to the Supreme Court and request that the offending candidate be de-registered and precluded from the electoral contest.

### ***Adjudication by the Judicial Chamber for Information Disputes***

In December 1993, President Yeltsin issued a decree establishing the Judicial Chamber for Information Disputes. It was created to assist in the interpretation and inculcation of the new constitutional framework for liberalized information and mass media components of the newly democratized civic structure. The Judicial Chamber was also established as an intermediary to hear and make determinations regarding media-related complaints and disputes covering a broad variety of issues, which go well beyond those related to the elections and campaigns. Under the decree the Judicial Chamber was granted the authority to resolve "information disputes and other matters" involving "norms" established by the Constitution, in laws of the Russian Federation, and in presidential edicts, and those involving "universally recognized principles and norms of international law."



According to provisions of the *Statute on the Presidential Judicial Chamber for Information Disputes of the Russian Federation* published in *Rossiiskaya Gazeta* on 3 February 1994, its venue extends to "guaranteeing objectivity, accuracy, equality and pluralism in mass media; protecting the moral interests of children and adolescents; resolving disputes about allocation of air time between legislative factions; correction of factual errors in media reports; and providing mass media related draft legislation, expert advisory opinions on applications of statutes, and rulings on presidential decrees." Its authority is even more broadly and generally extended to cover the resolution of issues involving "journalistic ethics" and "generally accepted ethical norms." In fact, its authorities are so far reaching that there appear to be only two general areas outside its purview. The Judicial Chamber may not examine disputes that are "assigned by law to the jurisdiction of the courts," or cases pertaining to information protected as state or commercial secrets.

In formal terms the Judicial Chamber functions as an impartial and independent body although administratively it remains directly under and is funded by the office of the President. In addition, its members are appointed directly by the President. Law professor Anatoly Vengerov has chaired the Judicial Chamber since its inception. The remainder of the Chamber's members all have legal and academic backgrounds, and some are also experienced in media affairs.

From the outset, the creation of the Judicial Chamber was subject to criticism, particularly in terms of its constitutionality. Concerns have alternately been raised about its effectiveness and its potential for censoring and controlling the media. Yet, since its inception in 1993, complainants representing publishers and broadcast media aggrieved by government authorities, as well as complainants representing officials, candidates, and citizens who feel they have been misrepresented or abused by the media, have increasingly relied upon the Judicial Chamber to intercede on their behalf.

### ***The Multi-Dimensional Role of the Judicial Chamber***

The extraordinarily broad scope of the Judicial Chamber's mandate sets the stage for its equally expansive and diverse approach to its responsibilities. First, although not a true court, the Judicial Chamber generally operates as one. The Chamber consistently conforms to and utilizes principles of basic court procedures. During its proceedings, the Chamber takes testimony and considers evidence, weighs facts, and evaluates legal issues. In rendering its decisions, the Chamber relies on applicable laws as would a traditional court. For example, in hearing cases regarding complaints with potentially subjective outcomes such as those related to insults of a person's reputation, dignity, or professional reputation, the Chamber makes its evaluations in keeping with applicable laws related to libel and slander. The Chamber appears to take on many other roles as well acting as an arbiter of specific cases brought under its review. It is simultaneously a prosecuting agency, think tank, legislative task force, and media ethics board.

Throughout its work, and as many of its decisions and opinions reflect, the Judicial Chamber also sees itself as an educator as well as a barometer of ethical norms. Its decisions often include discussions of philosophic and moral principles underpinning its view of the rights and responsibilities of the mass media and the role of the mass media in a democratic society. In adjudicating cases regarding informational and media disputes, its decisions almost universally cite violations of law and violations of "standard ethical norms" with equal emphasis.

The Judicial Chamber has also rendered analytical opinions and statements in which it explores statutory defects including omissions, contradictions, and conflicts found in the flurry of new laws pertaining to the mass media and its abuse. For example, the Chamber has identified the failure of the laws to:

- clarify the legal status of the various organizational structures under which a medium can establish itself, such as a joint stock company, limited liability company, creative enterprise, association, etc.;
- establish legally based responsibility and liability relationships between founders and sponsors, and their publishers and editorial staff;
- adequately define "state mass media" as it relates to mandatory obligations, for example, of state mass media to publish official documents, regulations, or decisions of governmental agencies and commissions;
- effectively assign liability for "abuses of freedom of mass information," as referenced in Article 4 of the Law on Mass Media;
- distinguish between criminal and civil liability in cases involving such abuses; and,
- identify enforcement mechanisms related to the liability for violations regarding media registration requirements.

The Judicial Chamber has also analyzed what it perceives to be impediments to meaningful implementation of existing laws. In its analyses and opinions, for example, it has cited such hindrances as:

- failure of responsible agencies to adequately monitor media abuses that fall under their jurisdictions, such as the Ministry of Health in policing advertisers of unlicensed medicinal health products;
- failure of responsible government agencies to respond to information and media complaints;
- delays by prosecuting bodies in reacting to abuses in a timely manner;
- overburdened courts whose full dockets preclude expedient resolution of media related cases; and,
- general apathy and non-responsiveness of governmental bodies and mass media to the administrative or judicial decisions, rulings or warnings, and their apparent impunity to punishment.

Although the Judicial Chamber's findings and opinions on these considerations have related to the full scope of issues under its jurisdiction, they become particularly relevant during the critically important and time-constrained period surrounding elections.

When it comes to complaints and violations regarding the media and pre-election campaigns, there has been growing cooperation between the Judicial Chamber and the CEC. Under the law, a wide variety of complaints and grievances may be appealed to the CEC. Complaints may also be brought directly to the courts. Many of the election related media disputes heard by the Judicial Chamber seem to have been brought there directly. A growing number, however, have actually been passed to the Judicial Chamber by the CEC. It is unclear whether their interaction was initiated out of a genuine sense of cooperation or was the result of a forced marriage. In any case, the relationship seems to have evolved.

### ***Independent Intervention by the Judicial Chamber***

The Judicial Chamber also acts as a prosecutor, empowered to initiate cases at its own discretion. There is no prerequisite requiring a complaint come from an aggrieved party. In this regard, the Chamber is similar to the CEC, because there is an implied obligation imposed on both entities to monitor the media environment and pursue cases where violations are suspected or become apparent. In fact, a number of cases heard by the Judicial Chamber have been initiated by the Chamber itself.

When it comes to elections and the pre-election campaign environment, a legitimate question arises as to whether the CEC or the Judicial Chamber should be involved in initiating such cases independent of a specific complaint filed by a candidate or election participant. The inherent danger to this approach should be considered. The fundamental basis of a free and fair election campaign rests on equal and uniform treatment of the candidates. Unfortunately, it is fundamentally impossible for every perceived infraction or violation to be pursued uniformly and equally in the heat of what is, by its very nature, an adversarial and competitive campaign environment. This is especially true when it comes to alleged violations of rules that are vague or open to subjective interpretation. Prohibitions against insults to a person's honor, dignity, and professional reputation, and messages which allegedly incite violence, or social, racial, religious, or ethnic intolerance or animosity can certainly fall into this category. In addition to being open to subjective interpretation, incidents which could be perceived to violate these rules may simply be too numerous to track with consistency. It becomes particularly difficult when such violations are alleged to have occurred in a particular speech, or in a spontaneous comment during an interview or debate.

The result is that initiating action on these kinds of "abuses" by the CEC or by the Judicial Chamber, independent of a specific complaint filed by a candidate or election participant, can only result in implementation that is selective at best. In an election, selective application has the potential to interject a bias which can irrevocably alter the playing field on which the candidates are competing. Once the CEC or Judicial Chamber chooses to independently pursue a single case involving these rules, it would automatically become obliged to pursue every instance or occurrence on an equal basis in order to ensure its fundamental obligation to treat every candidate equally.

The presidential campaign offers some examples which serve to illustrate how difficult it would be to apply these rules and to select cases to actively pursue. On 22 June 1996, Zyuganov published a statement in *Pravda* warning there would be "civil war." In the same statement he

referred to internal squabbling around the "senile" Yeltsin.<sup>1</sup> The Yeltsin campaign responded with an advertisement in which the voice-over says, "The Communists haven't changed their name. They won't change their methods. It is not too late to prevent civil war and famine."

Zhirinovsky's campaign included a number of messages that could have been interpreted as inciting ethnic intolerance. In a five minute appearance on ORT on 5 June 1995, he asserted that "ethnically defined" regions of the Russian Federation such as Tatarstan, Yakutiya, and the northern Caucasus pay less taxes but receive more money from the federal budget than other regions. Giving a string of examples he suggested that Russians "live worse...are poorer...die sooner...and have fewer rights." He called the situation, "a war against the Russian people."<sup>2</sup> In an address to a Muslim audience in *Sovetskaya Rossiya* on 13 June, Zyuganov criticized what he called, "the invasion of foreign religious groups."<sup>3</sup>

Pursuit of any of these types of cases by the CEC or by the Judicial Chamber would have had the affect of interjecting a bias in the campaign, regardless of how well intentioned, unless all such cases were pursued equally.

### ***Limitations on Enforcement Capacity***

A cursory review of the findings of the Judiciary Chamber in a number of cases reveals that reasonable and fair rulings appear to have been rendered in a significant number of cases decided in favor of the aggrieved party. To what degree, however, are findings of the Chamber binding? It appears that the Chamber is a mediating body whose findings result in remedial recommendations, which often include suggestions for action by the CEC or legal prosecution by law enforcement agencies. Frequently, the Chamber offers directives to local entities, the media, or other parties to the complaint, with demands for subsequent reporting on steps taken to fulfill its recommendations. In many cases heard by the Chamber, there appears to be a willingness for compliance by those parties against whom the Chamber has ruled. Perhaps this willingness is to avoid further legal action, particularly among local or independent media who remain vulnerable to pressures from administrative structures. However, there is also a legitimate concern that voluntary compliance cannot be taken for granted. This may certainly be the case in terms of local governing authorities who enjoy a significant amount of power at the local level.

In these cases, the Judicial Chamber and the CEC share the same limitations. When the parties involved fail to comply with their decisions, both agencies must appeal to the procurator's office or to courts to ensure enforcement. In cases involving violations by candidates, the only alternative offered under the current election law is to request the court cancel the registration of the candidate. In most democracies of long standing, de-registration of a candidate is founded on grounds that are specifically articulated, with violations related to candidates' campaigns generally not among them.

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<sup>1</sup> "Zyuganov: The Fatherland is in Danger!," *OMRI Russian Presidential Election Survey*, No. 11, 27 June 1996.

<sup>2</sup> "Zhirinovsky Appeals to Ethnic Russians," *OMRI Russian Presidential Election Survey*, No. 7, 7 June, 1996.

<sup>3</sup> "Zyuganov Appeals to Muslims," *OMRI Russian Presidential Election Survey*, No. 9, 14 June 1996.

As of yet the laws governing the elections do not contemplate a graduated scale of penalties that would more reasonably suit the varying levels of possible violations related to the pre-election campaign. Respondents to the previously noted IFES survey on adjudication of media disputes offered their views on the types of alternative penalties which could be considered short of de-registration of the candidate.

- 47% of the respondents felt that a warning was warranted for a first offense;
- 68% favored publication or public disclosure of a finding of violation on the part of a candidate;
- 26% supported a reduction of, or disqualification from, using free air time as a suitable penalty for repeated offenses; and,
- 16% favored imposition of fines to be paid from the candidate's personal funds.

### ***For Consideration***

- 6.9 The law should define more specifically the avenues through which candidates and election participants may bring complaints regarding media or campaign disputes. It is recommended that the law provide that such complaints be brought to the Judicial Chamber or to the courts. In these instances the Judicial Chamber, with its specialized expertise, would serve as the venue for administrative remedy in place of the CEC, with the courts serving in their traditional juridical capacity. This would not preclude the CEC from serving in a consultative capacity to the Judicial Chamber. First, it would remove the CEC from a position of ruling on cases, the results of which could be perceived as partisan, and favoring one candidate to the disadvantage of another. Second, it must be acknowledged that the CEC and lower level election commissions could be a party to the complaint itself, such as occurred in a case filed with the Supreme Court by Martin Shakkum claiming that the CEC had failed to properly address his complaint. (For a more detailed discussion of this case, see page 61 in the following section of this Chapter.) Election commissions are susceptible in view of the role ascribed to them in regulating media access, allocating funds to candidates for their campaigns, providing equal conditions for holding public meetings, and publishing biographical information about the candidates. (For further discussion on this issue see Chapter 11, *Adjudication of Grievances*.)
- 6.10 The issues related to the benefits and drawbacks of intervention by the CEC or the Judicial Chamber independent of a filed complaint by a candidate or election participant should be thoroughly reviewed. Emphasis should be placed on determining whether independent pursuit of cases related to the pre-election campaigns can be consistently and uniformly applied. Alternative rules should be investigated to ensure that the basis on which cases are pursued is not perceived as selective or motivated by partisan bias.
- 6.11 It is recommended that a schedule of alternative penalties be devised for campaign violations in lieu of de-registration of the candidate.
- 6.12 The review and analysis of cases and decisions of the Judicial Chamber could contribute greatly in assisting lawmakers and officials in their decisions about legal reform in this area.

Although the legal system in the Russian Federation does not yet rely heavily on a system of precedents, the body of work accomplished by the Judicial Chamber will undoubtedly reveal trends which could serve as a basis for reconsidering state policy and identifying necessary legal and procedural reforms.

## ***General Issues Related to the Pre-Election Campaigns During the Presidential Elections<sup>4</sup>***

The technical requirements and entitlements encompassed in the campaign provisions of election law do not exist in a vacuum. Most analysts and observers would probably agree that in actual practice the pre-election campaign period for these presidential elections did not always reflect the free and equal environment envisioned in the law itself. Where the process was flawed, the cause was not necessarily due to a lack of effort or commitment on the part of officials to attempt to fulfill the technical requirements of the law. Rather, it is probably more accurate to suggest that the shortcomings in actual practice were evidence that the roots of democratic principles are not yet sufficiently entrenched in the peripheral socio-political, legal, and media institutions to ensure that the spirit of law is fully understood and fully embraced.

The problems and shortcomings in implementing the pre-election campaign mirrored those that exist in all sectors of the emerging social structure where old style traditions and expectations continue to linger beneath the surface. Weaknesses in the freeness and fairness of the pre-election campaign process took several forms.

### ***Imbalance in Media Coverage***

The most pervasive shortcoming in the pre-election campaign was the obvious imbalance of media coverage and the apparent advantages of incumbency. These shortcomings sorely tested the effectiveness and enforceability of laws which presumably guaranteed equal access by all candidates and electoral associations. This was one of the predominant themes commonly found by virtually all international observer delegations who were present for first and second rounds. It was also a common complaint expressed by opposition candidates and their supporting organizations, as well as local observers and analysts, throughout the campaign process.

The obvious bias took several forms, some of which were quantified in the report by the European Institute for the Media (EIM). Based on the findings of their team, whose members included Professor Dr. Bernd-Peter Lange of Germany, Richard Schoonhoven of Holland, Jonathan Steel of the United Kingdom, and Benedicte Berner of Sweden, the report went so far as to say that the Russian media displayed such a bias for the incumbent President that it "undermined the fairness of the election." According to the EIM assessment, 53% of the broadcast time leading up to the first round was devoted to incumbent President Yeltsin. In the same time period they found that 18% of the campaign broadcast time focussed on Zyuganov while other candidates received less than seven percent. During the period leading up to the second round the EIM assigned a score to the frequency and tone of on-air mentions afforded each candidate. Based on their scoring formula Yeltsin gained a score of *PLUS* 247, while Zyuganov's score was calculated at *MINUS* 240.

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<sup>4</sup> An important analysis of this topic may be found in the working paper "Freedom With Problems: The Judicial Chamber on Mass Media" by Francis H. Foster.

The obvious bias in favor of the President was reflected in more than just the imbalanced amount of coverage devoted to his campaign. Particularly during the period leading up to the second round, campaign coverage was tainted by an obvious and blatant tendency of broadcast media to display Yeltsin in a favorable light. On the other hand, coverage of Zyuganov, including his live appearances and interviews, was slanted with negativity and frequently accompanied by critical and sarcastic commentary on the part of interviewers and commentators. It would have been difficult for even the most casual viewer not to notice the trend that emerged on the major broadcast stations. The pervasiveness of this bias has been well documented by the Open Media Research Institute (OMRI) in their weekly compilation and analyses of printed articles and broadcasts in the weeks leading up to the presidential elections. Throughout the duration of the campaign period, consecutive issues of the *OMRI Russian Presidential Election Survey* tracked the media's general election coverage as well as the campaigns of contesting candidates.

OMRI noted that even NTV, the largest independent television station, seemed to undergo a major reversal in favor of Yeltsin during the presidential races. The station had previously been the subject of two investigations in 1995 due to its critical coverage of the government. During the December parliamentary elections, it had also tended to be less favorable in its coverage of the pro-government Our Home Is Russia bloc than the state-run networks. OMRI reported, for example, that in NTV's 9 June 1996 show *Itogi*, just one week before the first round, the station favorably covered the President's visit to Tatarstan and Novosibirsk. The report also included a lengthy interview with Yeltsin and reported extensively about opinion polls showing support for the President growing. The second hour of the show was a stark contrast as most of the coverage comprised a negative view of Zyuganov. The *Itogi* commentator described Zyuganov's campaign rhetoric as "vague and ineffective." The show included footage of anti-Communist picketers, some of whom were allegedly being attacked by Zyuganov supporters. There was no mention of the pro-Zyuganov rally in Moscow the day before. Rather there was speculative commentary as to whether the Communist Party of the Russian Federation (KPRF) would have military units ready to take to the streets if Zyuganov was defeated in the election.

In mid-May reports on all three major television broadcasters, ORT, RTR and NTV were openly critical of Zyuganov and the Communist bloc for having postponed release of their final platform. When report of the delay was covered in ORT's newscast on 12 May, OMRI noted that the commentator alluded to the make up of Zyuganov's coalition as ranging "from Bolsheviks to Social Democrats" and suggested that the later their program was published, the less time competitors would have to "rip it to shreds."<sup>5</sup> Both RTR and NTV emphasized the same story in their news coverage that day as well. None of the stations mentioned that the release of Yeltsin's platform had already been postponed twice, and that at it was also still not available at that point.

In a similar example, Zyuganov's mid-June proposals to form a coalition government and appoint a Council of National Accord to determine state policy, were dismissed as a campaign ploy, while Yeltsin's 26 June decree creating a Political Consultative Council to determine state policy was praised as "encouraging consensus in society." The ORT news anchor commented that "while the

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<sup>5</sup> "Media TV Networks Offer Skeptical View of Zyuganov," *OMRI Russian Presidential Election Survey*, No. 3, 16 May 1996.

Communists are creating a coalition for themselves, the current President is proposing a coalition for all."<sup>6</sup>

Critics have also suggested that the media "blackout" in coverage regarding the President's sudden and unexplained disappearance from the campaign trail between the first and second rounds of election was symptomatic of the pro-Yeltsin bias. Zyuganov's probing questions and misgivings generated little response or examination in the media.

A major element of the incumbent President's campaign involved messages strong on anti-Communist themes. In particular, the campaign emphasized the disastrous consequences which would result if the Communists were to win the presidential election. Among the materials utilized in the campaign were television advertising and documentary films recalling the suffering of the people under Communist rule. They included such images as children starving during the famine of the early 1920's, the burning of icons and the demolition of churches, environmental disasters such as Chernobyl, the devastation of the Aral Sea, and graphic footage of dying soldiers and the execution of enemies. It could hardly have been coincidence that entertainment programming on the major television stations echoed these themes in the days immediately preceding the election. ORT, for example, broadcast a film about the murder of the Tsar's family. A two-part documentary was shown on NTV about the activities of the secret police between 1917 and 1953. Beginning on 3 July 1996, RTR ran a documentary mini-series called *The Time for Great Lies* covering the early years of Soviet rule. On the night before the first round, ORT aired the film *Burnt by the Sun*, an award winning film set at the height of Stalin's purges. Nikita Mikhalkov, who both directed and starred in the film, had openly campaigned for the President's re-election.

Assumptions that the bias of the broadcast media was the result of direct pressure and manipulation of the administration would not state the case altogether accurately. In fact, analysts would probably agree that much of the bias was self-directed by the media itself. Their bias was more likely an expression of their own fears that a Zyuganov win would derail their more independent status in the new democratic environment. When questioned in an interview about the role of the media, Georgii Satarov, aide to President Yeltsin, acknowledged that the media had not been objective during the campaign. He viewed their obvious favor of the President as understandable. He indicated that, unlike in other developed western democracies where elections do not "threaten the entire political system," it was necessary in these elections for the media to "do propaganda work this spring" to protect their long-term independence and to preserve their right to report the news in the future.<sup>7</sup>

### ***Influence of Governmental Bodies***

Concerns persist that undue and improper influence of some state and local governing bodies continues to interfere with the freedom of the press and, ultimately, the fairness of the campaign environment. Rooted firmly in the past when governmental authorities maintained virtually unbridled control over the state, regional, and municipal media, there appears to be a lingering

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<sup>6</sup> "Newsreaders Skeptical of Zyuganov, Praise Yeltsin," *OMRI Russian Presidential Election Survey*, No. 12, 2 July 1996.

<sup>7</sup> "Advisors Offer Different Assessments of Media's Role," Laura Belin, *OMRI Russian Presidential Election Survey*, No. 13, 4 July, 1996.



expectation, among at least some officials, that the press functions merely as a mouthpiece of government to disseminate approved materials and favorable coverage of government activities. Tremendous strides have been made in creating a more open and independent press. However, the road has not always been a smooth one. It remains a work in progress.

In spite of new constitutional guarantees providing for freedom of the mass media, freedom of information and protection against censorship, much of the day to day operation of the mass media in the Russian Federation remains under the control of governmental bodies. The reality of today's "free" press is that the majority of broadcast stations and print media are still founded or co-founded and sponsored or co-sponsored by governmental bodies, organizations, and enterprises. They are still heavily subsidized from state coffers, and still rely on the government bureaucracy for the fundamental materials, commodities, and resources of their trade. From access to newsprint and press time, to arrangements for premises from which to operate, broadcasters and publishers are usually dependent on the cooperative attitudes and goodwill of the governing bodies on whom they continue to depend.

The influence of governmental bodies ranges from subtle to overt. Political and economic reprisals periodically follow on the heels of news coverage that is contrary to the officially "approved" material or openly critical of governmental policies, especially in particular jurisdictions. Representatives of the media have expressed frustration at residual reluctance on the part of some authorities to allow them access to public information, meetings, and newsworthy events in spite of new laws providing for freedom of information.<sup>8</sup> Additional administrative burdens are sometimes imposed on certain publishers and broadcasters who have had to meet extra-legal registration requirements. Some publications have been closed down altogether, while others have had their operations halted due to questionable tactics employed by local authorities. In early 1995, for example, the local television station in Klin Raion had its antenna disconnected making it impossible for the broadcaster to stay on the air. With regard to particularly sensitive issues, the press sometimes continues to experience pressure from authorities to cover events from a perspective that satisfies the official agenda.<sup>9</sup>

Since its inception in 1993, the Judicial Chamber for Information Disputes has adjudicated scores of these cases and others involving a wide range of abuses perpetrated by governmental authorities. Complaints filed with the Judicial Chamber have also dealt with such grievances as the freezing of media banks accounts; the denial of newsprint, and other commodities and supplies;<sup>10</sup> unilateral

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<sup>8</sup> Judicial Chamber for Information Disputes: Decision No. 29 (On the Conflict Between the Primorskii Krai Administration and the Editorial Office of "Krasnoe Znamia"); Decision No. 2 (On the Appeal by the Guild of Parliamentary Journalists); Decision No. 8(45) (On the Krasnoyarsk Krai Administration's Refusal to Allow Journalists of Afontovo Television Company Access to an Accident Site); Decision 2(39) (On Violation of the Professional Right of ITAR-TASS Journalist T.N. Zamiatini to Receive and Disseminate Information).

<sup>9</sup> Judicial Chamber for Information Disputes: Decision No. 11 (On Defense of Freedom of Mass Information in Connection with the Events in Chechnya).

<sup>10</sup> Judicial Chamber for Information Disputes: Decision No. 35 (On the Status of Freedom of the Mass Information in Primorskii Krai).

appointment, suspension or dismissal of editors-in-chief and broadcast station directors;<sup>11</sup> and the levying of exorbitant postal rates for delivery of subscriptions.<sup>12</sup> At its most serious, journalists have been victimized by harassment, censorship, deportation, and violence, leading the Judicial Chamber to state in one decision that "Unfortunately...journalism is becoming a dangerous profession."<sup>13</sup>

These examples illustrate the degree to which the new freedoms of mass media guaranteed in the Constitution are balanced like a coin on its edge with old style thinking still engraved on the other side. Allowed to go on unabated, these kinds of abuses can be particularly injurious to the freeness and fairness of the election process. In federation-wide elections the leverage of local authorities over the media may be somewhat diluted by the inherent nature of political diversity from region to region. However, governmental interference with the media could be particularly harmful in local elections where local authorities may have a vested interest in influencing or manipulating the outcome.

In the broader view, the liberalization of a more independent press seems to have brought with it a wariness on the part of some government officials. Not surprisingly, government authorities generally seem to view the media as a new threat. Both sides are only just beginning to explore the rules of their new relationship in the democratic environment. While there is little doubt that the status of mass media has greatly improved in recent years, the political and civic culture must continue to evolve if the promise of the constitutional freedoms are to be fully realized.

### ***Violations by the Media***

Critics have suggested that representatives of the mass media shortchanged the system by engaging in coverage of the candidate campaigns that was not only biased, but sometimes unprofessional and irresponsible. In some cases the media openly violated election laws and regulations promulgated by the CEC regarding the granting of legally mandated free air time to candidates, and the granting of other space and air time under equal conditions. In March of 1994, the Judicial Chamber ruled in favor of a complaint by the Orenburg branch of Democratic Russia against *Iuzhnyi Ural* which they charged was in violation of the law for refusing to publish the party's election platform. The Judicial Chamber also found the Orenburg State TV and Radio Company in violation for having excluded Democratic Russia from participation in its weekly show called *Forum* in which other parties were allowed to participate. During the 1995 elections to the State Duma similar violations also took place. *Moskva* TV and Radio Company, for example, was charged with violations of

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<sup>11</sup> Judicial Chamber for Information Disputes: Decision No. 25 (Unlawful Firing of *Sovetskaya Kalmykia* Editor-in-Chief); Decision No. 34 (On the Appeal to the Judicial Chamber of the Chairman of the Political "Council of the Amur Regional Organization of the Democratic Choice of Russia Party Regarding the Dismissal of *Amur GTRK* Chairman V.S. Martynov).

<sup>12</sup> Judicial Chamber for Information Disputes: Decision No. 3 (On the Validity of Tariffs on Postal Services Related to Delivery of Periodical Publications).

<sup>13</sup> Judicial Chamber for Information Disputes: Decision No. 35 (On the Status of Freedom of Mass Information in Primorskii Krai).

campaign laws when it adamantly refused to grant free air time to candidates for Deputy, in spite of its obligation to do so under the law.<sup>14</sup>

The 1996 presidential elections were not without similar incidents. One such case occurred in Tatarstan where the regional TV and radio company had not fully complied with CEC regulations specifying that each candidate was entitled to 20 minutes of free air time. In Tatarstan, a decision was made that each candidate would only receive ten minutes. The electoral association Yabloko filed a complaint with the CEC on behalf of its candidate, Yavlinsky. The CEC's working group on media disputes, headed by Raif Biktagirov, ruled in favor of Yabloko and Yavlinsky was granted the balance of his air time.

In another case, Zyuganov complained that ORT had violated the law by arbitrarily replacing his new ten minute campaign video with a five minute monolog which had already aired. There was no remedy available because Zyuganov had scheduled this air time just before the second round on the last night before the legal cut off for campaigning. Zyuganov complained that the switch was made after television executives had viewed the new program. He accused them of "censoring" his campaign material. (Article 23 of the Basic Guarantees Law states that "candidates and electoral associations shall independently determine the form and the nature of pre-election campaigning in the mass media.") KPRF representatives alleged that ORT executives believed that the new video would be more effective in appealing to the voters than the speech by Zyuganov that had already been aired.<sup>15</sup>

Ivan Melnikov, one of five secretaries of KPRF, alleged that ORT had refused to accept a paid advertisement on 1 July. He also complained that ORT had also refused to allow live presentations, and required pre-recorded taped presentations for use during paid air time. In addition, it was alleged that ORT had refused to permit any other KPRF representative, except Zyuganov, to speak during his free air time slots.

In a key case that was ultimately heard by the Supreme Court, ORT was again the subject of a complaint, this time by candidate Martin Shakkum. The CEC was also a subject of the complaint. ORT had scheduled a debate among the candidates to be aired on 13 June 1996. However, the station's management subsequently made a decision to cancel the debate. Shakkum filed a complaint with the CEC on the basis that he was being denied his campaign rights. Inaction by the CEC led Shakkum to file a the complaint with the Supreme Court, which ruled against ORT upholding the candidate's claim. The Court also ruled that the CEC had failed to respond to the appeal of the candidate in the time limits set by law, and therefore, had also violated his rights:

A complaint was also filed by an agent representing candidate Alexander Lebed. He claimed that Lebed had been denied broadcasting time on the local TV and radio station in Kalmykia because his representative had not been present during the drawing of lots by which the schedule of candidates' presentations were determined. The CEC appealed to the station requesting that Lebed be granted his air time.

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<sup>14</sup> "On Several Cases Involving Violation of Election Campaign Rules," *Rossiiskaya Gazeta*, 14 December 1995; Judicial Chamber for Information Disputes: Statement No. 3(14).

<sup>15</sup> "The Pro-Zyuganov Clip That Was Not Shown on Channel 1," *OMRI Russian Presidential Elections*, No. 16, 10 July 1996.

There were also occasions in which the content of news stories relied on unsupported information that had not been verified. The KPRF announced that it was prepared to sue *Nezavisimaya Gazeta* for publishing a report on 8 June 1996, that Communists were planning to "take power by force," and that they had "contacts" with Chechen separatists. The initial report in *Nezavisimaya Gazeta* was anonymous. The story continued to grow with additional coverage on two days later by NTV. Radio Free Europe/Radio Liberty picked up the story as well, reporting that the Procurator General's Office was investigating. Officials of *Nezavisimaya Gazeta* admitted that it was "hard to separate fact from campaign hype in the article."<sup>16</sup>

As a tool for promoting a partisan bias or for attracting readership, sensationalized but unsubstantiated reporting is indicative of a press that is not fully matured. In addition, the media has not been immune to the financial hardships facing society at large. Subsidies are not always forthcoming, and movement toward a market economy has impacted the costs of doing business while at the same time creating heated competition for readership. During the IFES round table on adjudication of media disputes (referred to previously in this Chapter) in May 1996, participants discussed the reality of "news-for-hire" journalism. Journalists, as well as the representatives of electoral associations who were present were quite candid in their acknowledgment that editors and journalists accept payment for choosing what stories to cover, and that those news stories are dictated by someone paying for the coverage. Respondents to the informal survey taken at the round table were asked to indicate how likely it was that these incidents would occur. Of the non-journalists responding to the survey, 25% rated this activity as "very likely." However, among journalists, nearly 40% indicated that writing favorable news stories about a candidate for payment was "very likely" to occur.

### ***Questionable Activities on the Part of Campaign Organizations***

Evidence suggests that some campaign organizations may have engaged in questionable activities and strategies to take advantage of loopholes in the law and to specifically circumvent the rules governing the campaign process. There were many allegations about distribution of anonymous campaign materials. Vyacheslav Volkov, Yeltsin's deliberative voting member on the CEC and Duma Deputy Vladimir Ryzhkov charged the Communists with using offices of the State Duma offices, telephones, and resources in the conduct of Zyuganov's campaign. Similar allegations were charged against the executive branch by Duma Defense Committee Chairman Viktor Ilyukhin, who reportedly asked the Procurator General's Office to investigate.

Questions also arose regarding posters that were widely disseminated throughout Moscow featuring a joint photo of the President and the Mayor. The source of funding for the production of the posters was not clear, leading to allegations that, unless they had shared the costs equally, at least one of the candidates appearing on the poster had probably circumvented campaign finance rules.

There were also sporadic reports of campaign activity being conducted on election day. In Rostov, for example, the Procurator reported that copies of ballot papers marked for Zyuganov were found in voters mailboxes in one part of his city. It was also reported that Zyuganov supporters distributed leaflets in Komi and Bashkortostan. At one polling site visited by an IFES team, a

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<sup>16</sup> "Communists to Sue *Nezavisimaya Gazeta*," OMRI Russian Presidential Election Survey, No. 7, 7 June 1996.

KPRF observer surreptitiously handed an IFES representative a small handout promoting Zyuganov's candidacy.

During the campaign period, a glossy, full color book was published and disseminated through the campaign offices of the President, featuring scores of photographs spanning his life. Very little text appeared in the book. No publisher was identified, nor was there a disclaimer as to who had sponsored its publication. The timing of its release coincided with the pre-election campaign. However, since it did not refer to Yeltsin's candidacy or make any overt appeal intended to influence voters, members of the campaign offices distributing the book argued that it was not really campaign material and therefore it was exempt from disclosure of sponsorship required under the campaign laws.

Concerns were also brought up about the registration of "shadow" public associations. These were allegedly extensions of campaign organizations which raised and expended funds on behalf of a candidate but fell outside the laws regarding campaign funding and disclosure. One such association was Home for the People which solicited contributions for, among other things, "printed and advertising materials for the conduct of elections to bodies of state power."

### ***Conflicts Between Federation and Local Rules and Allowances Regarding Campaign Activities***

Difficulties also arose from apparent conflict between federal laws and local rules regarding allowable campaign activities. In a key example, Yavlinsky street banners which had been hung throughout Moscow in April 1996, were removed by decision of the Moscow City Election Commission (one of 89 SECs) in May. Apparently, the Department for Information and Press in the Moscow City Government had submitted a proposal to the Moscow City Election Commission in which it recommended that street banners be used only for general information rather than campaign propaganda. The recommendation was based on their belief that "street banners (a very expensive type of advertising) cannot provide equal rights for each candidate." Based on this recommendation, the Moscow City Election Commission directed that the Yavlinsky banners be taken down. On behalf of their candidate, Yabloko submitted a complaint to the CEC requesting that the banners be replaced and that the cost be borne by the city. The CEC ruled that the Moscow City Election Commission had overstepped its authority by creating additional restraints for political campaigning not contemplated in the federal law. Although the CEC ruled in favor of the complainant, the adjudication process took too long for the ruling to be of any benefit to the candidate. The complaint that had been filed on 30 May was not resolved until 13 June. Under the law, the campaign period was to officially end at midnight on 14 June. Therefore, Yabloko decided it was not feasible to replace the banners.

A review of the numerous issues, circumstances and violations that arose during recent elections points to the need for continued evaluation, refinement, and education if the budding promise of a free, fair, and meaningful, pre-election campaign period is to reach full bloom.

### ***For Consideration***

- 6.13 Article 24 of the Basic Guarantees Law and Article 43 of the Presidential Election Law, make it illegal for campaign materials to be published or disseminated anonymously. It is recommended that these articles be augmented to clarify what information must be provided in identifying the person or group responsible for campaign material. In

particular, consideration should be given to requiring that the name of the individual responsible be included. If the sponsor is an organization, the name of the organization should also contain appropriate contact information. In addition, it might be worthwhile to require that the disclosure include the account number from which the costs for the publication were paid as well as the holder of the account. Making this information a mandatory part of the disclosure information would also make it clear to print houses and publishers that preparation or publication of these materials is subject to campaign finance laws. Such a measure would help reduce opportunities for circumvention of the laws and provide a tangible basis of evidence in the adjudication of complaints.

- 6.14 In the interests of ensuring public disclosure of decisions and actions taken by the CEC, various articles within the election laws require that certain materials be published in the mass media. Among the materials slated for publication in the mass media are the CEC's regulations, campaign finance reports of the candidates, and other formal reports, documents and decisions. The same is true with regard to the "significant decisions" of the Judicial Chamber for Information Disputes. The intent is laudable; however, in practice, problems have arisen in view of the advent of a more independent and commercially oriented press as opposed to state subsidized press. Officials have frequently faced a reluctance on the part of the print mass media to cooperate. Refusal to publish these public notice documents has been based on space limitations, lack of public interests, potential loss of readership in a more competitive market, and, most notably, the expectation that information is to be published free of charge. To ease the burden of both sides, it is recommended that the laws be amended to redefine provisions related to public notices. Commissions and agencies should be given the latitude to publish a legal notice which briefly describes the key points of the decisions or regulation rather than its full text. The legal notice could then include information as to where a copy of the full document may be obtained by those having a particular interest.
- 6.15 One of the key objectives of the CEC's voter education program was an extensive campaign to encourage young voters to participate in the process. The campaign was highly energized, innovative, and effective. It involved the production of a full color game and puzzle book about the election process which was widely disseminated to schools, and which ultimately required a second printing. For the presidential elections, it also involved a series of youth festivals in five regions of Russia. Each of these youth festivals centered around concerts involving performances by some of the most popular music groups in the country. They were well attended and extremely effective in generating widespread interest in the elections among young voters, many of whom would be voting for the first time. The competent management, creativity, and ultimate success of the campaign serve to illustrate the potential for continued successful efforts to build a new civic consciousness, amongst a broader range of audiences, about the importance of citizen participation in the democratic election process

Despite the success of the effort to attract young people to the process, concerns were raised that should be heeded in the future. Some observers expressed criticism that general themes promoted in the ads and youth festivals organized for this element of the CEC's voter education program appeared to parallel the campaign being waged by the President's own re-election support organizations. The distinction between neutral appeals to get out the vote generated by the CEC and the partisan campaign messages being promulgated by Yeltsin's campaign organizers were often blurred. For example, some of the musicians

associated with the youth festivals were also featured prominently in Yeltsin's campaign ads. Slogans for the two separate campaigns often used similar wording. In media coverage of the festivals, pro-Yeltsin materials could sometimes be seen in the background. As political diversity and multi-party competition continue to grow in the evolving democratic election process, officials will have to become increasingly sensitive to ensuring that any activities or programs with which they are associated remain absolutely neutral in format, content, and execution. Even a perception of partisanship on the part of election administrators at any level could undermine public confidence in the process.

# 7

## **Campaign Financing**

The federal election code governing political finance for the 1996 Presidential elections and the 1995 State Duma elections offer more clarity and detail than the skeleton language in the 1991 Decree of the Presidium of the RSFSR Supreme Soviet *On Organizational Measures for Conducting Elections of the RSFSR President* and the 1993 Decree of the President of the Russian Federation *On Elections to the State Duma of the Russian Federation*. There is a relatively novel, albeit substantive, discussion among opinion leaders, select political figures, and political scientists in Moscow about the inadequacy of Russia's campaign finance laws. This discussion is accompanied by calls for more legislation. However, insufficient emphasis is being placed on bringing the "practice" of political financing into line with legislation which is already in place. Gaps and inconsistencies do exist in the law and will need to be addressed. At the same time, however, policy makers must understand that a successful campaign finance disclosure system is not necessarily one that is exhaustive in its regulation, but rather one which facilitates -- to the greatest extent possible -- compliance by political participants, which is enforceable by election authorities, and which exposes violations to the electorate.

### **Overview of Legal Provisions<sup>17</sup>**

#### **Campaign Finance Provisions in the Basic Guarantees Law**

The Federal Law *On the Basic Guarantees of Electoral Rights of the Citizens of the Russian Federation* establishes the system of campaign finance for federal offices in general terms. According to Article 12, the Central Election Commission of the Russian Federation (CEC), in cooperation with the Subject Election Commissions (SEC), is responsible to distribute federal budget funds provided for financing the preparations for and conduct of elections, and to audit use of such funds. The CEC is authorized to issue instructions related to the implementation of the law. In addition, the instructions adopted by the CEC are mandatory upon all election commissions. According to Article 27, election funds to finance the preparations for and conduct of elections are to be provided from federal, subject and local government budgets. Expenses of the CEC are to be specifically provided for in the federal budget, and the CEC is required to submit statements of expenses to the Federal Assembly.

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<sup>17</sup> SEE ALSO: *Code of the RSFSR on Administrative Offenses* (Articles 40 (11) and 40 (12) establish a candidate's responsibility under civil law for submitting required financial reports and information, and a candidate's liability for accepting prohibited donations from foreign sources).



Article 28 gives candidates the right to raise election funds of their own to finance their pre-election campaigns. In addition, the law gives similar privileges to electoral associations in elections to the bodies of state power and to local self-government bodies. (Article 2 of the Basic Guarantees Law grants electoral associations all the rights afforded electoral associations.) The law identifies the sources from which donations to these election funds may be accepted. They include:

- funds provided to candidates, electoral associations or blocs by appropriate election commissions;
- personal or existing assets of candidates, electoral associations or blocs (except those that are of foreign origin);
- assets provided to candidates by electoral associations or blocs; and,
- voluntary donations by individual persons or legal entities.

Assets allocated to the election funds are to be used solely for purposes of pre-election campaigning. The law also identifies sources from which donations to the election funds are prohibited. They include contributions from:

- foreign states, organizations or citizens;
- Russian legal entities involving foreign participation unless the foreign partner's share is less than 30%;
- international organizations;
- governmental organizations and institutions;
- bodies of local self-government; and,
- religious associations.

Separate laws governing the elections for particular offices at federal, subject and local levels specify limitations not only upon the amounts of total receipts and expenditures of election funds of candidates, electoral associations or blocs but also on the amount of funding that can be accepted from particular sources.

Prior to election day, election commissions are obligated to periodically publicize information from data received from candidates, electoral associations or blocs about amounts and sources of their election funds. Every candidate, electoral association or bloc is required to submit a report of receipts and expenditures to the appropriate election commission within 30 days after the election. In turn, the law dictates that election commissions are to publish the reports of candidates, electoral associations or blocs within 45 days after the date on which they were submitted.

Article 29 of the Basic Guarantees Law establishes the mechanism for receipt and distribution of election funds. Upon registering with appropriate election commissions, candidates, electoral associations or blocs are required to open special bank accounts into which all monies for their

election funds are to be deposited. The law dictates that the CEC, by agreement with the Central Bank of the Russian Federation, is to establish procedures for opening, maintaining, and accounting for the funds deposited in and expended from these special accounts, and for fulfilling the reporting requirements. Under the law, candidates, electoral associations or blocs maintain control over the disposition of election fund assets. Following the election, funds remaining in election accounts shall be transferred back to the organizations and persons who provided the funds in proportion to their donation.

### ***Campaign Provisions in the Presidential Election Law***

Provisions of the Basic Guarantees Law are reinforced and elaborated upon in the Federal Law *On Election of President of the Russian Federation*. Article 9 of this law earmarks federal budget funds for financing the preparations for and conduct of the presidential elections. This article also provides guidance for fund raising by candidates to finance their pre-election campaigns.

In accordance with Article 44, federal budget funds are to be provided to election commissions to cover their expenses to prepare for and conduct the presidential elections, and for their operating budgets. These allocations are to be identified separately in the federal budget. The funds are to be transferred to the account of the CEC within ten days after the day on which the election date was set. Various financing procedures and contingencies are specified in the law. Among them is a provision entitling the CEC to apply to the Central Bank for credits if the funds are not deposited into the account of the CEC within this time-frame. If the Central Bank refuses to allow the credits, the CEC is then entitled to apply to commercial banks for credit on a competitive basis. Credited including interest is to be repaid from the federal budget within three months of election day. The manner of financing second round or repeated elections is to be performed in a similar manner if original resources are exhausted.

SECs are responsible for distributing federal funds to subordinate election commissions. (It is noted that such explicit instructions are absent in the Federal Law *On Election of Deputies to the State Duma of the Russian Federation*.) Under the law election commission chairmen are responsible for the disposal of commission funds in accordance with the decisions of the commission, and are responsible for record-keeping. Unexpended funds are to be maintained in special accounts after the election for later use by the election commission.

Article 45 identifies sources from which donations may be accepted by presidential candidates, and clarifies the upper limits of each kind of contribution. The limits of contributions are defined relative to the "minimum salary" established by federal law and in effect as of election day. The sources from which contributions are authorized by the include:

- funds provided by the CEC;
- a candidate's own funds, not to exceed 1000 times the minimum salary;
- funds allocated to a candidate by his/her nominating electoral association, bloc or voters' initiative group, not to exceed 50 thousand times the minimum salary;
- voluntary donations of individual persons, not to exceed 50 times the minimum salary; and,

- voluntary donations of legal entities, not to exceed 5000 times the minimum salary.

Based on these limitations, the total expenditures from a candidate's election fund may not exceed 250 thousand times the minimum salary.

Article 45 of the Presidential Election Law expands on the list of sources from which campaign contributions are prohibited. Under its provisions donations to election funds are not permitted from the following sources:

- foreign states, organizations and citizens;
- persons without citizenship;
- legal entities in which foreign investment exceeds 30% of their capital;
- international organizations or movements;
- bodies of local self-government;
- state and municipal enterprises, agencies and organizations;
- military units, institutions or organizations;
- charitable organizations; and,
- religious associations.

Contributions from impermissible sources or which exceed the limits established in law must be returned in whole or excessive part, and the reason for returning such contribution must be documented. Anonymous contributions are forfeited to the state.

Monies from all sources which are accumulated for the purposes of the candidate's campaign make up the candidate's "election fund." The disposal of these funds is controlled directly by the candidate, who is required to place them in a special temporary account of the Savings Bank of the Russian Federation. The account is to be opened pursuant to written authorization of the CEC.

Under the Presidential Election Law, banks are required to submit information to the CEC about the receipt of funds into candidate accounts within three days. Additionally, the banks are required to provide information about expenditures from the account upon request of the CEC. Candidates may only use funds from their official election account to conduct their pre-election campaign. Transactions from candidate accounts shall conclude as of election day.

The CEC may request the Supreme Court to cancel the registration of any candidate if it is determined that the candidate is using resources outside those in their electoral fund. Under these circumstances the Court is required to consider the CEC's request within five days, or immediately if the request is made within five days of election.

The procedure for accounting for election funds and submitting financial reports is established under Article 46. The CEC is authorized to determine procedures for accounting for candidate

election funds and to establish forms for financial reports. Candidates must submit a financial report to the CEC within 30 days after the publication of election results. The CEC is obligated to make the reports available to the mass media.

Article 47 stipulates that candidates' unexpended funds are to be returned within 30 days to the CEC proportionate to the amount received from the Commission. With the permission of the CEC, candidates' remaining funds are to be returned to persons and entities who contributed to such funds in proportion to their contributions.

A special auditing service is established within the CEC to monitor the appropriateness and accuracy of candidates' election fund receipts and expenditures in compliance with Article 48.

As for accounting for the expenses incurred by election commissions, Polling Site Election Commissions (PSEC) submit summary financial reports to their respective Territorial Election Commission (TEC) within ten days of the announcement of election results. TECs then submit reports to the SEC within 30 days. SECs, in turn, submit their reports to the CEC within 60 days after the election results are announced. The CEC submits a report to the Federal Assembly within three months and makes a published report available to the mass media.

### ***CEC Regulation of Election Funds***

On 1 February 1996, pursuant to authority granted under Article 46 of the Presidential Election Law the CEC issued *Regulations On the Procedure for Accounting of Receipt and Spending of Monetary Assets of Election Funds of Candidates for President of the Russian Federation*. Similar regulations had been issued in 1995 for candidates for the State Duma, for electoral associations and for electoral blocs. The 1995 regulations divided responsibilities for monitoring campaign finance between the District Election Commissions (DEC) for single-mandate candidates and the CEC for federal mandate (party-list) candidates, electoral associations, and blocs. The regulations adopted by the CEC for the presidential elections reaffirm and expand upon corresponding statutory prohibitions, requirements, and conditions for financing campaigns. The CEC's authority to issue regulations in this area was specifically upheld against a challenge brought to the Supreme Court.

The regulations observe that accepting election campaign services paid for by a legal entity or individual person in a manner circumventing the election fund would be a violation of Article 45 which prohibits the use of monetary assets other than election funds in the special bank account. The regulations stipulate that donations to election fund accounts by individual persons are to be accepted by bank branches or communications enterprises only upon the presentation of proper identification by the contributor. According to the regulation, donations from legal entities may be made only by wire transfer to the candidate's account. The Savings Bank is obligated to automatically return donations from individuals or legal entities to candidates' accounts that are transferred after election day. The regulation also mandates that monetary assets may only be accepted in rubles and that acceptance of donations in foreign currency is prohibited.

The regulations clarified that candidates can open only one special account for their election fund and reiterated the provision in Article 45 which states that candidates' accounts accrue no income and pay no interest. Under the regulation bank fees for opening these special accounts were waived. The regulations reaffirmed the candidates' obligation to be personally familiar with the information about receipts into their accounts and the sources of such funds. The regulations also

dictated that if a candidate voluntarily withdrew from the election, the CEC was authorized to deduct from the candidate's account those monies allocated to that candidate by the government.

Candidates were required to keep records of the receipts and expenditures of their funds according to a prescribed form. Under the regulation all spending from candidates' accounts had to end on election day absent special permission. In the event of a "run-off" election, transactions of candidate bank accounts could be extended with written permission from the CEC.

The regulations clarified rules regarding goods and services provided by legal entities, requiring that they had to be documented in writing by a contract or invoice which had to include specific information about costs and payments. Additional provisions required that payments to legal entities providing goods or services also had to be paid by wire transfer from candidates' accounts. The regulations dictated that contracts had to be formalized with individuals providing campaign management and consulting. In addition, the rules specified that orders for advertising from broadcasters and print media, printers and other legal entities had to be accompanied by documents confirming the consent of the candidate for the specific expenditure.

The CEC's regulations described purposes for which election funds could be used as well as the requirements and procedures for commercial transactions involving candidates' accounts. Under their provisions monetary assets could be used for:

- payment for production and dissemination of campaign materials (which were required to include complete information about sponsorship);
- announcements and statements of candidates in the mass media; and,
- expenses related to election meetings with voters, rallies, demonstrations and other special events related to election campaigns.

Reinforcing restrictions posed by the law, the regulations prohibit candidates and their agents from giving voters cash or gifts, conducting discount sales, or disseminating free goods other than printed campaign materials.

The regulations gave candidates more detailed instructions for election fund accounting, including procedures for candidates to open the special temporary bank accounts, return impermissible or excessive contributions, or remit anonymous contributions. The regulations prescribed how legal entities were to wire transfer money to candidates' funds and attest to the share of foreign capital in their business. The regulations also included official forms for several phases of accounting for election funds. They included:

**Form 1**

For use by the Savings Bank to provide information to the CEC within three days of receipts into the candidates' special election fund accounts, including the date, source, amount, and explanatory notes about the source.

**Form 2**

For use by candidates to request the CEC notify a particular branch of the Savings Bank of their intention to open a special temporary account.

**Form 3**

For use by the CEC to notify a Savings Bank branch of authorization to open a special temporary account for a candidate.

**Form 4**

For use by candidates to notify the CEC an account has been opened and to give specific information to permit transfer of monetary assets allocated to candidates.

**Form 5**

For use by candidates to keep records of receipts (and returns) of assets and expenditures from their election funds.

**Form 6**

For use by the Savings Bank to provide information to the CEC (upon written request) about the date, recipient, amount, and purpose of expenditures from candidate special election fund accounts.

**Form 7**

For use by candidates in submitting post-election reports to the CEC within 30 days of election results being published of the receipts and expenditures (according to "line code" categories) of their special election fund accounts.

The CEC's regulations specifically required candidates to submit financial statements by means of Form 7 within 30 days of the announcement of election results. An accompanying statement completed on Form 5 and original supporting documentation also had to be submitted to provide information about receipts and expenditures. The rules reiterated statutory provisions about returning unspent election funds to the CEC, as well as to individual and legal entity contributors in amounts proportionate to their allocation or contribution. The regulations also established the CEC's campaign finance Control and Auditing Service.

The regulations placed personal responsibility upon the candidate for the use of assets in the election fund and for timely and accurate submission of records and statements in conformity with the forms prescribed by the CEC. They reinforced the statutory provision permitting the CEC to request that the Supreme Court cancel a candidate's registration if he/she has used assets for pre-election campaigning other than those in the election fund account. The regulations made specific reference to Articles 40(11) and 40(12) of the *Code of the RSFSR on Administrative Offenses*, which places responsibility upon candidates under civil law for submitting required financial reports and information, and assigns liability for accepting prohibited donations from foreign sources.

## ***Election System Performance***

Since the 1993 parliamentary elections, the CEC has established an office for implementing the provisions of federal election laws regulating the political finance of candidates and electoral groups. This office has succeeded in executing the legal requirements of the law within its narrow jurisdiction and limited policy goals. Candidates for president in 1996 and for the State Duma in 1995, and the electoral groups recognized by the law to nominate and support them, have opened special temporary election fund accounts pursuant to the election laws to finance their pre-election campaigns. Funds from the federal budget have been provided to qualifying candidates and groups

as available. Information about financial activity in those accounts provided by the Savings Bank have been monitored by the CEC (and by DEC's for single-mandate State Duma elections), and periodically published in national and local newspapers. Candidates and electoral groups have reported receipts to and expenditures from their funds in post-election reports required by the laws. On the surface, election commissions have functioned well and political participants have met their legal obligations.

The CEC has processed grievances, allegations or inquiries about violations in a relatively informal manner through the operation of a working group and by direct intervention of CEC personnel. Some 700 requests for investigation of alleged problems were said to have been examined by CEC staff during the 1996 presidential elections. These generally involve persons bringing to the attention of the CEC campaign materials (flyers, posters, etc.) that favor or oppose a candidate but evidently have not been paid for from the special bank account of the candidate (or electoral group) sponsoring, distributing, or benefiting from the material. Some of these examples appear fairly blatant. Yet these cases seem to be resolved through investigation and negotiations by the CEC to rectify the problem. Compliance, if retrospective, appears to be coaxed out of those raising or spending money illegally by threat of public exposure and perhaps further proceedings. In all cases where the allegations were found to be true, the offending campaign (or other responsible entity) was apparently persuaded to properly pay and account for expenditures through the official, reported account.

Unlike the experience in the United States, campaign finance regulation has not triggered official complaints by political opponents or from non-partisan "watchdog" organizations. Few stories have appeared in the news media documenting violations of campaign finance rules, although circumvention of the law is routinely described as widespread. Thus, despite the lack of formal complaints and apparent resolution of grievances by informal means, there exists a pervasive sense among election observers that campaign finance restrictions and reporting requirements are being ignored and avoided. That sense is largely based upon unmistakable signs of far greater activity and spending than the official accounts would explain and limitations under the law would allow.

Shortly before the Presidential elections, an article about funding of the presidential candidates' campaigns was published in the Russian language *Newsweek*. On the opposite page was a chart using a gambling slot machine as the graphic. It showed money going from the CEC to the candidate's election fund, and money from individuals and "clean" legal entities going to the candidate's election fund and to the political party fund. Assets from the candidate's election fund were used to pay for TV, posters and campaign materials (such as buttons). Assets from party funds were used to pay for campaign materials and campaign workers. The other half of the slot machine, however, showed a tangle of money going from banks, factories, and commercial enterprises either through mediators to "dirty money" cashiers to pay for signature collecting, rallies and other politically motivated cultural events, and publishing activities, or more indirectly through other banks and mediators to launder the funds for a "clean firm" to pass on.

It is now widely believed this metaphor understated the level of unaccounted spending during the 1996 presidential election (and, to much the same extent, during 1995 elections for State Duma). Much election-related spending seems apparently to have been off the official books. As described above, the campaign finance rules prohibited such spending and provided for a more tightly controlled and reported official system. That system was implemented by the CEC. But, like the black market economy in Soviet times, the real action was outside the official system. The

additional spending or use of assets outside official candidate or electoral group accounts occurred through several means.

### ***Pre-Registration Activity***

The jurisdiction of existing campaign finance laws for the presidential and State Duma elections began operating when candidates were registered and the pre-election campaign began. However, enormous resources were devoted to pre-registration activity by political participants. Large amounts of cash and assets were collected by electoral associations, blocs, and voters' initiative groups prior to candidate registration. Evidence suggests that some apparently came from prohibited sources or in excessive amounts. Fundraising for this phase of election activity is not subject to either funding restrictions nor reporting requirements under the current election laws. Money collected before operation of the campaign finance rules was viewed as pre-existing assets and available for use during the pre-election campaign by the electoral groups and their candidates.

Funds were spent or resources accepted by these groups prior to operation of the law for organizational purposes, including for office facilities, equipment, salaries and material support. Electoral groups were active in the early candidate nomination period and, of course, during the difficult process of collecting signatures for petitions to meet candidate registration requirements. Paying workers and voters for signatures was widely reported and considered commonplace, sometimes at fairly exorbitant rates. Also, numerous complaints were filed during the presidential elections alleging use of industrial facilities to collect signatures in a coercive atmosphere or by improper use of government resources. Again, political activity prior to registration of candidates was not subject to campaign finance regulation or disclosure since neither the Basic Guarantees Law nor Presidential Election Law address the issue.

### ***Supplemental Payment for Goods and Services***

Although the laws are absent such guidance, the CEC's regulations required written contracts and supporting documentation for agreements between candidates and political vendors for goods and services (such as publishing and TV air time). These contracts appear to have often understated the full extent and value of goods or services provided. Instead, they often seem to have served as a cover for spending that was supplemented by persons and interests who are supporting such candidates and who would otherwise have been prohibited or restricted by amount from giving such support directly. It is difficult to detect arrangements that are nominally accounted for but which involve significant yet hidden increases in candidate support.

### ***Avoidance of Overt Political Purpose***

Political systems find it difficult to distinguish between pure politically-related speech (e.g., expressing points of view on issues of public concern or commenting about the performance of the government or officeholders) and communications or activity clearly favoring the election of particular candidates and clearly falling under political finance rules. In the United States, after twenty years of its current campaign finance laws at the federal level, political debate and judicial challenges continue as to the meaning of the definitional phrase "expressly advocating the election or defeat of a clearly identified candidate." Does "express advocacy" require the words "vote for" or "vote against," or can the meaning be read into communications to the public that appear to have no other purpose or effect than to influence voters?



This definition problem was evidenced in recent Russian elections. Political supporters claimed election-related advertisements or seemingly electioneering activity was not really intended to be active support for any particular candidates. Financing of some communications on television or in newspapers was argued to be for political commentary and not for the purpose of influencing voters' support for or against any particular candidates, despite its occurring at the request or in cooperation with candidates, electoral groups or their agents. Thus, this activity was not regulated, reported or disclosed.

### ***Advantages of Incumbency***

It is impossible to exaggerate the impact of the power of incumbency upon the pre-election campaign and the voting outcome in the 1996 presidential elections. Much of the influence upon the electoral process wielded by the executive authority of the administration of President Yeltsin flows naturally from the advantages of office: the ability to make decisions, propose policy, and authorize government actions or spending that please particular demographic or geographic constituencies, or the ability to command news media attention for such activity. Incumbent administrations have an existing organization with a personal stake in maintaining the administration's power and authority all the way to the local level. Some of the pressure and control alleged to have been exercised by the administration is beyond the direct jurisdiction of the laws and regulations for political finance, such as co-opting the support of the news media (unless, as was sometimes reported, bribery was involved).

But beyond the natural advantages of incumbency or the exercise of political pressure is the use of official funds, resources, facilities, and personnel for purposes of favoring one candidate and influencing the election outcome. This abuse of power is flatly prohibited in developed democracies as unethical and illegal, though investigation and prosecution of such violations are sometimes necessary in even the most advanced democratic systems. The recent elections for President left many observers convinced the Yeltsin campaign benefited directly from government funds and resources to augment the officially reported expenditures.

The circumstances of unofficial and unreported political spending were able to persist through a combination of factors, most notably:

- the intimidating influence of the power of incumbency;
- a conspiracy of silence among political participants who all feared scrutiny; and,
- at least tacit acquiescence of the news media.

The civic culture showed a complete lack of appreciation for the problem or need for self-monitoring by opposing electoral organizations and candidates through the news media.

Therefore, legal restrictions and reporting requirements appear to have been practiced on a formal level but widely ignored in practice in both the 1995 parliamentary and 1996 presidential elections. Limitations upon sources and amounts of contributions and upon total expenditures may have been widely circumvented by both deliberate avoidance and under-reporting. As a result, financial disclosure was almost certainly incomplete. The information about political finance that was disclosed was not accessible to the public in a comprehensible manner and not scrutinized by the elements of the political culture that could have done so.

## ***For Consideration***

The development of sound campaign spending and financial disclosure systems serves two main purposes. First, an equitable law can serve to promote fair and equal campaign conditions for competing candidates. Implementation of such a law can also help to provide voters with important additional information on which to make informed choices on election day. Hopefully, as the democratic election process continues to mature in the Russian Federation, the public will come to recognize the significance of campaign funding and the potential influence of contributors, not only over their decisions as voters, but also over the decisions and official actions of candidates who may ultimately be elected.

Effective campaign finance regulation depends upon disclosure, and disclosure begins with reporting requirements. Disclosure is primarily a market solution rather than a regulatory solution to controlling the influence of money on politics and politicians. Disclosure of campaign finance activity permits self-policing of the political system by an informed public. Disclosure also provides information to assist voters in choosing which candidates to support. Information about private sources of support for candidates is particularly useful for voters to assess the character, beliefs, and true intentions of candidates. Which persons, entities, and interests give money to candidates indicates who those candidates will listen to if they are elected.

An effective campaign finance disclosure process depends upon the following three components:

- **Reporting:** Laws and regulations (and an election authority to enforce them) that require full accounting of receipts and expenditures of funds raised and spent to influence elections by candidates and electoral organizations, through reporting requirements both during the pre-election campaign and after the election.
- **Access:** Availability of the reported campaign funding information on a reasonable and ongoing basis to news media, civic associations, candidates and electoral organizations (including opponents), and other interested persons, both during the pre-election campaign and after the election.
- **Publicity:** Monitoring, scrutinizing and publicizing of the reported campaign finance information by the news media, to inform the public and to discourage improper funding activity or false reporting by candidates and electoral organizations.

The effectiveness of a campaign finance law cannot be measured strictly on the basis of technical enforcement of complex regulations regarding solicitation and expenditure of campaign funds. It must also be measured by the effectiveness of its reporting mechanisms to expose violations. Public awareness requires the assistance of news media and civic associations to examine and publicize the information that is reported by candidates and electoral groups to election authorities.

Therefore, the primary focus of revisions in the election system in the area of campaign finance should be directed to facilitate more thorough and effective pre-election reporting and public disclosure practices. The CEC (or subordinate election commissions as appropriate) should concentrate on demanding greater compliance with expanded reporting requirements by candidates and electoral organizations and making the information accessible to the public on a timely basis.

Those goals should be advanced through the following specific changes in election laws and election commission practices.

- 7.1 Articles 45 and 46 of the Presidential Election Law, as well as relevant articles in other laws governing specific kinds of elections, should be augmented to more clearly describe the scope of regulatory jurisdiction. To discourage circumvention and avoidance of campaign finance regulations, the election laws should be revised to more clearly identify the nature and type of political expenditures covered by the financial restrictions and reporting requirements. Terms need to be defined and examples given. Activities or spending with certain characteristics, particularly by persons or groups other than candidates or their nominating group, could be treated *presumptively* for the purpose of influencing the election and, thus, subject to regulation under the election laws. Examples include communications mentioning a candidate in an electoral context or within a certain time-frame before the election, or the providing of goods or services that clearly benefit a particular candidate or electoral group or are clearly intended to do so. The concept of *receipt* by candidates of assistance from outside sources -- explicit or implied acceptance -- needs to be examined. Any effort to more clearly define the scope of regulatory jurisdiction of campaign finance regulation would benefit from a major public conference to gain the insights of political participants, journalists, academics and election officials. The goal would be to achieve legal standards based upon objective and reasonable criteria. It is better to clearly identify fairly narrow jurisdiction for campaign finance regulation than to have broad restrictions and requirements that are widely ignored in practice.
- 7.2 Under the current legal framework encompassed in Articles 45, 46 and 47 of the Presidential Election Law only candidates are formally recognized as official campaigning entities. As such, the law imposes special requirements that they are to create "election funds" to be maintained in special accounts. Candidates can accept contributions from electoral associations, blocs, and voters' initiative groups to their election funds, but it is the candidate who remains at the center of the pre-election campaign function. The Presidential Election Law only superficially acknowledges nominating groups' participation in the campaign environment in Articles 40 and 41 which addresses their eligibility to use the broadcast and print media. The law fails to address the factual reality that electoral associations and other politically oriented organizations also participate in a broad scope of campaigning activities prior to the registration of the candidate as well as throughout the campaign period. However, none of their activities are governed by any rules, funding limitations or reporting requirements.
- 7.3 Lawmakers should affirmatively address the enactment of a separate law on electoral associations (political parties) that includes a political finance regulatory *structure*. A comprehensive federal law to institutionalize and regulate electoral associations should be adopted for many reasons. Effective campaign finance regulation is a particularly significant benefit that could follow from enacting a "political party law." Jurisdiction of current campaign finance regulations does not operate until after candidates are registered and the official pre-election campaign has begun. Considerable raising of funds and assets and making of expenditures for political purposes takes place prior to this time, however, especially in the difficult and expensive task of gathering signatures for candidate petitions.

A political party law contemplates ongoing and stable electoral associations. It would include regulation and public disclosure of financial activity of electoral groups and their

supporters between elections and during the critical time preceding candidate registration. Although the role of these groups can pose some problems in accountability and monitoring of financial support of candidates, they can have the positive effect of insulating candidates from direct involvement with contributors and special interests. A separate law which addresses the campaign financing and reporting responsibilities of nominating groups and other political organizations would create a basis for distinguishing the campaign activities of specific candidates from those of organizations over which the candidate may have no direct control.

- 7.4 The law needs to address the issues of political ethics specifically with regard to restricting incumbent executive and legislative officeholders from utilizing official resources for political purposes. Article 23 of the Basic Guarantees Law prohibits election commissions, governmental bodies and other official entities from participating in pre-election campaigning. Article 38 of the Presidential Election Law provides similar limitations adding wording that also prohibits them from "distributing pre-election propaganda materials." This article also adds a prohibition against these activities by their officials "in the process of fulfilling their official duties." Article 45 of the Presidential Election Law also prohibits bodies of state power and state and municipal enterprises, agencies and organizations from making contributions to the election funds of candidates. However, the law is not specific enough in addressing issues related to the separate use of their own resources. A new ethics law must be carefully drawn and adopted to more clearly define and prohibit uses of governmental funds, resources, facilities, equipment, and personnel for purposes of influencing or affecting election outcomes. This law should apply to both executive and legislative officeholders and employees and impose personal liability upon such persons for violations.
- 7.5 The law fails to address the issues related to non-monetary or "in-kind" contributions provided by a variety of sources in support of campaigns. For example, Article 45 of the Presidential Election Law only prohibits candidates from using "other monetary resources for conducting the pre-election campaign except for the resources received by them in their election funds." Failure to address "in-kind" contributions such as printing, or campaign commodities provided "at no charge" or in exchange for non-monetary remuneration or trade provides a vast window of opportunity to circumvent not only funding limitations, but also reporting requirements.

It is recommended that the laws be augmented to impose absolute prohibitions upon receiving or spending funds for political purposes that are in the form of cash which is undocumented. The election laws should be amended to specifically prohibit, with particular and significant penalties for violations, the acceptance or spending of money, or "in-kind" contributions for political purposes (above specific minimal amounts) that is either in the form of cash or for which no paper audit trail is created. Legitimate contributions made by individual persons by documented means should be made easier under the law, however, and not demand physical presence at the candidate's depository bank.

- 7.6 It is recommended that any limitations upon political contributions and expenditures be set much higher. If the law continues to place limits upon contributions from persons and entities to candidates and electoral groups, and to place limits upon total spending by candidates and electoral groups during the pre-election campaign, those limitations should

be established at amounts much, much higher than under current law. Current limitation amounts set by Article 45 of the Presidential Election Law, for example, are simply unreasonably low and encourage circumvention and avoidance of the entire regulatory system. During the 1996 presidential elections, for example, a candidate was prohibited from spending in excess of approximately \$11,550 (in U.S. dollars). Electoral blocs or voters' initiative groups were prohibited from providing their candidate any more than \$577,500. Donations from individual persons were limited to a maximum of \$577.50. Those from legal entities a maximum of \$57,750, and, most impractically, a maximum of total expenditures allowed by a presidential candidate was \$2,887,500. Similarly, during the 1995 State Duma elections, electoral associations were limited by law to total expenditures during the pre-election campaign of approximately \$2,300,000 and single-mandate candidates were limited to \$93,000. Those low limits absolutely invite circumvention of the law. It would be far better to permit much higher levels of donating and spending (or even no limits at all) if receipts and expenditures of political participants were conducted within a system fully reported and publicly disclosed.

- 7.7 A more routinized pre-election financial reporting schedule should be established, requiring more direct candidate verification. The current law relies upon the depository banks to provide political finance information to election commissions. This approach is administratively convenient and avoids placing responsibility upon overwhelmed candidates or groups to directly produce reports during the pre-election campaign. It also reinforces the primacy of the special temporary election fund accounts. The election law should be changed, however, to require reports from banks regarding receipts and expenditures of accounts of candidates and electoral groups to be provided on a routine and established pre-election schedule, increasing in frequency up to the time immediately before the election, rather than on rotating "three days after receipt" of contributions to such accounts or merely upon request of election commissions for expenditure information. Discrepancies or inadequate information must be completely reconciled by the time of post-election reports, with serious sanctions for deliberate or grossly negligent misreporting. The entire political finance reporting system should be elevated to a more formal and systematic level. Related to this point, language in the Basic Guarantees Law and federal laws on election of President and the State Duma should be made consistent with respect to the responsibility of candidate organizations, and electoral associations and blocs to provide periodic reporting on the amount and source of donations.
- 7.8 Campaign finance authority should be transferred from election commissions to an independent agency or independent department of the CEC. Collecting, monitoring, and disclosing campaign finance information, and enforcement of legal requirements and restrictions upon political finance, should be conducted under the authority of a separate, independent and specialized governmental agency or CEC division (ideally with authority also over permanent political party finances and operations pursuant to a political party law). A campaign finance agency would clearly need improved manpower and other resources compared to the dedicated but severely underpowered office currently within the CEC. A new agency or department requires investigatory power and legal authority to bring cases of non-compliance to court, perhaps directly enlisting the help of the office of the procurator during election campaign seasons.
- 7.9 Designated personnel should be provided, within both the regulating authority and the regulated political participants, with responsibility and training to implement the disclosure

system. Specially trained personnel of the government agency or department responsible for implementing and enforcing the campaign finance laws should be deployed to banks during the pre-election period to oversee and implement the reporting process. Although the laws already provide for the appointment of authorized representatives and agents represent their general interests, the law should require appointment of "financial managers" of the candidates and electoral groups who form special bank accounts for election funds to be legally responsible for compliance with the election law. The "financial managers" should be required to receive special training for this position provided by election commissions. These campaign representatives and officials should oversee preparation of the bank's reports of financial activity. Alternatively, candidates or the chairmen of electoral associations or blocs should be required to personally attest, to the best of their information and belief, to the accuracy and completeness of these periodic bank reports about election funds of the candidates or electoral groups.

- 7.10 There should be created a structure of fines, penalties and punishments for election law violations that is clearly defined, graduated, proportionate and strongly enforced. Enforcement and liability provisions for campaign finance regulation and disclosure should be expanded in scope to identify more legal obligations and restrictions under the election law. To encourage compliance, the enforcement regime should target and emphasize essential elements of the process. A clear structure of civil fines and penalties and criminal punishments should be created that are proportionate to the seriousness of violations. Enforcement must be fully and uniformly carried out; punishment should be certain for violators of the law to encourage compliance and deter violations.

Personal responsibility of candidates, electoral group officials or their financial representatives should be clearly established under the law to encourage accountability and compliance. However, imposing sanctions on candidate campaigns and electoral groups should be the first line of enforcement; punishing persons individually or imposing criminal liability should be reserved for the most serious, reckless or intentional conduct.

Simple fines should be imposed for relatively minor infractions of funding restrictions or mistakes or tardiness in reporting. Penalties should be gradually more severe as violations are more serious or deliberate. Penalties must be appropriate to the offense; imposition of the most severe penalties and criminal punishment should be reserved for only the most serious, reckless or intentional conduct. Sanctions should not be candidacy-based. It makes no sense to threaten cancellation of registration of candidacy for violating the law if the violations cannot be determined or liability upheld in court until after the election. Although enforcement of campaign finance regulations should generally not depend on whether the violations arguably affected the election outcome, imposing of the sanction of cancellation of a candidate's election should be reserved for those circumstances or, perhaps, deliberate or grossly negligent conduct.

- 7.11 Mechanisms should be created for research access to official campaign finance information during the pre-election campaign and for post-election reports. Current practice is for political finance information to be periodically published under the auspices of appropriate election commissions: the CEC for federation-wide election contests such as for President or federal mandate (party-list) State Duma seats; DEC for single-mandate State Duma seats; or, presumably, SECs for subject-level executive or legislative elections. This procedure is admirable but not enough. The CEC and lower commissions should develop

software and data base capacity for inputting and making available by computer the political finance information reported by banks during the pre-election campaign and provided by candidates and electoral groups in post-election reports.

- 7.12 Ongoing work must be undertaken to develop a civic culture that supports disclosure and monitoring of campaign finance information. Creating a reasonable regulatory system that is clearly understood, enforced and respected by those regulated is an essential prerequisite for popular confidence and participation. Political participants, the news media and general public must be persuaded that monitoring campaign finance information through election commission records is important. Political scientists should also be stimulated to conduct long-term post-election research in this area. Political participants must also be educated how to do the monitoring. Encouraging a civic culture that effectively participates in political finance disclosure will require a long term effort of public education.
- 7.13 Funding from the federal budget for election commissions and for electoral participants must be transferred in a timely and reliable manner. Subsidies from the public treasury to candidates (and electoral groups as authorized) must be provided early in the pre-election campaign and in full. The law should include a deadline for the transfer of authorized allocations of campaign funds within a specific time-frame based on the date of registration of the candidate. For example, the deadline that could be prove beneficial might be within two days after the date of registration. Even more importantly, election commissions must receive their full allocation for administering elections. While the budget problems of the federal government are understandable, sufficient money to conduct elections must be segregated and guaranteed.

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# 8

## ***The Ballot***

Under Russian law, the form and text of the presidential ballot is established by the Central Election Commission (CEC), while the printing of the ballots is the responsibility of the Subject Election Commissions (SEC). Territorial Electoral Commissions (TEC) organize the distribution of ballots to the polling sites. Under Article 50 of the Federal Law *On Election of President of the Russian Federation* the design and approval of the ballot text must be accomplished no later than 28 days before the election. The law allows another eight days for printing. Polling sites are to receive their ballots no later than four days prior to the election.

Russian is the official language to be used on all ballots. However, based on a decision of a particular SEC, the ballot can also include text in other languages appropriate to the territory or compact minority language population. If more than one language is necessary, they appear simultaneously on the same ballot paper as the Russian text. The SECs have final approval over the text in these instances.

The ballot must also include instructions on how to mark it correctly. Each ballot contains the full names of the candidates listed in alphabetical order. The law appears to offer an option as to the information which must be provided about the candidate on the ballot, although the basis of a decision to choose one over the other is unclear. Article 50 of the Presidential Election Law indicates that the ballot will include the information provided by "Paragraph 5 of Article 32, or Paragraph 3 of Article 33." Under both of these citations, the last, first and second names, place of work, occupation and place of residence are required under both. However, under Article 32, the date of birth would also have to be included, while this information can be deleted under the provisions of Article 33.

If a candidate has been nominated by an electoral association or bloc, the ballot must contain the name of the electoral association or bloc as well as the candidate's affiliation to a political party or other public association making up the bloc. Candidates nominated by voters' initiative groups may identify their affiliation if they choose. To the right of each candidate's information is a blank box in which the voter will place the mark indicating his/her choice. At the end of the list of candidates, voters are offered another choice. A voter may also vote, "none of the candidates" by placing a mark in the box printed to the right of this choice.

The number of ballots distributed to each polling site is not to exceed the number of voters whose names appear on the voters' list plus one-half of one percent. Each ballot must be "certified" by the Polling Site Election Commission (PSEC). The process of certifying the ballot requires that



the ballot be stamped with the official seal of the polling site and signed by two members of the PSEC. These markings are to be made in the upper right hand corner of the ballot. Any ballot found in the ballot box without these "certifying" markings are declared invalid and the ballot will not be counted.

Under Article 37, a candidate is entitled to withdraw his/her candidacy at "any time before the day of election." In the event a candidate withdraws after the ballots have been printed, PSEC members are responsible for crossing out the candidate's name on the ballots in their charge. According to Article 50, this measure is only taken under the direction of the CEC.

## ***For Consideration***

- 8.1 The law does not address the issue of security during transit and storage in the period between the time the ballots are initially printed, during distribution and while they are held by polling sites before election day. The law could provide greater security and safety for the ballots by requiring that the audit trail be initiated at an authorized printing house. The audit trail should be maintained throughout their subsequent transit by various handlers. At each transfer point, quantities should be verified, and recipients should be required to sign a receipt. In addition, provisions should be incorporated to ensure that during transport appropriate security personnel are involved, or at the very least, that more than one member of the relevant election commission be present. Provisions should also require that during the period between delivery to the PSEC and election day, ballots are stored in some type of locked and secured location.
- 8.2 The only real security measure intended to ensure the accountability of issued ballots is the practice whereby ballots are "certified" by the signatures of PSEC members and the stamp of the polling site. Presumably these markings identify properly issued ballots from those which may have been fraudulently deposited in the ballot box. The law gives no directive as to when this certification is to take place. However, this detail is very important in ensuring that the certification provides the level of security intended. Without clarification in law or through regulations, officials are left to their own devices in determining how this process will be implemented. It is likely that many officials may choose to sign all of their ballots and affix the official stamp in advance, as part of their overall preparations for election day. This certainly appeared to be the case during the presidential elections. The pre-signing and stamping of the ballots virtually eliminates the only security measure the certifying process is intended to provide. It is suggested that for this measure to be meaningful at least part of the required certifying markings be made at the time the ballot is issued. If all certifying markings are affixed to the ballots in advance, every ballot becomes "official," making it impossible to differentiate between a ballot that was issued properly from one that was placed in the ballot box fraudulently. Even if the signatures were affixed in advance to save time, placing the polling site stamp on the ballot at the time it is issued would not cause any significant delay during the process of voting. This process would, however, help officials determine properly issued ballots from misused ballots. In addition, accountability would be enhanced in that unused ballots would be left "uncertified."
- 8.3 As officials look forward to developing improvements in the election process there are enhancements in the process of preparing the ballot and in the printing process which should be considered. Ballots should be treated like currency, and more stringent

requirements in the printing process could add significantly to overall security and accountability.

The paper used in ballot printing allows the potential for fraudulent duplication because the law offers no specifications as to the paper or printing and binding techniques that are to be used. One option which would reduce the risk of fraud is to use a quality of paper which includes an exclusive watermark. As an alternative, a faint special ink screen could be applied as background for the text at the same time printing is accomplished. Some printing techniques would allow the security screen to be applied simultaneously with the text during one pass through the press so that the cost would not be significantly increased.

Consideration should be given to ensure that ballots are bound or padded in uniform quantities to provide greater ease in packaging for distribution purposes. Standard packaging and padding of ballots would also provide officials with better control over the ballots under their supervision.

It would be most helpful if ballots were sequentially numbered with a special range of numbers being assigned within each Territory. As SECs arrange for numbering system in which the number of the specific Territory is printed on each ballot followed by the sequential number within the range assigned to that Territory. Handled by Territory, the numbering should be easy to accommodate. Sequential numbering of each ballot in a pad would allow SECs and TECs to maintain centralized accountability records which document not only the quantity of ballots provided to each polling site, but also the numeric range assigned to each polling site. The protocols used in accounting for the ballots used throughout the voting day could provide space to identify the sequence numbers of ballots that are issued, individual numbers of the ballots which were damaged or spoiled or otherwise unusable, and the sequences numbers of ballots which remained unused. As an additional measure, the range of sequence numbers issued to each polling site could be kept secret until actual delivery at which time they could be signed for the by recipients. These kinds of measure could eliminate the need for the certifying of each ballot by having them stamped and signed by officials on election day.

At some point, consideration should be given to printing ballots so that they have a stub or counterfoil from which they can be separated at a perforation. Each time a ballot is issued it could be separated from the stub which would remain attached to the pad. The numbered stubs of issued ballots could remain a part of the formal documentation of activity at each of the polling sites in support of the overall results and accountability for the ballots originally issued to the polling site.

- 8.4 It would prove helpful if the law included a deadline for withdrawal of the candidates in advance of the printing of ballots. The manner of crossing off candidates' names is cumbersome and time consuming. It also creates a potential for error, and can cause confusion among voters when they receive a ballot that already has markings on it. Article 37 of the Presidential Election Law allows the CEC to impose penalties against candidates who withdraw without compelling circumstances. These penalties involve a refund of a "respective part of expenditures borne including funds allocated for the pre-election campaign." However, the current law fails to define "compelling circumstances," leaving determinations regarding the imposition of these penalties open to subjective interpretation. Establishing a deadline for withdrawal would eliminate most of the problem and would

alleviate last minute "deal making" and political maneuverings. It would also go a long way in ensuring that accurate printing of the final ballot could move forward without hindrance. The law could specifically define the kinds of emergency circumstances under which compliance with the deadline could be waived without penalty.

# 9

## ***Conduct of the Poll***

Polling sites are established by local administrations in coordination with the relevant Territorial Election Commissions (TEC). Each polling site serves up to 3,000 voters. Additionally, remote sites may be established in special places such as those where military units may be serving, on navigating vessels and in sanatoriums, spas, rest homes, and other places where citizens are located temporarily away from their usual residences. Special polling sites outside the Russian Federation may also be established in foreign states by the heads of diplomatic missions. Voter lists are compiled for each of these special voting locations by the chiefs of the institutions involved, by the military commander or by the captain of the vessels where voting will take place.

According to Article 49 of the Federal Law *On Election of President of the Russian Federation*, the voting premises must be equipped with special places or rooms where ballots can be marked in secret. The voting cabins or booths are required to be outfitted with tables and with pens to be used when the ballots are marked. The use of pencil for voting is prohibited under the law.

At each site, officials are to create a space for display of marked copies of sample ballots, presumably for the purposes of instructing voters on how to mark their choices. Under the law, the sample ballots are not to include any of the candidates' names. This special display area is also supposed to have informational materials on all the candidates and their platforms, although such materials are not allowed to contain "propaganda appeals."

## ***Before Voting Begins***

The regular polling hours are from 8 a.m. to 10 p.m. local time throughout the Russian Federation, although at special polling sites established in institutions, at remote sites and polar stations, in foreign states and on navigating vessels the poll can close earlier if all voters on the voters list have voted. Before the first voter votes, the Polling Site Election Commission (PSEC) is required to display the empty ballot boxes and seal them in full view of the members of the election commission as well as the voters and observers who may be present.

## ***For Consideration***

- 9.1 Ballot boxes are to be displayed and sealed in front of PSEC members, voters, candidates' representatives and observers before voting begins. The law should clarify that the requirement relates to both the stationary ballot boxes and the mobile ballot boxes. The law should also require that both types of ballot boxes remain in full view of PSEC members and observers at all times throughout the voting day except when the mobile

boxes leave the polling site to serve voters voting at home. To the greatest extent possible officials should ensure that observers accompany them when they take the mobile ballot boxes to serve voters voting outside the polling site as is allowed under the law. There should never be a ballot box of any kind at a polling site or maintained at the offices or work stations of higher level commissions that is not in full view of commission members, candidates' representatives, observers, and voters who may be present.

- 9.2 The display and sealing of the ballot boxes is the only task that Article 51 of the Presidential Election Law mandates be accomplished immediately prior to the beginning of the actual voting on election day. However, by extrapolating information from a number of seemingly unrelated articles, there are other tasks that must logically occur at some point before the first voter votes. These include verifying the number of ballots received (Article 52), counting the number of voters on the voter list (Articles 50 and 52), determining how many have applied for an Absentee Voting Certificate (Articles 50 and 52), and initiating the process of certifying the ballots (Article 50). The current law suggests that, except for the certification of the ballots, these determinations are made and recorded on the protocol after the close of the polls. However, overall transparency and accountability of the process would be enhanced if an amended law required that these activities be fulfilled in the presence of voters and observers before voting begins on election day.

As part of the pre-poll procedure the number of voters on the main voter registry list and the number of ballots received by the polling site should be confirmed in front of the PSEC members, observers, candidates' representatives, and voters who have arrived early. In addition, the number of voters on the list who may have applied and received Absentee Voting Certificates, allowing them to vote elsewhere on election day, should be counted since their numbers will eventually be excluded from the total number of voters on the lists reported on the protocol in accordance with Article 52 (10).

These confirmed calculations should be announced to everyone present. In addition, officials should initiate the ballot accountability protocol by recording these entries before voting begins. These preliminary entries would serve as the base figures against which all subsequent ballot usage and voting activity throughout the day would be balanced. Adjustments in these figures should not be allowed after voting begins. The rest of the entries required on the protocol would still be completed as part of the counting activity after the polls close, including the number of voters who presented Absentee Voting Certificates and other voters who were added to the voter list during the course of the day. These voters should be enumerated separately on the protocol so that officials can evaluate if there appear to be an unusually high number which might suggest inadequate preparation of the list or other questionable circumstances needing additional review.

- 9.3 In order not to delay the opening of the polls past 8:00 a.m. it would be helpful if the law required officials to assemble by at least one hour before voting is to begin to accomplish these pre-poll tasks. Observers, candidates' representatives, and representatives of electoral associations and blocs should be allowed to be present during these advance preparations.
- 9.4 Articles 52, 53 and 54 related to attachments which accompany the second copies of the protocols suggest that lists of commission members with deciding vote are to be prepared.

These could also be prepared in advance of the voting. Additionally, those articles mention lists of the "observers of the candidates, electoral associations, electoral blocs, foreign observers and representatives of the mass media who were present at the calculation of votes..." which are to be attached to the second copy of the protocol. It is not clear whether a similar list must be maintained for those present throughout the voting. If such a list is required, it could also be initiated during the pre-poll activities and maintained or updated as necessary throughout the day.

- 9.5 The Federal Law *On Basic Guarantees of Electoral Rights of Citizens of the Russian Federation* provides for advance voting, within the 15 days of the election, by citizens who know they will be away from their precinct on election day. This service is not addressed in the Presidential Election Law. The Presidential Election Law should be brought into conformity with the Basic Guarantees Law on this point. This conformity would alleviate confusion among voters by bringing consistency to the procedures for all elections. It would also ease the confusion for voters and officials alike when federation-wide and local elections are held simultaneously. Since the Basic Guarantees Law requires that this service be provided in all other types of elections, the omission of this service in presidential elections resulted in officials having to devise special procedures to ensure that voters voting in advance only received the local ballot, while denying those very same voters the presidential ballot. This variance affected the manner in which notations had to be made in the voter list. Special procedures had to be implemented to accommodate voters who voted in advance in the local election but voted absentee or appeared at the polling site on election day to cast a ballot for president. Misunderstandings about the different services available for the different types of elections may actually have caused some voters to be disenfranchised. In general, if advance voting is to be allowed, the law should address how ballots cast in advance are integrated into election day processing. Typically, preliminary handling of advance ballots takes place in the presence of officials, observers and candidates' representatives prior to the beginning of the voting. These steps could include the announcement of the number of voters voting in advance, the comparison of the number of advance ballots (usually maintained in individually sealed envelopes) against the number of signatures of these voters already affixed on the voter list, and the placement of these ballots into the ballot box which has already been displayed and sealed.

## ***Processing of Voters***

The law is very specific, stating that each voter must vote personally, and that only one voter is allowed in the secrecy booth at a time. Voting on behalf of another person is prohibited. Each voter is required to present a passport or other form of identification in order to vote. Upon verification of the person's identity, the official finds the voters' name on the list. The voter is to check the accuracy of the information and is asked to sign next to his/her name on the list. Under Article 51 of the Presidential Election Law, with the voter's consent, or if the voter requests it, the official will also write the voter's identification number into the list. Once the ballot is issued the voter proceeds to the secrecy area to mark his/her choice. The voter then deposits the marked ballot into the ballot box personally.

If a voter believes he/she has made an error on his ballot, the law allows him/her to return to the official to ask for a new one. The official retains the spoiled ballot and makes a notation next to the voters' name on the voter list that a new ballot was issued. The official "renders" the spoiled ballot void and records a statement about the circumstance. The law does not specify how to

dispose of the spoiled ballots, however, it is presumed that they are segregated and maintained for accountability purposes until they are reported with other canceled ballots on the protocol prepared at the end of the count.

If a voter appears at the polling site and presents an Absentee Voting Certificate indicating that he/she is not able to go to his regular polling site, officials add his/her name to the additional voter list for the site where the voter will vote instead. The voter is allowed to vote in the usual manner.

### ***For Consideration***

9.6 The law is not clear as to the role of deliberative voting members of PSECs during the poll on election day. In certain instances the law poses specific restrictions on the activities of deliberative voting members. In other instances, the law limits the participation in an activity only to PSEC members with deciding vote. For example, Article 51 of the Presidential Election Law dictates that the entry of the voter's identification number onto the voter list may only be accomplished by a member with deciding vote. By being specific about those tasks which may only be accomplished by members with deciding vote, it is implied that members with deliberative vote may participate in other activities not so identified. It would be helpful if the law could provide further clarification as to which activities and responsibilities may be undertaken by members with deciding vote and which may be engaged in by members with deliberative vote. For example, may either type of member certify a ballot by affixing his/her signature? May either type of member inspect a voter's identification, locate the voter's name on the voter list, and issue ballots? To avoid any potential misunderstandings it would be helpful if the law was clear on the specific roles of the various types of members and what they may and may not do.

9.7 The law does not provide adequate details as to processing voters from other precincts who present an Absentee Voting Certificate. For example, the law does not specify that these voters must also sign the additional list. Nor does the law dictate the disposal of the Certificate. Is it retained by the PSEC as part of its overall supporting documentation of election day activity, or is it retained by the voter? The law should clarify that the PSEC retain the certificate to preclude it from being used improperly.

In the general election, CEC instructions indicated that the certificate would be stamped by the PSEC where the person voted, but that the actual document would be retained by voter so that he/she could use it in second round elections. During the second round, the certificate was kept by the election PSEC where the person voted. It is understandable that officials may have been considering the voter's convenience by allowing him/her to keep the certificate after voting in the first round. It is recommended, however, that the law require the document to be retained by the PSEC issuing the ballot as part of the official record of election day activity. If the voter will be away from his/her polling site during both the first and second rounds of voting, perhaps two separate certificates could be issued, each clearly marked with the type of election in which it is intended to be used. They could even be printed on different colored paper to make it easy for polling site officials to recognize the election for which it is intended.

9.8 The law allows the voter to present a passport or "an identity card substituting for it" at the time the ballot is issued. The law should describe the other types of identification which will be accepted. If only specific types of documents will be acceptable, they

should be itemized. At the very least, the law should specify the kind of information which must be included in the identifying document for it to be accepted. In some contexts, officials send voters an "invitation to vote" which lets voters know where and when the voting will take place, as well as their number in the voter lists. If these types of documents are used in the Russian Federation, the law should specify that they would not be sufficient identification for voting purposes since there can be no assurances that they would always be presented by the person to whom they rightfully belong.

- 9.9 Although the law makes no reference to such procedures, PSECs in some areas sent an "invitation to vote" to voters in their jurisdictions for the second round of voting. Many voters who had received them brought these invitations with them when they came to the polls. If this practice is to be implemented on a consistent basis, the law should address the issue. In particular, the law should preclude acceptance of these invitations in lieu of other identification.
- 9.10 Article 14 of the Presidential Election Law specifies that at remote sites such as those established for polar stations and for military units and on vessels and in foreign states, the chiefs, commanders or diplomatic officials will facilitate the voting in place of traditionally appointed PSECs. Considering the unusual and inaccessible circumstances under which these polling sites will work it is likely that some of the regular procedures established for voting at normal polling sites may not be feasible or practical. However, the law neither specifies that the procedures at these sites will be exactly the same as those for all other sites, nor does it provide any allowances or restrictions on alternative procedures that may be implemented to meet the unusual circumstances. For example, the law dictates that the procedures used in accommodating voters who must vote outside the polling site on election day may not infringe on the voters' right to vote in secret. This kind of wording should be added to provisions related to polling sites at remote or inaccessible locations. These kinds of considerations are particularly important in military installations where military personnel may feel real or perceived pressure from their superiors who are also responsible for the conduct of the polling. If allowances for alternative procedures are necessary to accommodate special conditions, the law should at the very least dictate those provisions which may not be waived under any circumstance. The law should also address the issue of the general rights of candidates to appoint their members of deliberative vote to polling sites. Since it is unlikely that conditions would exist at some of these locations to make such representation feasible the law should be modified to address limitations of these rights under certain extreme conditions.

## ***Special Voter Services***

### ***Voting in Remote Sites and Early Voting***

Russian lawmakers and election authorities have made a determined effort to permit Russian citizens living or traveling abroad or temporarily working at remote sites or on military and commercial vessels to vote. A significant number of these voters (approximately five percent of the entire number of voters who participated in the election) took advantages of special services afforded them by the law.



Voters residing or traveling abroad had access to voting through the many polling sites established at embassies and consular offices throughout the world. IFES observed the voting at the embassies in Washington and in Kiev. In Washington there were 589 voters on the voter list convening embassy and consulate employees as well as employees of enterprises such as Aeroflot. Ultimately, with additions to the list, the number of ballots cast at the Russian Embassy in Washington was approximately 1,500 during each round of voting. At the Russian Embassy in Kiev there were over 1,000 voters on the list including those that were added during the course of the voting.

In addition to Washington, polling sites were established in a number of cities across the United States, for example, Chicago, New York, Boston, Philadelphia, Seattle, Los Angeles and San Francisco. In general, procedures followed by the polling officials serving the embassies were consistent with those implemented at polling sites within the Russian Federation. All the poll workers at the sites observed by IFES seemed to be embassy and consulate employees. According to the Deputy Chairman of the PSEC in Washington, all of the commission members and poll workers received materials produced by the CEC, including copies of the Constitution, the Presidential Election Law, CEC regulations and the *Flip-Chart for Members of Polling Site Election Commissions*. All of these were available at the Washington Polling Site throughout the polling hours and during the count.

At polling sites outside the Russian Federation observed by IFES, voters were consistently asked to present their identification before being allowed to vote. In Kiev the number of voters appearing to vote absentee without Absentee Voting Certificates exceeded those who had them. However, based on their valid identification, they were added to the list and allowed to vote. In Washington, IFES team members noted that voters who were not on the voter list and who did not have Absentee Voting Certificates, were asked to fill out a special request form to be added to the list. In Kiev, during the time IFES members were present, six voters were refused ballots who did not have appropriate citizenship documents with them. One of the voters submitted a handwritten complaint that the Chairman promised would be forwarded to the CEC in Moscow.

At the Russian Embassy in Washington no use was made of the mobile ballot box during the first round of voting. (For more information on mobile ballot boxes see *Voting Outside the Polling Site* beginning on page 94.) However, during the second round requests for this service was received. An embassy car was used to take the mobile ballot box to the voters. IFES team members noted that the voter list was removed from the polling site and accompanied the mobile ballot box. Voters voting through the mobile ballot were asked to sign the same list that had been used by voters voting inside the polling site. It is not clear how voters who arrived at the polling site during the time the voter list was away were processed or where they signed for their ballots. In Kiev only one request for a mobile ballot box was responded to. Although other requests were received, it was determined that the voters were too far away to be served.

In Kiev there were observers present who represented Zyuganov and the Communist Party of the Russian Federation. They indicated that they were generally satisfied that the process appeared to be in order. In Washington the IFES team seemed to be the only observers on hand with the exception of representatives from CNN. There appeared to be conflicting reports from officials serving in the Washington polling site as to whether Yeltsin observers were present at either of the elections. None were encountered at either election during the IFES team's presence.

Article 51 of the Presidential Election Law provides that SECs may permit early voting within the 15 days of date set for the election. Under this provision permission for early voting may be given to vessels of the commercial, fishing, scientific research, navy, and river fleets which will be on expeditions, autonomous navigation, or at foreign ports on the day of the election. In addition, early voting may be allowed at polar stations and "other remote regions" or where access is difficult.

It appears that the non-specific language pertaining to "other remote regions" may also have been used as the legal basis to cover early voting at some locations in foreign states. For example, the polling site established in Washington was not only responsible for the counting and reporting of votes cast at their own site. Other sites were established in Cleveland, Philadelphia, Miami, Houston and the Russian Embassy's Dacha in Maryland. However, they were apparently not established as "polling sites." Rather, these sites were subordinated to the polling site at the Russian Embassy in Washington where the PSEC was, at least in the first round, ultimately responsible for counting their ballots.

Although the results from each site were counted separately and a working copy of a protocol was made for each of these locations, ultimately the results from all locations were commingled and reported on a single protocol. Based on the summarized report of the vote count, approximately 2,195 voters participated at the Washington polling site and its subordinate sites. In order for the results at these other sites to be integrated into the federation-wide totals, voting had to be accomplished early so that their ballot boxes could be delivered to the voting site at the Russian Embassy in Washington by election day to be counted at the close of the polls. During the second round, however, the counting process for some of these sites was altered. For instance in Cleveland, Miami and Philadelphia the ballots were counted on site. Their resulting protocols were then faxed to Washington. A summary of the results from the subordinate sites was summed up on one protocol in pencil. The summarized results were then commingled with the Washington results on a final protocol written in ink that was then faxed directly to Moscow.

The law is silent with regard to any accommodation for the creation and organization of subsidiary sites for voting which are not fully recognized as polling sites. Nor does the law address procedures which are to be implemented to ensure that voting at these sites is transparent and accountable. Since these subsidiary sites were not fully accredited polling sites and no individual protocols were generated for them, their activity cannot be tracked by normal avenues. In the absence of any legal foundation for their existence, the organization and operation of these sites circumvented many of the rules, including those governing the appointments, rights and responsibilities of PSECs. By not being specifically covered by provisions allowing for deliberative voting members or accredited observers, transparency safeguards instituted for election day activity at polling sites were also eliminated.

The law is sparse in its direction regarding early voting. There is a need to refine the law to clarify procedures for the conduct and accountability of the election process under these unique conditions. In particular, attention needs to be focussed on safeguarding the secrecy of the vote and the transparency and accountability of activity in these circumstances. It is recommended that the law require that the results at each of these sites be reported on their own separate protocols and that each site be responsible for accounting for the voters participating at their locations and all ballots distributed to them.

## ***For Consideration***

- 9.11 Due to the uncertainty in the number of voters who would present themselves at the embassies on election day, IFES noted that far more ballots had been sent than were actually needed. The Russian Embassy in Kiev received 2,000 ballots while the Russian Embassy in Washington received 5,000 ballots. According to officials serving at the Washington site the voter turnout for the presidential elections was only slightly higher than for elections to the State Duma in December of 1995. It is recommended that the actual turnout figures experienced in prior elections be used as a basis for determining how many ballots should be sent to sites outside the boundaries of the Russian Federation.

In contrast to the overage of ballots provided to Washington, many subordinate cities experienced a shortage. When some of these cities had run out of ballots, the Embassy faxed ballots to them. The faxed ballots contained only one PSECs member's signature and no official stamp. When the ballots from these sites were returned for inclusion in the count, the faxed ballots contained no additional certifications of authenticity from the polling site where they were actually issued. IFES team members noted that the faxed ballots did contain the embassy fax number, however, there was no way to ascertain whether a record had been kept of the number of ballots that had been faxed.

- 9.12 The law provides that SECs may allow remote and inaccessible sites and navigation vessels to implement early voting in the 15 day period before election day. However, the law provides no guidance as to how the process is to be carried out. Among the questions which should be answered in the law are:

- By whom, how and when is the counting of these votes to take place?
- How and when is the reporting of results to be accomplished?
- When may results from these sites be made available?
- How will results from these special sites be transmitted and integrated into consolidated results and at what commission level (TEC, SEC, or CEC)?

- 9.13 Consideration should be given to expanding the provisions of law related to voting in foreign countries, and preferably to allow for the creation of fully appointed polling sites at locations other than embassies. Issues to be resolved are similar to those in need of clarification for early voting on navigating vessels and remote sites. It is recommended that individual locations be treated as fully established polling sites, even if they report their results to a central location such as an embassy polling site. As a practical matter, commissions at embassy offices could be established as a "remote" Territorial Election Commission for the purposes of providing technical support and guidance to these sites, and for accumulating their individual protocols and reporting of aggregate totals for all the overseas polling sites in the country where the embassy is located.

- 9.14 The Presidential Election Law makes no other provisions for early voting for the general population of voters. This omission is at odds with Article 30 of the Basic Guarantees Law which dictates that early voting is available to any voters who will be absent from their

permanent residences within the 15 days prior to voting day. Not only is early voting allowed in local elections, it is also allowed in the election of deputies to the State Duma. This variance is another example of a conflict between a law governing a specific type of election, and the foundation law outlining fundamental guarantees. These laws should be brought into conformity on this point to ensure consistency and to alleviate the potential misunderstandings that could result from voters being disenfranchised.

- 9.15 If it is intended that laws guiding specific types of elections may waive rights and services afforded in the Basic Guarantees Law, that law should clarify the conditions under which a waiver is permissible. If opportunities for advance voting are mandatory, the Presidential Election Law should dictate the manner in which advance ballots will be maintained and accounted for before election day; how safeguards will be imposed to eliminate opportunities for voters to vote in advance and again on election day; how the secrecy of ballots of the advance voters will be preserved; how advance ballots will ultimately be integrated into regular counting and reporting activities; and the kind of record keeping and documentation which will be necessary.

### ***Voters Who Need Assistance***

The law provides that voters who are unable to sign the voter list or to mark their ballots without assistance may receive help from any other person except a member of the PSEC, an observer or a candidate's representative. The person who assists a voter who cannot sign the voter list, indicates his/her name and signs the voter list in a column where the voter would normally sign acknowledging receipt of the ballot. When a voter needs help in marking the ballot, the assisting person indicates his name on the voter list next to the signature of the voter.

### ***Voting Outside the Polling Site***

Article 51 of the Presidential Election Law provides an avenue for participation by voters who because of ill health or other good reason are not able to appear at the polling site on election day. According to the law, PSEC are required to make arrangements to deliver the ballots to these voters and to use mobile ballot boxes for this purpose. Observers are allowed to accompany the officials as they accommodate these voters. When ballots are delivered the voter is to confirm his/her application to vote away from the voting premises in writing. Upon receipt of the ballot, the voter is to mark his/her application and sign it. The application is required to contain the same information about the voter as appears on the voter list.

The law provides a number of safeguards to ensure some accountability by requiring officials who will be accompanying the mobile ballots boxes to sign a receipt for the ballots in an amount corresponding to the number of applications. According to the instructions provided in the *Flip-Chart for Members of Polling Site Election Commissions* prepared by the CEC, however, officials were authorized to take extra ballots with the justification that they might be required if a voter spoiled his/her ballot and needed a replacement. Upon return to the polling site, the officials complete a separate statement recording the number of applications and the number of ballots which were used as well as those that remain unused. For each voter who voted outside the polling site, a notation is made to that effect next to their names in the voter list. The mobile ballot boxes containing the ballots cast by voters outside the polling site must remain sealed until after the polls close and counting begins.

## ***For Consideration***

Although an attempt is made to promote accountability of the process for voting outside the polling site, the law does not provide sufficient safeguards against abuses of the system. The law implies that these voters "apply" for this service, however, in actuality the application is completed or "confirmed" only upon delivery of the ballots. The law offers no guidance as to how officials are to be informed about voters who are to be visited. That means that there is no assurance that this service is provided only to those voters who have actually applied.

In practice, it is assumed that the commissions will accept requests over the phone, or from voters appearing on election day who make a request on behalf of a family member or friend. However, IFES learned that in some instances the mobile ballot box is used for a much broader purpose. For example, it appears that mobile ballot boxes are sometimes used to serve groups of voters such as military personnel who are assigned to a civilian polling site or for those at a health facility at which no separate polling site has been established. IFES was advised that sometimes in lieu of bringing people to the station, the mobile ballot box is taken to the voters instead. The application forms are simply taken and completed on the spot when ballots and mobile boxes are brought to the location with no prior request being made by the individuals themselves.

Although during the 1996 presidential elections the system seemed to have been generally handled in compliance with the law's intent, the vagueness of the law regarding the method of application leaves the system vulnerable to misuse. In effect, officials are free to take ballots to any person on the voter list who has not appeared at the polls. In fact, at a few polling sites visited by IFES during the presidential elections, officials acknowledged that they would review the voter list and determine who had not voted. Their intent was to send officials to visit these voters to encourage them to vote. They assured IFES observers that they would not take mobile ballot boxes with them during this solicitation effort, but it could provide opportunities to artificially promote absentee "applications" even if it meant a return trip to deliver ballots at a later time. Whether out of concern that the threshold of turnout is not being met, or to solicit votes from selected persons believed to have specific political leanings, the opportunities for unwarranted use of the procedure could go unchecked.

It also became evident that there was no consistency as to how applications were being documented. On election day, it was obvious that PSEC members collected information about voters who wanted ballots delivered to them on scraps of paper, the backs of envelopes, and as notes in the margins of unrelated documents. As voters telephoned their requests it was apparent that PSEC members simply wrote the information on anything that was handy. During the course of voting on election day members of commissions appeared to be transferring the information to individual application forms.

- 9.16 Consideration should be given to amending the law to provide clearer limitations as to the circumstances which would make someone eligible to vote outside the polling site. The law currently allows this service to people on the basis of health, "or other good reason."

Although in practice ballots are generally delivered to people at their homes, the law certainly does not specifically restrict voters to having ballots delivered to them at their residences. If the mobile ballot box is to continue to be used for more general purposes or as a substitute for establishment of separate polling sites, the law should identify the special circumstances under which this type of special use is authorized. For serving

groups of voters at special institutions or facilities, there should at least be a requirement that the commanding officer or chief of such an installation be required to submit a letter or other document in advance identifying the voters who will be served. The purpose of setting some restrictions is generally to limit or control the number of votes which are cast outside the control of the PSEC as a whole, and outside the general view of the majority of observers and candidates' representatives. Any time ballots are removed from the polling site the door is opened for potential abuses and, just as importantly, to allegations of impropriety, even if no such circumstance really exists.

- 9.17 Consideration should also be given to establishing a deadline by which applications must be made, even if the deadline is at a specific hour on election day. Such a deadline would allow officials to know at what time they could schedule their departure to facilitate this process. This would allow the appropriate notations to be made in the voter list before officials leave the polling site. This would also allow the actual number of voters to be served and the number of ballots needed for this purpose to be known in advance of the official's departure with the mobile ballot box. Such accounting measures would be to the benefit of candidates' representatives and observers, improve transparency and minimize opportunities for abuse. The law should require that the number of applications and ballots being taken from the polling site be announced out loud for the benefit of the candidates' representatives and observers prior to the officials' departure.
- 9.18 The law specifically states that the number of ballots taken from the polling site should equal the number of applications. The instruction which allows officials to take extra ballots in case a voter makes a mistake or spoils his/her ballot, regardless of how well motivated, encourages officials to ignore a legal requirement. The law should be amended if the policy is to have a legal foundation. Should lawmakers not concede to the practicality of such an amendment, officials should be required to adhere to the requirement that only a number of ballots equal to the number of applications be taken from the polling site. The law should also specify that only those applications which have been requested prior to the deadline may be taken with the ballots and the mobile ballot. These amendments would not interfere with the current requirement that unused ballots be accounted for and that at-home voting activity be reported on a separate statement. It would be important that the deadline be publicized so that voters understand that a deadline is in effect.
- 9.19 Whether applications are taken over the phone or in person, the authentic application form should be used. The law should be enhanced to require that an "application" form require inclusion of the information about the voter being served, and the date, time and signature of the official who took the information over the phone or the signature of a person who applies in person on behalf of a family member or friend.
- 9.20 It would also be helpful if the law dictated that officials work in pairs to accommodate voting outside the polling site and that both officials and any observer who accompanies them sign the applications.
- 9.21 It is recommended that the law be amended to require that the statement on which officials attest to the number of ballots they received, the number they are returning unused, and the number of applications also include the name and authorizing organization of any observer who accompanied them as they facilitated voting outside the polling site. These

observers should be allowed to sign as a witness to the activity. By their signature they would be attesting that the process was carried out properly. These acknowledgments are useful in avoiding opportunities for subsequent challenges or allegations of impropriety.

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# 10

## ***Counting the Votes and Reporting the Results***

Generally speaking, the law provides an appropriate mechanism for the immediate counting of votes at the polling site level and an orderly framework for the rapid reporting of results. In accordance with Article 52 of the Presidential Election Law, ballots are counted at the polling site by the Polling Site Election Commission (PSEC) immediately after the close of the polls at 10:00 p.m. The law states that the votes are to be counted directly by members of the PSEC with the right of deciding vote. Members with deliberative vote are excluded from any role in the counting process. Despite the clarity in the law and in the instructions of the Central Election Commission of the Russian Federation (CEC), there continued to be sporadic instances where international observers noted that deliberative voting members assisted in the count. On a few occasions observers of candidates were also seen participating. Although noted as a lapse in standard legal procedure, such cases cited by international observers did not seem to contribute to disruption of the process or contrived manipulation of the results.

The law provides a sound but superficial procedural outline of the counting and reporting process. In particular, provisions attempt to cover a logical sequence of steps to be undertaken in the counting of the votes. They incorporate a laundry list of specific kinds of information which must be accounted for and reported on the protocol of election returns. The law also offers general guidance as to the rules which are to be applied in determining the validity of a ballot during the count, affecting whether or not it may be included in the tallying of votes. In addition, Article 52 of the Federal Law *On Election of President of the Russian Federation* dictates that the counting must be accomplished without a break until the results are established.

### ***Before the Counting of Votes Begins***

According to Article 52 of the Presidential Election Law, the PSEC is required to count and cancel (render void) the remaining unused ballots in the presence of all authorized observers before the ballot boxes are opened and counting begins. The number of unused ballots is to be declared and entered into the protocol which will ultimately be completed to report the results at the polling site. The PSEC is then supposed to inspect the seals on the ballot boxes allowing those authorized to be present to verify that the seals have not been damaged. Only then is the PSEC ready to begin the actual counting of votes.

Article 52 also dictates the order in which the ballot boxes are to be opened. According to the law, "ballot boxes shall be opened by turns -- first mobile ballot boxes and then stationary ballot



boxes.” The article goes on to say that the “number [of ballots in the mobile ballot boxes] should not exceed the number of written applications for the conduct of the voting outside the voting premises.” Under the law, if the number of ballots contained in the mobile ballot boxes exceeds the number of applications, they are all declared null and void by a decision of the PSEC. An acknowledgment of the decision must be made in writing, and must include the names of the members of the commission responsible for assisting those voting outside the polling site. The statement must be attached to the polling site’s protocol of results. This is an important addition to the legal foundation because it attempts to add safeguards against abuses of the mobile voting opportunities.

Only after these preliminary steps have been completed may officials open the stationary ballot boxes and begin counting the votes.

### ***For Consideration***

Article 52 of the Presidential Election Law requires no other advanced preparations, aside from the cancellation of unused ballots and the “counting” of the ballots from the mobile ballot boxes. However, there are other additional steps that should be considered before the actual counting of the votes begins.

The CEC’s Uniform Procedure for Tabulation of Vote Returns and Compilation of Protocols stipulated that “The Protocol of the Polling Site Election Commission on Vote Returns shall be filled out *after the verification of accurate counting of the votes* (emphasis added).” However, it is recommended that certain baseline entries be made onto the protocol *prior* to the commencement of voting. Such base line information could be used to check against the results of election day activities and would help guarantee the integrity of Article 8 of the Basic Guarantees Law specifying that the “modification of voter registers after the commencement of the vote counting procedure shall be prohibited.”

In the previous Chapter, it was suggested that certain entries should be made on the protocol before the polls open and voting begins. Specifically, it was recommended that before the first voter votes, the following entries should be made to initiate the ballot accountability record:

- number of voters on the voter list;
- the number of voters who applied for Absentee Voting Certificates; and,
- the total number of ballots received by the PSEC.

These figures are already known before voting begins and should not be subject to change. They should therefore represent the base line information against which election day activity should ultimately balance.

10.1 At the close of the polls, and before any ballot boxes are opened, it is also recommended that the law require that additional entries be made on the formal protocol to complete the base line information against which the ballot activity and the vote counting should ultimately be balanced. These entries which should be enumerated separately on the protocol include:

- the number of unused ballots that have been canceled;
- the number of ballots that were spoiled by voters and canceled;
- the number of voters who were added to the list during the polling hours; and,
- the number of voters who have signed the voter list to acknowledge that they have received a ballot (e.g., the number of ballots given to voters at the polling site on election day).

10.2 It is also recommended that as these figures are entered, the Chairman of the PSEC should announce them to the commission members, observers and candidate representatives who are present. This information would reassure them and help them understand how ballots are being accounted for, and how the results will be balanced against actual voters.

Only after these initial preparations are completed and the basis for the audit trail has been established should the first ballot boxes be opened. (See *Completion of the Protocol* later in this Chapter beginning on page 110.)

## ***Counting the Ballots Cast Outside the Polling Site***

The procedure for the disposal and counting of ballots in the mobile ballot boxes serves as an example of the kinds of technical deficiencies that exist in the current law. Procedural details become particularly important when considering the vulnerability of this component of the election system to abuses, whether real or merely perceived. Any time ballots leave the polling site and are used outside the view of the majority of the officials and the observers, special attention to detail must be a priority. However, except for dictating that these ballot boxes be opened first and that the number of ballots may not exceed the number of applications, the law is silent on the procedural details. In fact, the provisions of Article 52 leave a lot of questions unanswered. For example:

- When the law says that the ballots from the mobile ballot boxes are to be “counted” first, what does “counting” actually mean? Does it also mean counting to determine the votes cast, or just to determine the quantity of ballots involved?
- In the event that a polling site has more than one mobile ballot box, are the number of ballots counted separately for each box against the applications of voters using that box? Or, are the ballots from all the mobile ballot boxes commingled to be counted in one total?
- How are the results of the votes on these ballots integrated into the reporting of results for the precinct as a whole?

- Are the ballots from the mobile ballot boxes maintained separately, or are they commingled with the other ballots cast at the polling site?

The answers to these questions speak loudly to the ultimate accountability and auditability of the counting process.

Without procedural guidance provided in the law, the CEC was left to devise the mechanism to integrate these critically important ballots into the overall results. In the CEC's *Flip-Chart for Polling Site Election Commissions*, officials are instructed to count the ballots for each mobile ballot box separately. This approach has merit, because if the ballots in one of the mobile box (in the case of multiple boxes) exceeds the number of applications related to that box, then only those ballots need to be excluded from the count. Ballots from the other box(es) would not be tainted by that particular error.

However, the CEC's instructions for the presidential election did little to overcome other deficiencies in the law. For example, ballots from the mobile ballot boxes to be "counted" before the stationary boxes are opened. The intention of the lawmakers who wrote this provision is unclear. As written, it is open to subjective interpretation as to whether these ballots are to be counted for quantity or if they are to be counted to determine the votes cast upon them. The instructional hand book also neglected to clarify whether or not the votes cast on these ballots were also to be counted before the stationary ballot box is opened. The *Flip-Chart* did not make any mention nor did it provide any clarification as to how these votes would be accounted for or reported in the overall results. Finally, both the law and the CEC's instructions neglected to address how these ballots were to be packaged or otherwise segregated.

Despite having no specific legal basis or written instruction to stipulate the handling of the ballots, there appeared to be a general assumption among officials that these ballots were initially to be counted without regard to the actual votes cast. Once their quantity was determined and officials were sure their number did not exceed the number of applications, the stationary ballot boxes were opened and the ballots inside were simply dumped on the table and commingled with the ballots from the mobile ballot boxes.

There are advantages and disadvantages to this approach. On the upside, commingling these two sets of ballots ensures that no conclusion can be drawn as to whether or not voters voting at home voted differently than those voting in person at the site. However, in the vast majority of cases the mobile ballot box option was used by a sufficient number of voters to ensure the secrecy of any individual's vote as required by law. The disadvantage of commingling these ballots with those cast at the polling site, is that the audit trail for ballots in the mobile ballot box is obliterated. Any challenges which might subsequently arise regarding alleged improprieties or misuse of the mobile ballot box affect all the ballots from the polling site rather than only those ballots directly involved. These issues will deserve continued consideration as legal reform ensues.

### ***For Consideration***

- 10.3 The provisions of Article 52 of the Presidential Election Law relating to the counting of the ballots cast outside the polling site should provide procedural details designed to allow for adequate accountability and to leave an audit trail sufficient to reasonably withstand the scrutiny of a legal challenge. At the very least the law should be embellished to provide

answers to key procedural questions such as those identified above, or which are currently left open to interpretation.

- 10.4 It is suggested that the law specifically require that, in comparing the number of applications to actual ballots, those related to each mobile ballot box be accounted for separately. Documentation should record the information identifying each ballot box by a number, the officials responsible for the box, and the quantity of ballots and applications related to the box.
- 10.5 It is recommended that the law require that votes cast on the ballots from the mobile ballot boxes be counted separately and not commingled with the ballots from the stationary ballots. Once the initial check has been completed to ensure that the number of applications and ballots are equal, the ballots from all the *mobile* ballot boxes found to be in compliance should be commingled for the purposes of actually counting the votes. Commingling all ballots from the various mobile ballot boxes together would help to ensure the secrecy of the voters' choices.
- 10.6 The actual votes counted for each candidate on ballots cast outside the polling site should be recorded separately on the protocol and the ballots should be packaged separately. By keeping these ballots separate from those voted in person at the polling site, any challenges to the mobile balloting would not taint the results from the in person voting.
- 10.7 Because the procedure outlined above would take a little longer resulting in further delay of the opening of the stationary ballot boxes consideration may be given to changing the order in which the ballot boxes are opened. It would be advisable for the stationary ballot boxes to be counted first.

## ***Invalid Ballots***

As each ballot is reviewed during the counting procedure, the PSEC must determine whether the ballot can be counted or whether it must be declared invalid. The Basic Guarantees Law provides only a general statement as to when cast ballots are to be declared invalid. Article 31 of this law establishes two grounds on which the ballot must be rejected:

- when the voter's will cannot be identified; and,
- when the ballot form is of "non-standard manufacture."

Curiously, Article 31 omits any reference to the requirement in Article 30 that the ballot "shall be stamped with the stamp of the PSEC or be signed by at least two commission members," among the grounds on which the ballot must be rejected.

Article 52 of the Presidential Election Law clarifies the grounds for rejecting a ballot. In particular, it states circumstances which would cause the will of the voter to be remain in question, and addresses the issue of ballot "certification." Under its provisions a ballot must be found to be invalid if:

- it is not in the approved format (e.g., not an official ballot);

- it does not contain the certification of the PSEC;
- it has more than one choice is marked;
- it is left blank with no choice marked; or,
- the intent of the voter cannot be determined.

Disputes concerning whether a ballot should be accepted or rejected are resolved by a vote of PSEC members. When such a decision is adopted and the ballot is determined to be invalid, the grounds on which the decision is based are to be written on the back side of the ballot. Article 31 of the Basic Guarantees Law and Article 52 of the Presidential Election Law both agree that the notation must be signed by no less than three members of the PSEC.

Invalid ballots, including those from a mobile ballot box which were declared void because their quantity exceeded the number of applications to vote outside the polling site, are maintained separately.

One of the key successes that is worthy of note, is that there appeared to be relatively few ballots that had to be declared invalid. In the presidential elections invalid ballots made up less than two percent of the total number of ballots cast. Only a very small number of these were attributable to voters improperly marking their choices by the traditional method whereby all candidates were crossed off leaving the preferred choice exposed. This particularly significant accomplishment was directly attributable to the effective voter information campaign undertaken by the CEC to educate voters of the new voting procedures.

### ***For Consideration***

It is recommended that lawmakers and officials review the omissions and inconsistencies in the various laws and develop appropriate amendments which will provide uniform criteria upon which a ballot must be declared invalid. The following examples represent some of the issues which should be reviewed.

- 10.8 Article 31 of the Basic Guarantees Law does not include failure of the ballot to contain the official certifying seals or signatures as grounds for invalidating a ballots.
- 10.9 Although Article 52 of the Presidential Election Law addresses the grounds on which a ballot must be declared invalid, not all disqualifications are found there in one provision of law. Unfortunately, officials must peruse various sections of the law to extrapolate other grounds on which a ballot might be rejected. For example, members must recall Article 49 which briefly describes the voting premises. Among its sections is one calling for the secrecy booths in which voters may vote in private. In describing that these booths must be outfitted with tables and writing accessories, the provision dictates that "Use of pencils for these purposes is not allowed." Technically, this imposes a requirement on officials in what they must provide, not necessarily on a voter who could potentially use their own pencil. The question is left open further since the criteria identified in Article 52 on which a ballot must be declared invalid do not include the failure to mark the ballot in ink.

- 10.10 CEC instructions clearly interpreted Article 49 as imposing a restriction on what the voter may use to fill out the ballot, because the instructions cite the use of a pencil as one of the grounds causing a ballot to be invalid. However, the CEC's instructions also add that "corrections or erasures" will also constitute grounds for rejecting a ballot, although there does not seem to be a clear legal basis for this determination. It would be difficult to argue that because a "correction or erasure" appears on the face of the ballot that the intent of the voter is not clear. As legal reform ensues, it would be helpful to identify all grounds on which a ballot will be declared invalid in one provision, and to close those areas open to interpretation.

## ***The Counting Procedure in Practice***

While the laws and conforming CEC regulations and instructions provide a number of clarifications and important details regarding the counting process, they fall short in defining the actual manner in which the ballots themselves are to be handled and physically counted. The practical aspects of handling the ballots and organizing the counting is left to the discretion of each PSEC. In fact, in the 12 April 1996 Resolution of the CEC adopting the *Uniform Procedure for Tabulation of Vote Returns and Compilation of Protocols of Polling Sites, Territorial Election Commissions and Election Commissions of the Subjects of the Russian Federation in Elections of President of the Russian Federation*, the CEC specifically dictated that:

For the sake of satisfaction of the requirements of the Federal Law and this Unified Procedure concerning transparency and publicity of the vote counting procedure, the *Polling Site Election Commission shall be entitled to set independently how to process the filled out ballots* including the procedure of announcement of the ballot contents (emphasis added).

Ultimately, it means that there is little uniformity in counting procedure from polling site to polling site or from one election to another. This degree of flexibility, and the ultimate inconsistencies that go with it, does not seem to conform with the provisions of Article 15 (2) of the Presidential Election Law, which dictates that the CEC shall exercise control over the adherence to the legitimacy in the preparation and conduct of the presidential election and "provide for uniform application" of the federal law.

There appeared to be a common theme among the reports of various observer delegations present at the previous elections. A number of delegations reported that polling site officials seemed confused and disorganized during the counting of votes. There appeared to be no consistent method by which they organized themselves to carry out the actual counting procedures. Instead, each site seemed to be devising its own system for handling, sorting and counting the ballots on the spot. Observers frequently noted that officials seemed unclear as to the procedures, and attributed such shortcomings to inadequate training.

Indeed, for the presidential elections, the CEC made significant advances in its training efforts. In particular, the *Flip-Chart for Members of the Polling Site Election Commission* prepared by the CEC was lauded by PSECs as being the most helpful tool in preparing them to carry out their duties on election day. The *Flip-Chart* also identified the specific articles of law providing the legal basis for the instruction being outlined.

While this hand book reiterated the law in layman's terms, it also added some helpful clarifications, diagrams, illustrations and suggestions to guide officials in implementing the legal requirements where the law failed to provide adequate detail. For example, the *Flip-Chart* elaborated procedures to deal with circumstance where the number of ballots in the mobile ballot box exceeds the number of applications from voters wishing to vote outside the polling site. In this instance, the hand book offered a sample of a form which should be used to report the situation and document the reason why the ballots were excluded from the count. In other examples, the *Flip Chart* clarified the kinds of documents which would be considered acceptable for identifying voters at the polls. It also identified procedures for handling of voters who cannot produce identification, or who present two or more passports and want to vote on behalf of friends or relatives. Further, the instructions encouraged officials to display a larger form of the protocol for disclosure of the counting data and the results to anyone present in the polling site.

However, just as the law makes no mention of the actual physical process to be undertaken in handling the ballots and counting the votes, the *Flip-Chart* also falls short of offering any definitive instruction as to the mechanics involved.

For the presidential elections international observer delegations also made note of some apparent confusion and doubt as officials prepared to count the ballots, although there was a general acknowledgment of dramatic improvement in this area over previous elections. At the OSCE debriefing after the first round of the presidential election, for example, one of the common themes reported by a number of delegations was that "counting procedures at the polling sites often appeared confused and disorganized." At a number of sites some initial unrest was noted as officials disagreed as to how to proceed. IFES witnessed observers at some sites expressing complaints that officials were proceeding with tasks out of the appropriate sequence.

From its own observations in Moscow and rural precincts in the vicinity as well as in Stavropol Krai, IFES also noted inconsistencies in the procedures being followed during the counting process. For example, in Moscow PSEC members made use of a tally sheet during the counting of the ballots. Rather than sorting the ballots by candidate, stacks of commingled ballots were read by one individual while another official made strokes on a tally sheet recording the individual votes for the various candidates. In Stavropol Krai, however, no tally sheets were used. Instead, ballots were sorted by candidate and stacked with the number of ballots in each stack subsequently counted.

Even within the same polling sites, there did not seem to be uniform consistency between first round and second round elections. During the second round, IFES had the opportunity to return to observe the activities at some of the same polling sites visited in Moscow during the first round. It was noted that use of the tally sheet had been abandoned, in spite of its apparent success and the fact that the officials themselves had noted that the tally sheets had been particularly useful.

It is acknowledged that once initial confusion at polling sites was overcome and officials settled into the routine they decided upon, the counting generally went smoothly and efficiently. The lapses in procedure noted by observers were not perceived as deliberate attempts to alter the outcome. In fact, most observers generally believed that the counting at the PSEC level to be an accurate reflection of the popular will.

As election administrators would generally agree, the ideal objective is to try to develop strategies and mechanisms that minimize opportunities for participants to find grounds on which to bring

challenges. When it comes to counting and reporting the results, it is particularly important to ensure that the process is consistent, orderly, transparent and accountable. Virtually all of these elements depend on clearly defined uniform practices which are applied in the same manner at all polling sites. Officials at all levels must have a thorough knowledge of how to carry out their responsibilities with confidence and efficiency. It is when there seems to be a lapse in transparency, when polling site officials seem unsure or disorganized during the counting of votes, or when discrepancies or lapses in the procedures are noted that candidates, authorized observers, and media representatives begin to question the credibility of the results and raise doubts about the competence of election officials. For these reasons it is important that officials at polling sites throughout the Russian Federation are trained in the same formalized procedures rather than being allowed to determine their own.

### ***For Consideration***

- 10.11 It would be beneficial if the “processing of the filled out ballots” was more clearly defined in the law to provide uniformity and consistency usually considered necessary to a fully accountable system. At the very least Article 15 (15) should be augmented to clarify the authority and responsibility of the CEC to establish a uniform procedure for the actual counting, in addition to “a uniform procedure of processing the results of the voting.” PSECs should not be given the authority to “determine their own procedures.” The procedures adopted should be mandatory and uniformly applied at all polling sites involved in the election.
- 10.12 During the presidential elections there were basically two types of counting systems employed: the tally method, and the stack and count method. Either system can be effective as long as the prescribed procedures include measures to ensure security, accuracy and transparency. However, it is recommended that the law require the use of tally sheets in the performance of the counting process. There are some advantages to the tallying method which are worthy of note. The chief advantage is that the recording of individual votes on a tally sheet provides physical documentation to validate and support the totals reported on the protocol. The tallying method also provides fuller transparency of the process as observers can actually hear and observe the distribution of votes among the candidates. The tally method is also efficient. During the first round of the presidential elections it was noted that completing the counting by use of tally sheets did not seem to take any longer than the counting at other polling sites where the ballots were sorted, stacked and counted.
- 10.13 Regardless of the type of procedure that is ultimately adopted there are procedural mechanisms that can be introduced that maximize accountability while preserving transparency. The following two examples show how each of the two methods can be formalized and organized to fulfill both objectives.

### ***Sample Instructions***

Two sets of Sample Instructions are presented below as examples to show how such guidelines might be written. The first set focusses on the Tally Sheet approach, while the second on the Stack and Count approach. The step by step details described in the sample instructions attempt to establish the uniformity of procedure required by Article 15 (15) of the Presidential Election Law, while creating internal mechanisms for verifying accuracy and providing better transparency.



## **No. 1: The Tally Method**

The tallying method can be implemented in a variety of configurations. During the first round, polling sites in Moscow (where the simultaneous election of mayor was also being conducted) the tally sheet process involved initial sorting of the ballots to segregate mayoral ballots from presidential ballots. The ballots for each separate election were handled by teams at separate tables. At each table, one member of the PSEC read out the ballots while another member made the marks on the tally sheet. Observers and remaining commission members sat by the sidelines to await the results. Some PSEC members absorbed themselves in other activities such as organizing the materials for packaging and transport, counting the number of voters added to the voters lists, etc. If use of a tally sheets were formalized in the law, a number of procedural enhancements of the method might be beneficial.

One such alternative that might be considered involves dividing the PSEC into smaller counting teams made up of four members. Each team, working at a separate table, would be given a portion of the ballots to count. The assignments of the counting team members would include:

- two members acting as "readers" would sit on one side of the table, with one member reading the ballot out loud while his/her partner confirms that the reader has announced the vote accurately; and,
- two members on the other side of the table to record the marks as each vote is called, with one member making marks on an original tally sheet while his/her partner makes the same marks on a duplicate tally sheet.

To improve the speed and efficiency of the process, certain preparatory steps would be helpful. Other team members could be assigned to count out stacks of ballots in groups of 25. By counting ballots in groups of 25, it would be easier for counters to verify the accuracy of their work along the way and to isolate errors. The readers set aside invalid ballots so that they can be segregated, reviewed further and enumerated later. As counting of each stack of 25 ballots is completed, the members making the marks on the two sets of tally sheets announce their result to ensure they have the same totals for each candidate. If there is a discrepancy the error will be found in the last groups of 25 ballots and the error can be corrected immediately. An additional tool that can be helpful in streamlining the process is using two different colored pens, which could be switched between each group of 25 ballots.

When the counting is completed the total votes for each candidate are entered onto the protocol. The original tally sheet could be attached as supporting documentation with the protocol submitted to the Territorial Election Commission (TEC). The duplicate could be retained by the PSEC.

## **No. 2: The Stack and Count Method**

If it is ultimately decided that the stack and count method is to be retained as the standard counting procedure, there are still some suggestions that would serve to improve transparency and provide internal mechanisms to verify the accuracy of the count. As

counting by this method was carried out during the presidential elections, there was little to suggest that the results were tainted or inaccurate, in spite of the fact there was really very little transparency and no standardized method or procedure for confirming the accuracy of the count within the procedures being utilized. Typically, when the ballot boxes were opened and the ballots tumbled onto the center of a large table, PSEC members immediately surrounded the table to assist in the sorting of ballots by candidate. Although not intentional, the view of observers was generally obstructed. Commission members simply took stacks of ballots from the center of the table and created their own candidate piles. Each member then individually inspected the ballots and placed them on the piles they had personally created for the various candidates. Once the various PSEC members had completed sorting, their various stacks for the individual candidate were added together. An individual member counted the cumulative stack of ballots for each candidate. At some sites the ballots for a candidate were cross hatched into groups of 50. For each candidate, the chairman then counted the stacks of 50 adding the total number of any remaining ballots for that person.

This rather lax approach to the counting process invited participation by deliberative voting members and observers who are specifically precluded from taking part by law. There was no uniform application of specific steps to verify that the ballots were accurately read and stacked in the correct pile. These practices also failed to give observers any opportunity to actually view the process in a way that would allow them to verify the count for themselves. Any errors in the sorting, for example, would not necessarily be discovered under this scenario. Rather, observers could only await the announcement of the results. The following measures should be considered to improve transparency and to ensure accuracy.

- Officials could be instructed to prepare and place signs for each candidate appearing on the ballot. The signs could be spaced along a table in the same order as the candidates appear on the ballot. Additional signs could be made for the "Against All Candidates" category and for invalid ballots. During the sorting process stacks of ballots for each candidate could be created and piled in the space marked with the candidate's name.
- A team of at least two PSEC members could be assigned to be responsible for the maintenance and counting of the stacks of ballots for individual candidates, for the invalid ballots and for the ballots marked "Against All Candidates."
- The Chairman, Vice Chairman and Secretary and remaining PSEC members could be assigned to actually accomplish the sorting by inspecting the ballots, and determining for whom the vote was cast, or if the ballot is invalid. These members would pass the ballots to the appropriate teams who would verify that the ballot is, indeed, marked for the candidate for whom they are responsible. If they note a mistake, they would pass the ballot to the team responsible for the correct candidate.
- Once the ballots have been sorted, each team would count the ballots in their stacks, marking the total and their initials on a piece of paper. (Cross hatching the ballots into groups of 50 to assist in the count could still be utilized.)

- As a safeguard to ensure correctness of the counting, teams could trade places so that the ballots are recounted by a second team. The results of the second team's count would be compared to that of the team originally assigned. If there is a discrepancy, the ballots could be recounted by the team responsible for them.
- When the team is satisfied that their count is correct, they would report their results to the Chairperson so that they could be entered onto the protocol. Ultimately, when the ballots for each candidate are packaged, the team responsible for the counting of the ballots could sign their names to the package at the time it is sealed.

While there are many options that could be employed for either of these two counting methods, the examples provided here demonstrate how mechanisms can be incorporated that promote accuracy, accountability and transparency. As candidates and their representatives, deliberative voting members, authorized observers and representatives of the media become better acquainted with their roles and more knowledgeable about the system there will be less tolerance for perceived confusion or ineptness on the part of polling officials. The necessity for adherence to uniform practices on the part of PSECs will only become more important in closing the opportunities for complaints or challenges related to the counting process.

### ***The Testing of Ballot Scanning Devices at Selected Sites***

IFES observed the counting at a polling site that was selected as a test site for the newly installed ballot scanning devices. In Moscow where the scanning devices were utilized, the mayoral election was being conducted simultaneously with the presidential election. Instead of dropping the ballots into a regular sealed ballot box, each voter inserted his/her ballots into a scanner which read the markings and counted the votes automatically. The devices being tested were programmed to differentiate between the mayoral and presidential ballots. The computer was also able to identify invalid ballots based on criteria written into its program.

The holding box in the scanning machines remained sealed until after the polls closed. At the end of the polling, the boxes were opened and the manual counting was carried out in the usual manner. The device would cut a notch into the edge of each ballot it read as invalid so that they could be segregated by PSEC members when the ballot boxes were eventually opened. This allowed the members to review the ballots that had been defined by the software as invalid so that they could make their own determinations. Although the results of the scanner count were not intended for general publication, IFES had the opportunity to review and compare the computer results with those of the manual count. In a few instances, there was a one vote difference between the scanned count and the manual count total attributed to a particular candidate. However, these discrepancies may be attributed to subjective decisions made by the PSEC regarding whether or not a questionable ballot could be counted.

Voters seemed to have a generally tolerant, if not enthusiastic, attitude toward inserting their cast ballots into the scanner rather than a traditional ballot box. It was interesting to note that even older voters were open to the new technology. There were a few voters who remained reluctant to insert their ballots into the scanner, however, the devices were equipped with a separate slot and holding box which precluded their ballot papers from being scanned. When this box was opened

with the main holding box, the few ballots it contained were put through the scanner and included in the results recorded on a special tape.

### ***For Consideration***

- 10.14 IFES believes the test was very successful. It is difficult to imagine wide spread use of the scanning devices throughout the 93,000 polling sites established for a federation-wide election simply because of the cost factor. However, the scanning devices show real promise. There may be opportunities to expand their use in specific Subjects with high density populations. Another application which is worthy of investigation, is their potential use at the TECs to scan PSEC protocols, with a direct link to the State Automated System.
- 10.15 If scanning devices ultimately find a permanent place in the conduct of elections, it will be important to build pre-election testing of the program into the system. It would also be advisable to incorporate a standard policy for random manual count testing to ensure the integrity of the program as part of normal activity after the close of the polls.

### ***Completion of the Protocol***

Despite the fact that there was little formal guidance or uniformity as to how the physical process of the counting was to be accomplished and that sporadic lapses in procedure that were encountered, observers at the polling sites generally agreed that the voting results for candidates were accurately determined. Once procedural issues were resolved, PSECs generally completed the task smoothly and efficiently.

The next step in the counting process is the completion of the protocols on which the balloting activity and the election results are recorded. The protocols are prepared in triplicate in the presence of all authorized observers and signed by all members of the PSEC. Pencils may not be used to complete the protocols. In addition, the protocols must be devoid of any corrections or erasures. Any member of the PSEC who does not agree with any or all of the information provided on the protocol is entitled to put his/her remarks in writing. A record is made of the dissenting opinion on the protocol and the written statement is attached to the first copy. Certified copies of complaints and related decisions of the PSEC are attached to the first and second copies of the protocol.

The first copy of the protocol and relevant attachments are immediately forwarded to the Territorial Electoral Commission (TEC). The Secretary of the PSEC files and keeps the second copy of the protocol, along with the sealed cast ballots, lists of PSEC members with deciding vote, observers of the candidates, electoral associations, blocs, foreign observers and representatives of the mass media who were present for the counting. The third copy of the protocol is made available for scrutiny by candidates' agents, deliberative voting members of the PSEC, and representatives of the mass media.

Ultimately, voting documents, including the ballots, are transferred to the TECs no later than ten days after the official announcement of the results of the election. For the most part, observer teams found that PSECs delivered all the materials at the same time they submitted their protocols to the TECs in the late hours after the close of the polls. The law does not clarify the circumstances under which a delay in the delivery of materials can be justified. Presumably, the

allowance of ten days for the delivery of materials accommodates those sites that are distant from their TECs. Unfortunately, the law makes no provision for proper security of the materials which are not delivered immediately.

While the counting of votes at the polling sites went smoothly, it was an almost universally observed that the completion of the protocol did not. One common theme among the reports by various observer delegations was that it took longer for PSEC members to complete the protocol than it did to count the ballots. The confusion and frustration experienced by commission members may be attributable to the following three circumstances:

- In describing the data which is to be enumerated on the protocol, Article 52 Presidential Election Law fails to identify a number of critical entries needed to accommodate various provisions of law. These entries are critical to the proper accounting the ballots issued to the polling site and their use in servicing voters on election day.
- The protocol form designed to follow the law is not user friendly. The ballot accountability portion of the protocol offers no guideposts as to the calculations which must be made before many of the individual entries can be made.
- The PSECs do not have a clear understanding of the ballot accountability portion of the protocol. Nor has the significance of this portion of the protocol taken hold as a test of the integrity of the process.

Article 52 of the Presidential Election Law also dictates the reporting of precinct results on a PSEC protocol which will ultimately be delivered to the TEC for inclusion in summarized returns. When the ballots have been counted, the polling site officials complete the protocol of the election results. In provisions of the CEC's Uniform Procedure for Tabulation of Vote Returns and Compilation of Protocols and in the *Flip-Chart* for PSEC members, polling site officials are advised to fill out the protocol after verifying the accuracy of the vote counting. The protocol includes the following information:

1. the number of voters on the voter lists including names that have been added to the lists;
2. the total number of ballots originally issued to the polling site;
3. the number of ballots issued to the voters at the polling site on election day;
4. the number of ballots issued to voters outside the polling site;
5. the number of ballots declared void (canceled);
6. the number of ballots contained in the stationary ballot boxes, excluding ballots which are not in the official format;
7. the number of ballots contained in the mobile ballot boxes, excluding those which are not in the official format;
8. the total number of valid ballots;
9. the total number of ballots determined to be invalid with an additional entry separately identifying the number of invalid ballots that contained no markings at all;
10. the full names of the candidates, and in the event of their similarity, other data necessary to distinguish them;
11. the number of votes each candidate received; and,
12. the number of ballots cast "against all candidates."

These line items cover the general parameters usually associated with ballot accountability. However, they are not enough to give the full picture based on other legal requirements and allowances that the law provides in various articles throughout its text. Unfortunately, without additional information, it would be impossible to achieve a full accounting of the ballot usage at the polling site.

### ***For Consideration***

The following represent examples of the information which the law should more specifically identify if valid accounting is to be transparent and complete.

- 10.16 As written, Item 1 of the protocol accounts for the voters originally on the voter list plus those that have been added throughout the voting process. Taken literally, without a clarifying adjustment identified by the CEC in its Uniform Procedure for Tabulation of Vote Returns and Compilation of Protocols and in its *Flip Chart* instructions, this line item would not appropriately reflect a later provision which requires the exclusion of voters who received an Absentee Voting Certificate from this number. Without this adjustment, the number of voters on the voter list would be inflated with voters potentially being counted on two lists: one for the precinct from which they received their Absentee Voting Certificate, and a second list at the polling site where they cast their votes and were added to the list on election day.
- 10.17 Item 3 of the protocol is not articulated in a way that serves to provide an accurate figure against which to actually balance ballot usage. According to its wording, officials are to identify "the number of ballots issued to the voters at the polling site on election day." Under this wording, officials could calculate the number of ballots issued at the polling site by a mathematical calculation based on the total number of ballots issued to the site minus the number ballots cast outside the polling site, the number remaining unused, and the number spoiled by voters. Although the mathematics might be accurate, it does nothing to justify or balance the number of ballots "issued" against anything. To provide a meaningful comparison, the wording of this line item should be modified to require officials to count and enumerate:

the number of signatures on the voter list acknowledging that the voter received a ballot at the polling site.
- 10.18 The items for enumeration listed in Article 52 Presidential Election Law do not include guidance as to the accounting for the ballots spoiled by voters and subsequently replaced. Voters who believe they have spoiled their ballots may request a replacement under the final provision in Article 51. Without addressing these spoiled ballots, officials would find it difficult to balance their returns.
- 10.19 Item 9 requires the identification of the number of invalid ballots, and calls for a separate entry for invalid ballots that contain no markings. As worded it does not make clear whether or not the initial entry is to represent the total number of invalid ballots including those without any markings, or rather only those that contain markings. It is not clear why the law specifically requires that the unmarked ballots are to be listed separately.

- 10.20 None of the line items address the disposal or accounting for ballots from mobile ballot boxes declared void because their number exceeds the number of applications.
- 10.21 These same issues concerning ballot accountability should also be reevaluated in Article 31 of the Basic Guarantees Law. In addition, it must be noted that some of the entries called for in the Presidential Election Law vary slightly from those required in Article 31. For example, Article 31 also requires the protocol to include the number of ballots cast early. In presidential elections, although advance voting is not allowed for the population at large, it is allowed for remote site, on military and commercial vessels, polar stations, etc. Article 31 also refers to the identification of the number of ballots cast at "places of residence" while the related provision in the Presidential Election Law refers to ballots cast "outside the voting premises." Clearly, the Presidential Election Law offers broader options for voting at places other than at one's residence. Article 31 does not require a separate indication of the number of ballots with no markings, or exclusion of ballots of non-standard form from the total ballots found in the ballot boxes. Nor does it require a separate entry for the number of ballots from the mobile ballot boxes.

### ***Format of the Protocol***

The CEC did a commendable job overcoming the deficiencies in the law as they relate to accounting for election day activity and ballot usage at the polls in its Uniform Procedure for the Tabulation of Vote Returns and Compilation of Protocols. Rational decisions were made to integrate information that the law failed to address. For example, the CEC determined that ballots spoiled by voters and subsequently replaced, would be included in the number of unused (canceled) ballots. Likewise, the instructions reminded officials that ballots from mobile ballot boxes, nullified because they exceeded the number of applications, were to be included in the total number of invalid ballots.

Unfortunately, the protocol form itself only provided the categories as they were identified in the law. A number of calculations which are actually necessary are not identified on the protocol itself. That meant that officials had to continually refer to the regulations to figure out how to arrive at the correct entry for several of the categories. At the end of the counting on each of the nights of the first and second rounds of the presidential elections, it became clear that the process of completing the protocol was very confusing and difficult for most commissions. In particular, officials struggled with Items 1 - 10 of the protocol which pertain to ballot accountability.

### ***For Consideration***

- 10.22 Some of the problems could be alleviated by redesigning the protocol to provide the space and detail necessary to allow polling site officials to actually perform the calculations on the face of the protocol itself. Not only would such modifications make the protocol form easier for officials to use, but there would also be an additional benefit. The actual display of the individual entries for each element of the mathematical equations involved would also retain the audit trail in a manner which is obliterated by the existing procedure. Instead of just entering the lump sum of each equation, such detailed entries would allow observers, superior election commissions and other interested entities to see how totals were arrived at. This level of detail would also be helpful for review by the courts in the event of challenges which might be filed based on the results.

What follows is an example of how this portion of the protocol could be modified to ease the burden on PSECs while helping preserve a more meaningful audit trail. The form could include all the specific line items needed to accommodate the various provisions of the law not already addressed, while also reminding officials how to perform the calculations.

### Sample Protocol Form Ballot Accountability Portion

1.	Number of Voters on Regular List	_____	
	Number of Voters Added to List	+ _____	
	Number of Voters Who Were Issued Absentee Certificates	- _____	
	FINAL NUMBER OF VOTERS ON LIST - _____		
2.	Number of Ballots Issued in Polling Station Commission		
3.	Number of Ballots Given to Voters at the Polling Station on Election Day		
4.	Number of Ballots Given to Voters Who Voted Outside Polling Station		
5.	Number of Unissued Ballots Remaining	_____	
	Number of Ballots Spoiled by Voters	+ _____	
	TOTAL NUMBER OF ISSUED BALLOTS - _____		
6.	Number of Ballots Found in Stationary Ballot Box	_____	
	Number of Ballots of Non-Standard Form Found in Stationary Box	- _____	
	TOTAL BALLOTS OF STANDARD FORM FOUND IN STATIONARY BALLOT BOX = _____		
7.	Number of Ballots Found in Mobile Ballot Box	_____	
	Number of Ballots of Non-Standard Form Found in Mobile Box	- _____	
	TOTAL BALLOTS OF STANDARD FORM FOUND IN MOBILE BALLOT BOX - _____		
8.	Total Number of Valid Ballots		
9.	Total Number of Invalid Ballots Due to Errors in Marking	_____	
	Number of Invalid Ballots Due to a Larger Number of Ballots in Mobile Ballot Box Than Applications	+ _____	
	TOTAL NUMBER OF THESE INVALID BALLOTS = _____		
10.	Total Number of Invalid Ballots Without Any Markings		



## ***Misunderstanding Ballot Accountability***

Even with detailed and complete legal provisions and administrative guidelines in the area of ballot accountability, it is still essential that the individual members of the PSECs understand the process and the importance of carrying it out. Training of PSECs in the completion of the ballot accountability portion of the protocol therefore needs to be revisited. There is reason to question whether officials truly understand what ballot accountability is all about, and its significance in ensuring the integrity and reliability of the process. In addition, completion of the ballot accountability portion of the protocol is also the least understood by observers and the least transparent element of the counting process. There are several contributing factors.

First, as discussed earlier, there does not yet seem to be a reliable audit trail created beginning with the printing and distribution of ballots. Ballots are not printed on watermarked paper, packaged in uniform quantities, printed with sequential numbering, or with counterfoils or stubs. There is no requirement that the number of ballots issued to the polling site be counted and confirmed in the presence of members of the commission and observers before the voting begins on election day. IFES encountered officials who acknowledged that PSECs were not always careful about counting for themselves the ballots that were delivered to them, often relying instead on the number they have been told they have received from superior commissions.

In addition to its Uniform Procedure for Tabulation of Vote Returns and Compilation of Protocols adopted in April of 1996, the CEC ordered production of the *Guide Book of the Territorial Election Commissions Concerning the Election of the President of the Russian Federation*. This instructional hand book included some procedural detail on a number of TEC functions, including: the management and distribution of election funds; the status of observers; logistical assistance to PSECs; the organization of and procedures for sessions of the TEC; the transfer and storage of electoral documents; and the adjudication of complaints. The hand book also provided samples of a full complement of forms that TECs could use in the organization of their work. For example, Form No. 9, *Act on Transfer of Ballots on the Election of President*, offered a sample of a receipt that could be used by the TEC to write, in numbers and in words, the quantity of ballots being transferred to the polling site. The sample form provided a place for a member of each the TEC and the PSEC to sign their names.

It is important to note that in the preface to the *Guide Book*, TECs are advised that "All forms of electoral documents offered in this *Guide Book* are not binding and may be amended and adjusted with due regard to the conditions set at each Territorial Election Commission."

Once again, the omission of formal guidelines regarding ballot accountability in the law is not overcome with a uniform and standardized procedure. The procedural system simply falls short in addressing the issue. The actual number of ballots issued to the polling site is as critical to a reliable audit trail as the number of voters. Laxness with ballot security also feeds seeds of doubt and opportunities for the kinds of allegations that were raised during the presidential elections about pre-marked ballots. Allegations that such pre-marked ballots being found surfaced in Rostov and in other regions of the Russian Federation. There can be no true accountability unless there is a verifiable beginning ballot quantity against which to balance.

Accountability procedures may also be impacted by a sense of urgency among PSEC commissions, nurtured by the fact that Article 52 also prohibits any corrections to appear on the protocol and the

fact that the SAS is programmed to reject any entries that are not perfectly balanced to a preset formula. To assist officials in their work copies of the data control formula were provided to them.

The following is a description of the data controls programmed into the SAS which serve as an internal check on the figures entered onto the protocols by the PSECs and subsequent data entry. They relate to internal reasonableness and accuracy tests regarding the figures entered for each line number on the protocols related to the accountability for ballot usage.

- a. (Line 2) # of ballots provided to the polling site commission  
+ (Line 3) # of ballots given to voters at the polling station on election day  
+ (Line 4) # of ballots given to voters voting outside the polling station  
+ (Line 5) # of unused ballots  
  
(Line 2 = Line 3 + Line 4 + Line 5)
- b. (Line 6) # of ballots of standard form found in stationary ballot box(es)  
+ (Line 7) # of ballots of standard form in mobile ballot box(es)  
 $\leq$  (Line 3) # of ballots given to voters at the polling station  
+ (Line 4) # of ballots given to voters voting outside the polling station  
  
(Line 6 + Line 7  $\leq$  Line 3 + Line 4)
- c. (Line 6) # of ballots of standard form found in stationary ballot box(es)  
+ (Line 7) # of ballots of standard form in mobile ballot box(es)  
= (Line 8) total # of valid ballots  
+ (Line 9) total # of invalid ballots  
  
(Line 6 + Line 7 = Line 8 + Line 9)
- d. (Line 8) total # of valid ballots  
= (Line(s) 12) the total of the multiple entries reflecting the # of votes cast for each candidate  
+ (Line 13) # of votes cast "Against All Candidates"  
  
(Line 8 = Line 12 + Line 13)

The concern is that officials, in their efforts to complete the accountability portion of the protocol, may have been more motivated to successfully satisfy the formula than to accomplish the manual steps precisely. IFES observed a situation which may illustrate a problem that is more wide spread than the "accuracy" of the accountability portions of the protocols, as entered into the SAS, would indicate.

At one of the polling sites where IFES observed the count, it was noticed that the PSEC's working papers had many adjustments and corrections as they tried to achieve the required results among the various sets of calculations. The commission ultimately ran out of blank forms. Once they were satisfied that they had determined the correct figure to enter into each line item of the protocol the Chairman left the polling site and went to the local administration to get more forms. In his absence the Secretary read off what was purported to be the final correct figures as IFES

made up its own handwritten copy of the results. Even on the work sheet with the "final" figures there appeared to be a number of adjustments and many of the figures had been written over many times. The Secretary said that everything was balanced perfectly and indicated that IFES could check the calculations on their own record for themselves. It immediately became apparent to the Secretary and to IFES observers that an error still existed in the balancing of used, unused and spoiled ballots to the total number of ballots received by the polling site. They had apparently misapplied the formula balancing the used, unused and spoiled ballots to the total number of voters on the voter list instead of the ballots received. As a result of their miscalculation, the protocol would have been ten ballots off in the accountability portion.

Upon the Chairman's return he and other members of the commission were clearly confused as to how the problem should be resolved. Ultimately, it appeared that they "manufactured" a correction to achieve the required balance to the ballot accountability portion of the protocol. To "correct" the problem they merely added ten to the number of canceled unused ballots. This "correction" did not impact the voting results which had been recorded properly. When they produced the final protocol just minutes later, IFES asked how they had found the error and determined where the correction had to be made. IFES was told that the PSEC had recounted the unused ballots. However, during the canceling of these ballots observers witnessed that they had been torn in half. In addition, though IFES observers remained present during the entire time after the error on the protocol was discovered, no additional counting activity took place. In fact, the packaged materials had already been removed from the room. The correction appeared to be instantaneous. It could only be concluded that the correction was simply an artificial adjustment made out of frustration and not knowing how else to rectify the problem. It seemed clear that they only had rote understanding of the ballot accountability process. They relied on the mathematical formula, but did not really understand how the ballots, voter lists, applications and other materials actually related to one another. Therefore, when they were unable to balance to the formula, they did not know which steps had to be repeated to find where the error had been made.

IFES later learned that the Chairman was a new official serving in this capacity for the first time. It is also acknowledged that although the ballot accountability portion of the protocol was probably not completed properly, the vote totals for the candidates did appear to have been reported accurately. In talking with a member of the TEC about this circumstance, he acknowledged his belief that such adjustments were probably more frequent than realized.

The fact that PSECs are given the formula for balancing the figures combined with the fact that the State Automated System will not allow any entries that do not balance perfectly creates an urgency among polling site officials. This urgency potentially encourages them to make artificial adjustments just to be able to close out their activities. If there is to be consistent, accurate and reliable reporting and accounting, this component of the counting process will need continued attention.

## ***Summarization of Results***

Results from polling sites throughout the Territory as a whole are summarized by the TECs who report their calculations to the respective Subject Election Commissions (SEC). The SECs summarize subject-wide results which are then reported to the CEC. Ultimately, the CEC determines and reports the final results for the Federation as a whole.

## ***The State Automated System***

The CEC established a system of computers linked together to transmit precinct results up through the administrative election hierarchy called the State Automated System (SAS). The SAS was instigated by a presidential decree in August of 1994 to increase the speed, accuracy and transparency in the reporting of election returns. The Presidential Election Law provides license to utilize an automated system for processing the results while posing some limitations and controls on its use. The entire coverage of the SAS in the Presidential Election Law is capsulated in Article 59. Under its provisions, there is no requirement that an automated system be used. Rather, the article provides parameters, "in the event of the use of an automated information system in the process of elections." Among those parameters is a requirement that each commission responsible for the use of the system form a "control group" made up of both members with deciding vote and with deliberative vote to "exercise control" over use of the system. In practice these control groups were responsible for overseeing and auditing the data entry process and verifying the accuracy of the results as they were reported.

The law also mandates that all members of the election commission have a right to familiarize themselves with any information put into the automated information system or produced as output from the system.

Article 59 also states that from the beginning of the voting until the final protocol is signed by the CEC the system is to be used "exclusively" for supervising the process and the results of voting "by means of transmitting data from lower election commissions to higher election commissions." This provision is intended as a safeguard against adjustments to election returns being made after submission of the protocols from the levels where they originated and where transparency is most accessible. This article also articulates that the returns reported through the SAS are "preliminary and of no legal importance."

The development of the State Automated System and the procedures for its use in processing the results of the election rested with the Central Election Commission and adjunct Center for Information Technologies.

The results from the manual counting of ballots at the polling sites reported on protocols are delivered to the TEC. Upon delivery, the data from the protocols is entered into the SAS computer network to be integrated into cumulative totals across the Federation. Based on data received from the Territories, the SECs will follow similar procedures for summarizing subject-wide results. They in turn, ultimately transmit their summarized data to the CEC. The data control room serving as the headquarters for the SAS was established at the CEC. These headquarters were linked to the Information Center where media representatives, observers, electoral associations and participants had access to broadcast of ongoing preliminary electronic returns throughout election night.

In compliance with Article 59, the results reported through the SAS are considered preliminary and "unofficial." The computerized reports of these "unofficial" results during the presidential elections were available beginning at 11:00 p.m. in Moscow after the polls in the farthest western area of Kaliningrad closed. The earliest initial returns were those coming from parts of the Federation in the eastern time zones where polls closed first.

The official returns for the election are the manually prepared protocols and summary tables prepared and signed by election commission members at each level of summarization. The computerized results serve only as preliminary advance returns to apprise the population of results as quickly as possible.

For the presidential elections, over 2800 computers had been distributed among 88 of the 89 Subjects of the Russian Federation. Chechnya was the only Subject for which computers were not scheduled for delivery. These numbers reflected the delivery of computers to 2713 of the 2735 Territories established for the presidential elections. According to information provided to IFES by the CEC, as of 10 June 1996, 82 Subjects had reported that their computers were installed and operational in the Territories in their jurisdiction. In six Subjects, installation and preparation were still underway in the week immediately preceding election day. In addition to computers provided to TECs, 39 computers linked to the SAS were assigned to Russian Embassies abroad, one computer was placed in the Ministry of Foreign Affairs, and 14 computers were assigned to frontier military units serving outside the Federation.

As of 12 June 1996, efforts were still underway to ensure that appropriate expertise and trained personnel were on-line at all computerized sites. There was concern that there would be a few areas where the SAS would not be totally operational by election day, although it was anticipated that these sites should be few in number. A back up plan was devised so that in the event results could not be reported from a Territory or remote site due to malfunction or other unanticipated contingency, the reporting could be accomplished via telephone or fax where possible.

Throughout election day, there were also call-in reports of voter turnout from the polling sites to the TECs on a regular schedule. It was been pre-arranged that these reports would be scheduled at 10:00 a.m., noon, 2:00 p.m. and 6:00 p.m. From the estimates entered into the system, the SAS could project the overall turnout at intervals throughout the polling hours.

Although the SAS was most recognized for its processing and reporting of election returns, it was also intended to store associated election information. In particular, the system was to store the full text of election laws and regulations and information on the candidates. The addition of automation into election processing is relatively new and represents only initial efforts which will more than likely be expanded in the future. There is also a growing interest in developing a system where users of network communication systems would be able to have direct access to the SAS on a read only basis. In fact a bill which would have provided for such opportunities was narrowly defeated just prior to the presidential election.

The success of the SAS was generally applauded on all fronts as a significant achievement and lauded for its timely reporting of summarized results and overall efficiency. Observers generally agreed that the data entry and processing of results through the SAS was fast, efficient and professional.

### ***For Consideration***

- 10.23 As the evolution of the SAS continues to unfold, it is recommended that additional data become a standard part of election programming. Ideally, pre-set data should, for example, include the number of voters on the voter lists prior to the opening of the polls, and the number of ballots issued to each polling site. Under the current system this data is entered, not in advance, but based on the protocols prepared by polling site officials

*after* the close of the polls. However, pre-entry of this information would provide additional opportunities for programming more meaningful internal checks and balances and establishing another layer to the audit trail. It would also allow the CEC to accumulate statistical information on the election, including projections of voter turnout throughout election day.

- 10.24 It is recommended that officials consider how the SAS data can be organized and consolidated into suitable formats for providing election related information to candidates, electoral associations and other nominating groups, as well as the new media during the pre-election period. Advance information about the details of election organization, polling sites, voter lists, etc. can be extremely useful in helping election participants prepare their campaign strategies. It can also be helpful to the media in organizing their coverage of the process.

### ***Processing Returns at the Level of the Territorial Election Commission***

The CEC issued useful instructions to TECs on processing the polling site, accomplishing the data entry, and managing the summarization of the results. TEC officials seemed to be well organized and fully knowledgeable about their responsibilities in performing the first level of summarization.

During both the first and second round of the elections, IFES observers had the opportunity to witness the processing of PSEC protocols at a number of TECs in Moscow and rural Territories in the vicinity, in Stavropol Krai, and in the Rostov area. All IFES teams were impressed by the speed and efficiency of the data entry and the organization of the summarization process at the territorial level. However, there appeared to be some significant regional differences in the procedures for acceptance of receipt of polling site documents, verification of protocols, and accommodation of observers.

Instructions from the CEC called for the control group at the TECs to review each protocol submitted by the PSECs to manually verify the entries to ensure that they achieved the appropriate balance required by the established pre-set formula. This was found to be a standard practice at all the territorial offices observed by IFES teams during the two rounds of elections. Only after the manual verification demonstrated that the protocol met the requirements of the pre-set formula was the data entered into the SAS.

One of the major differences in procedure related to the involvement of polling site officials in acknowledging the accuracy of the data entry. In Moscow the manual verification as well as the data entry was accomplished in the presence of the PSEC member. In fact, once the data from the protocol was entered into the computer, it was not actually transmitted until it had been verified against the original protocol by a member of the TEC and the Chairman of the PSEC. For this purpose, a printout of the precinct results was generated and reviewed against the original protocol. Together the territorial and the polling site officials verified the accuracy of the data entry. It was also observed that the printout of the precinct results was sometimes signed by senior members of the TEC and by the data entry technician while in other instances only the data entry technician signed the precinct printout. In most cases the precinct printout was given to the polling site official to retain, although at one site the printout was kept by the TEC. When the IFES observers asked for copies of the precinct printout they were generated and made available immediately. At

some TEC offices IFES teams encountered domestic observers who were usually given copies of these protocols on request.

In Budyonovsk, as each precinct's results were entered and verified, the printout was signed by the computer operator and the polling site official. The polling site official was then required to sign a log being maintained by the computer operator listing the number and location of the polling site, and the time of completion of the data entry. In this region the precinct printout was also given to the polling site official.

In Leninsky Territory, polling site officials were required to sign a log in which the time of submission of their materials was recorded. However, IFES observers found that after the TEC manually verified the protocol, subsequent procedures differed from those implemented in Moscow and Budyonovsk. For example, polling site officials were not present in the room where the data entry was being accomplished. In addition, no printout of the data entry was made available for polling site officials to verify that the data entry had been done accurately. Another variation was that the TEC maintained a parallel table on which the Chairman recorded all the figures from the individual PSEC protocols.

When IFES observers asked for a copy of the precinct printout they were told that no such printouts were possible. TEC officials indicated that since the computer would only accept figures that balanced, there was no need for such a step. IFES was informed that only when all precincts had been entered, would there be a copy of the summary table printout. When IFES observers were given a copy at the end of the process, it was not certified, signed or stamped; the Commission Chairman indicated that only the handwritten territorial protocol was considered "official."

There were occasions when errors were found by the control group or when the SAS refused to accept the data on the basis of the test criteria incorporated into the software. This criteria was the same as that provided for polling site officials which required an absolute balancing of the ballot accountability data on the protocols. Reasonableness standards were also applied to the information provided concerning the election results. When errors were found by the control group, polling site officials were required to return to their polling sites, where members remained on duty, to reconcile the numbers and prepare and certify new copies of the protocols. Once these officials returned to their sites, it is not clear how the correction process was approached. There is no way of knowing, for example, whether the sealed packages of ballots, absentee applications, voters lists, and other materials were actually opened so that they could be reviewed and recounted as necessary.

Article 52 (12) of the Presidential Election Law provides that in the event mistakes in the protocol are revealed or there are doubts about the accuracy of the protocol, the higher election commission can adopt a decision calling for the "repeated calculation of votes." Upon adoption of such a decision the repeated calculation is to be conducted by the PSEC. The article goes on to say that the "repeated calculation of votes" is to be conducted in the presence of the member(s) of the higher election commission. Most often, however, the errors or discrepancies found did not relate to the votes, but only to the failure of the ballot accountability portion of the protocol to balance according to the pre-set formula. The law dictates no guidelines for seeking corrections when these kinds of "mistakes" are revealed or when there are doubts about the accuracy of the accountability figures.

The possibility exists that "artificial" adjustments could be made just to satisfy the requirements, with no real verification process being undertaken. Since this part of the process is also the least transparent, the cause of the errors as well as any adjustments made to force a balance could remain undiscovered.

The rigidity and inflexibility of a system that absolutely requires that all calculations balance perfectly allows no room for human error throughout the entire process. Realistically, however, it is hard to imagine that, among the 93,000 plus polling sites, the entire process and accountability could be accomplished without an inadvertent mistake. It would mean that during the peak rush hours when polling sites were most crowded that no voter ever failed to sign the voter list or received two ballots because two ballot papers inadvertently stuck together. It would mean that no official inadvertently missed making the proper notation on the voter list regarding a voter who applied for an Absentee Voting Certificate. It would mean that no official ever made a mistake counting the number of ballots delivered to the polling site or the total number of voters on the voter list at the end of a long voting day. As the election process matures and as public confidence in the reliability of the system grows, there may room to consider new ways to address the reasonable discrepancies that are a normal part of election administration.

### ***For Consideration***

- 10.25 The law dictates that the counting must be accomplished without a break until the results are established. The law fails to impose any similar requirement during the summarization of results. Concern was expressed by Yavlinsky representatives that in Chita the summarization process at the subject level was interrupted for a six hour break. Reportedly, observers, and more importantly, TEC members with protocols were told to go to a local hotel and return in the morning. Observers who offered to stay overnight in the commission headquarters were refused. Obviously, any interruption can breed suspicion and allegations of manipulations. It serves the interests of officials, candidates, observers and the public alike to avoid such mine fields of opportunity for allegations of impropriety and subsequent challenges.
- 10.26 In reviewing the varying approaches, it is suggested that the presence of PSEC members and their involvement in verifying the accuracy of the data entry contributes an important element of accountability in the process. The issuance of a precinct printout can be a valuable tool in the verification process as is the signature of the polling site official acknowledging that they have reviewed it and found it to be an accurate reflection of their protocol.
- 10.27 While training, procedural instructions and the personal commitment on the part of all officials should be dedicated to ensuring as perfect an election as possible, it is a human process. Protocols should be an accurate reflection of actual activity even if minor errors must be ultimately be acknowledged. In the long run, it would be preferable for polling site officials to accurately and precisely accomplish the individual steps in counting related to the individual categories of information. Where discrepancies are noted, officials should be required to recount as necessary. If a discrepancy cannot be reconciled, perhaps it would be preferable for the PSEC to document the error and describe the steps taken resolve the problem. This information could be made part of the permanent record delivered to the TEC with the PSEC protocol. The TEC could still require a full recount of the votes as prescribed in the current law if they felt the circumstances warranted it.



Without a real and accurate accounting there can be no reliable audit trail. A reliable audit trail is fundamental to the integrity of the election process.

## ***Observer Presence During the Counting and Summarization of Votes***

The electoral laws also provide that authorized observers are allowed to remain present for the count. The rights of observers to be present during this part of the process has been dramatically expanded, not only in the laws themselves, but most positively affirmed in regulations regarding the rights of observers adopted by the CEC. The degree of transparency afforded the counting and summarization process has the potential to contribute tremendously to the accountability and integrity of the system, although sporadic lapses in implementation during the presidential elections have tested overall fidelity to the fundamental principles intended.

The rights of observers to be present during the count is expressed in the Basic Guarantees Law, and expanded most definitively in the regulations promulgated by the CEC. Article 14 of the Basic Guarantees Law states that observers sent by "public or electoral associations or by candidates and the foreign observers...have the right to be present at the polling sites on election day starting from the commencement of the Polling Site Election Commission's activities until the signing by the commission members of the election returns protocol." Under Article 31 of the same law which covers the counting of votes, PSECs are obliged to announce the returns to all members of the commission, "the observers representing the candidates or the electoral associations, as well as the attending foreign observers." A critical portion of the safeguarding of transparency through the meaningful participation of observers is stated in a later section of Article 31 that obliges the PSEC to "supply a certified copy of the protocol of the voting returns" to PSEC members and to any observers, upon demand.

The Presidential Election Law expresses the rights of observers during the counting of votes in more general terms. The language of the Presidential Election Law virtually duplicates that of the Basic Guarantees Law regarding the eligibility of observers to be present at the polling site from the beginning of the activities of the PSECs until the completion of the documents recording the election results. However, Article 52 of the Presidential Election Law falls far shorter in covering the rights of access of observers to documents at the end of the count. Under its provisions, counting is to continue without a break, and then observers and PSEC members are to be notified of the results. Then, it only requires that a third copy of the protocol be "given for familiarization" to candidates' representatives, observers, deliberative voting members of the PSEC and representatives of mass media.

### ***For Consideration***

- 10.28 A critically important omission in the law is that neither the Basic Guarantees Law nor the Presidential Election Law offers clear enough guidance as to the eligibility of observers to be present at the TEC and SEC levels during the summarization process. Unless they are also guaranteed access to observe the process and to receive certified copies of the protocols and summary tables at the higher levels, the loop is not closed and transparency is shortchanged. It is the comparison of the PSEC protocols against the entries on the summaries that allows observers, candidates' representatives, and representatives of electoral associations to verify the accuracy of the results.

- 10.29 The Presidential Election Law does not conform to the more effective language of the Basic Guarantees Law that guarantees observers the right to receive certified copies of the results. It is through the dissemination of certified copies of the protocols that a meaningful tracking and confirmation of the results through the summarization process can take place. This is another example of a disparity between the two laws which should be overcome in favor of the language of the Basic Guarantees Law as legal reform ensues.

### ***Distribution of Certified Copies of the Protocols***

Accessibility to certified protocols at all levels is one of the most significant features of the election process in the Russian Federation. Not only does it provide open transparency of the process, but it ensures its integrity. The positive and progressive potential of this right was established on solid ground during the 1996 presidential elections. However, there are two issues which will continue to need attention if the full impact of this critically important component of the election system is to reach full fruition. These issues involve:

- overcoming lingering misunderstandings among some election commissions as to their obligations in making certified copies of protocols available to authorized observers and representatives immediately upon request, and not subject to prior review by a superior election commission; and,
- strengthening the cognizance of election commissions about the official nature of certified copies of protocols and their significance as evidence in court proceedings in the event of grievances and challenges.

Despite CEC regulations that support and extend the rights of observers to receive certified copies of protocols of precinct results as well as summarized results at the territorial and subject levels, some election commissions still seemed confused about their obligations in this regard. While most commissions complied cooperatively there were still enough complaints about the reluctance of officials to release certified copies of the protocols to authorized representatives and observers that it is clear that the issue deserves additional attention. Certainly the Tatarstan case being heard in the Supreme Court involving allegations of falsification of Subject Election Commission summaries points to the significance of the issue. In the weeks following the election, complainants were still struggling to get certified copies of protocols with which they sought to support their case. Yabloko representatives were refused copies of the protocols in Tatarstan. Even the court itself was confronted with a regional bureaucracy which refused to cooperate.

This represents perhaps the most strident of cases, but it does not diminish the negative impact of similar cases that were reported at scattered locations throughout the Federation. Observers of the Communist Party of the Russian Federation reported difficulties in acquiring copies of protocols, as did representatives of Yavlinsky. Complaints were also filed in Rostov where candidates' observers reported that they had been refused copies of protocols. There was even some question as to whether IFES observers would receive a copy of the protocol from a TEC in Rostov. When a copy was provided it was not certified with the signatures or the seal of the Commission.

The importance of this transparency measure cannot be understated. With a legal basis founded in the Basic Guarantees Law and supported by clear regulations and directives of the CEC, there

should be no misunderstanding as to the rights of authorized observers and representatives to have access to this documentation.

### ***For Consideration***

- 10.30 Of particular importance in ensuring that officials do not disrupt this vitally important transparency mechanism is enforcement by higher authorities. In the Uniform Procedure for Tabulation of Vote Returns and Compilation of Protocols, the CEC evoked Article 40 (13) of the Administrative Code advised Chairmen of PSECs of the requirement to make the third copy of the protocol available for examination. The CEC stated that failure to do so would result in the imposition of fines from 20 to 50 times the monthly wage. The regulating instructions fall short in applying the same penalties to officials who fail to provide personal certified copies upon request. Perhaps the CEC was reluctant to include this violation under the jeopardy of penalty because the Presidential Election Law fails to specifically require providing certified copies as Article 31 of the Basic Guarantees Law does. But clearly the effectiveness of this guaranteed right can only be measured by its enforcement. Hopefully, full attention will be focussed on overcoming the deficiency in the Presidential Election Law, and any misunderstandings officials may have over their obligation in this regard.
- 10.31 The second issue that must be addressed is the further training of officials regarding the official standing of the certified copies of protocols. Officials at all levels need to have a solid understanding of the importance of absolute accuracy in the copies of protocols they provide. Based on the observations of IFES observers, it became apparent that often the observers themselves were making hand written copies of the data from the official protocol. This certainly an efficient way of ensuring that copies can be provided since copy machines are not available at most sites. However, officials often affixed their signatures or the seal of the polling site without actually verifying the accuracy of the data written by the observers. They simply assumed that the information had been written correctly. More than likely it was correct, however, without reviewing the copies thoroughly officials leave themselves open to misrepresentation.
- 10.32 It would also be helpful if officials maintained a list of the observers to whom certified copies were provided. One of the concerns identified by officials was that in the event the TEC control group found an error on the protocol and it was ultimately corrected by the PSEC, the observers who had requested copies would not have the corrected figures. This is a legitimate concern that points to the need for retention of documentation as to what corrections had to be made and when and by whom the adjustments were made. The original copy should be kept as part of the permanent record, while the corrected copy should include a notation that it is a subsequent version.
- 10.33 The Uniform Procedure for Tabulation of Vote Returns and Compilation of Protocols requires PSECs to inform its members with deciding vote and observers attending the procedure to complete the original protocol about the decision made regarding the correction. However, there was no indication that this notification was provided as a standard practice during the presidential elections. It should also be noted that in this directive deliberative voting members of the PSEC were not identified among those who are to be notified. An obligation on the part of the PSECs to post or otherwise apprise individuals who had taken certified copies of the protocols of the nature of any corrections

that were required should be imposed by law. Upon request the Chairman should also be required to provide a certified copy of the updated protocol which includes a notation that it is a corrected copy.

- 10.34 Additional training should emphasize the official status of the certified copies of protocols and their significance as evidence in court proceedings in the event the results are challenged.

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# 11

## ***Adjudication of Grievances***

Every democratic election system must provide for the adjudication of complaints about the election process. Successful democracies treat this area of election law not just as an unavoidable consequence of elections, nor as a reflection of weaknesses in their systems, but as proof of the strength, vitality, and openness of their politics. Legitimate allegations of violations of law or serious breaches in the election process must be pursued. Courts and election authorities should seek to develop approaches that assure timely, fair, thorough, and consistent resolution of election-related complaints and disputes. The procedures and standards for the process of redress of grievances deserve special consideration and continual refinement as they help keep the entire system honest and responsive.

As with the 1995 elections to the State Duma, high profile cases at the level of the Supreme Court, were a hallmark of the Presidential election process with disputes arising between various participants: voters, candidates, voters' initiative groups, election authorities, government bodies, and the mass media. Those who found themselves in court, either as complainants or defendants, appealed to provisions of the electoral code and applied all possible legal means to protect their rights as stipulated in federal laws. That participants actively utilized the mechanisms provided to them for redress of grievances and built their respective cases upon legal provisions is indicative of the increasing credibility of election legislation and the institutions tasked with enforcement and adjudication. While deficiencies remain and will need to be addressed before the next cycle of elections, movement away from an environment in which complaints were not formally lodged for fear of real or perceived retribution or for lack of confidence in the redress process should be accordingly acknowledged.

## **Overview of Legal and Regulatory Provisions<sup>18</sup>**

The Federal Law *On Basic Guarantees of Electoral Rights of the Citizens of the Russian Federation* establishes the fundamental guarantees of electoral rights to be ensured by election authorities and the responsibility for the infringement of those rights. According to Article 16 and pursuant to Russia's Constitution, claims may be brought in court against any decision or act (or failure to act) of governmental bodies or other official entities that may infringe upon the electoral rights of citizens. Rulings of the court shall be final as to such claims or appeals. Also, any decision or act (or failure to act) of election commissions or their officials that may infringe upon the electoral rights of citizens can be appealed to a superior election commission or in court. In such cases no preliminary appeal to a superior commission is required for recourse to courts. Claims or appeals filed during the pre-election period shall be resolved within five days.

Responsibility for the infringement of the electoral rights of citizens is addressed in Article 34, which stipulates that persons who interfere with electoral rights of Russian citizens through violence, fraud, threats, forgery or other means; who disseminate deliberately falsified information concerning candidates or who otherwise disgrace the honor and dignity of candidates; who campaign on the eve of election day; or who interfere with the work of elections commissions shall be held responsible under federal laws.

The Federal Law *On Election of President of the Russian Federation* enumerates powers of the permanent election structures, the Central Election Commission of the Russian Federation (CEC) and the 89 Subject Election Commissions (SEC). Included within enumeration of scope of powers and responsibilities of the CEC and SECs during the presidential elections is the duty to adjudicate complaints about decisions and acts (or failures to act) of subordinate election commissions and to adopt reasonable decisions regarding such complaints. Under Article 18, Polling Site Election Commissions (PSEC) are also tasked with the duty of adjudicating complaints of violations of the law and adopting reasonable decisions regarding such complaints.

Consistent with the Basic Guarantees Law, Article 23 stipulates that decisions and acts (or failure to act) of the CEC may be appealed to the Supreme Court of the Russian Federation. Decisions and acts (or failure to act) of lower election commissions may be appealed to a higher election commission or to a court of law. In such cases application to a higher election commission is not a prerequisite to appeal to the court. Decisions about complaints received by a higher commission (or court) shall be adopted within five days, or immediately if received five days or less before the

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<sup>18</sup> SEE ALSO: *Civil Procedural Code of the RSFSR* (establishes legal procedure in all courts of the Russian Federation, including cases involving complaints against actions of administrative bodies and officials; *Law of the Russian Federation on Appealing Actions and Decisions in Court which Violate Rights and Freedom of Citizens* [27 April 1993] (Art. 1 establishes right to appeal to court if citizen believes rights and freedom have been violated by governmental bodies or other official entities; Art. 152 provides citizens redress for alleged harm to honor, dignity and professional reputation); *Criminal Code of the RSFSR* (Art. 132 establishes criminal responsibility for interfering with electoral rights of citizens or with work of election commissions through bribery, fraud, violence or threats; Art. 133 establishes criminal responsibility for falsification of election documents or deliberate miscalculation of votes); *Code of the RSFSR on Administrative Offenses* (Art. 40-1 through Art. 40-13 establish civil responsibility for various acts of interference with the electoral rights of citizens or the work of election commissions and acts of voter fraud or manipulation of the vote count).

election or on election day. If facts alleged in complaints require additional review, decisions shall be adopted within ten days. A higher election commission is entitled to overrule the decision of a subordinate commission. Courts and prosecutor's offices are to be organized so as to provide timely adjudication of complaints.

Under Article 61 of the Presidential Election Law, civil and criminal liability shall be placed upon persons who interfere with the electoral rights of voters or the work of electoral commissions through bribery, deceit, violence or threat of same, falsification of documents, deliberate miscalculation of votes or other means; who deliberately spread false information about candidates or interfere with pre-election campaigning; or who interfere with other legal conduct of candidates or their representatives or of domestic or foreign observers.

Changes in the entire Russian legal system in recent years have shaped developments in adjudication of election-related complaints. Most significant has been the effect of Article 123 of the Constitution of the Russian Federation, adopted in December 1993, by which court proceedings shall be conducted on the principles of controversy and legal adversary. Formerly courts were authorized to collect evidence sufficient to warrant a court hearing. Now, the burden of gathering and submitting evidence is upon the contesting parties. Thus, in the context of election complaints, individuals appealing decisions of election commissions must prove their electoral rights have been violated, and commissions have to demonstrate their decisions and actions were legal and appropriate.

The Basic Guarantees Law clearly established broad standards for protection against the infringement or compromise of voters' rights, while laws on election of deputies to the State Duma and of President enumerate specific procedures for redress of grievances and resolution of disputes regarding the election process. Political participants in the 1995 and 1996 elections have shown greater willingness to use opportunities under the law for both administrative and judicial appeals. Voters, candidates, electoral associations and voters' initiative groups are increasingly exercising their right to complain if they believe they have not been treated fairly.

## ***Judicial Review of Election Complaints***

Complaints before the Supreme Court may be reviewed by one judge, rather than the customary three judge panel, with the consent of the complainant. Appeals of CEC decisions are generally heard by only one judge. The Procurator General's Office is informed of cases in advance and a procurator usually participates in the proceeding. The procurator's role is to represent the state and law, even though the case is a civil rather than criminal one. Procurators review evidence, ask questions of parties to the case, and advise the judge of legal issues and statutory interpretation. Hearings begin with an overview of the case presented by the judge, move to presentation of evidence and testimony by the parties, and concludes with the judge's deliberation and decision of the case.

During the course of the December 1993 elections, only six appeals were filed with the Supreme Court of the Russian Federation against decisions of the CEC -- all of which were denied. In the December 1995 elections, 93 complaints and appeals were brought to the Supreme Court, of which 59 were accepted for consideration by the Court. (Many of the 34 cases refused consideration by the court involved complaints about district commissions, particularly as to their refusal to register candidates for single-mandate seats, which the Court believed to be the more appropriate

jurisdiction of courts at the subject or local level.) Approximately 100 cases arising from the 1995 State Duma elections were also filed in courts at the subject level.

Of the 59 cases considered by the Supreme Court related to the State Duma elections, 38 complaints or appeals were denied, 20 were granted and one was dropped by the complainant. Issues most prevalent were initial registration of electoral associations and blocs; authentication of federal slates of candidates by electoral associations and blocs for purposes of signature petition collection; refusal to register slates, often based on allegedly inadequate or invalid signature collection (four appeals were successful and eight were not); and withdrawing of names from the federal list of candidates (the Supreme Court overturned the CEC's denial of registration of the electoral bloc Yabloko based on candidate withdrawal).

### ***Complaints Regarding the Registration of Presidential Candidates***

During the period surrounding the presidential elections, 32 cases had been brought to the Supreme Court as of mid-July 1996. Several of these cases were brought as appeals of CEC decisions regarding the nomination and registration of candidates, particularly with respect to whether signatures on candidate petitions were insufficient, invalid, or fraudulent. One million signatures were required to qualify for presidential candidacy, with no more than seven percent of the signatures coming from any one Subject of the Russian Federation. The review of signatures on candidate petitions overwhelmed the CEC and its staff, and subsequent complaints and appeals regarding CEC decisions dominated the adjudication process.

The case involving the refusal to register Vladimir Bryntsalov based on invalidation of significant portions of his signature petition was particularly controversial. Representatives of the voters' initiative group which nominated Bryntsalov submitted to the CEC signature petitions containing in excess of 1.3 million signatures in support of their candidate. The CEC denied Bryntsalov registration. They cited the fact that some signatures had been found to be invalid, had otherwise failed to meet the legal requirements, or suffered other technical insufficiencies. The rejection of the signatures in these petitions would not necessarily have been sufficient to put the total number of signatures below the required threshold. However, the most prominent grounds cited by the CEC as the basis for their denial was that authorized representatives of the candidate who are required to certify the petitions before they are submitted to the CEC, had failed to comply with the federal laws. In particular, the CEC had found, in addition to the invalidity or insufficiency of some signatures contained in the petitions, information provided by some collectors was "fictitious" or misrepresented. They had determined, therefore, that all signatures collected by those persons should be rejected. The CEC's determination then went much further. They generally faulted the authorized representative for certifying petitions containing false or fictitious information provided about the collector. They concluded, therefore, that any petitions certified by that authorized representative within the relevant Subject, regardless of the legitimacy of the other collectors or the information they provided should also be rejected. It was the carte blanche rejection of these other petitions which ultimately put the total number of signatures below the threshold resulting in the candidate's registration being denied.

The protracted rejection of all petitions within a Subject on the basis of questionable information or handling of individual petitions was most likely thought to be justified by the CEC since their similar action had been upheld by the Supreme Court during the 1995 parliamentary elections. In that case involving the electoral bloc Front of Public Salvation, the court had ruled that when



petitions submitted by a particular collector were found to contain fraudulent or deliberately misrepresented signatures of voters, all petitions submitted by that collector could be rejected. They also supported the CEC's contention that if documents certified by an authorized representative were found to be fake, the signature lists certified by that representative could also be withdrawn from the count. The Supreme court held that on the basis of the violations committed by the collector and the authorized representative in these instances, the CEC was entitled to distrust other petitions submitted by these individuals.

The Supreme Court seemed to reverse its position in the Bryntsalov case. However, there may have been a subtle distinction between the two cases. The 1995 case stressed the falsification or misrepresentation of the voters' signatures contained in the petition. In the Bryntsalov case there was particular emphasis placed on false or questionable information about the collectors themselves. For example, one collector was perceived to be a fictitious person, and residence information provided by another collector was challenged. In another example, the collector was less than 18 years of age.

Ultimately, in the Bryntsalov case the Supreme Court found the decision of the CEC unlawful and instructed it to register Bryntsalov as a candidate for President of the Russian Federation. The Court, in its decision, disagreed with CEC procedures for verifying voter signatures and rejecting invalid signatures. The Supreme Court held that grounds found for rejecting the petitions of one collector could not be automatically extended to serve as the basis for rejecting signatures collected in a Subject by other collectors or certified by the same authorized representative. Instead, the court ruled that specific evidence or facts of violations of the law had to be found for each collector petition individually. The Court found similarly in the case of presidential hopeful Martin Shakkum.

In a number of other cases, however, evidence of inaccurate, incomplete, or falsified information was sufficient to bring the number of valid signatures below the threshold required for registration as a candidate. Anatoly Tarasov, for example, appealed against the CEC's refusal to register him as a candidate for President of the Russian Federation citing the failure of his representatives to obtain from the CEC information on the process of verification and the finding of reviewers as they pertained to his petition, and alleging that no expert analysis had actually been conducted.

The Court rejected the complaint, finding that the voters' initiative group of Tarasov submitted to the CEC over 1.3 million signatures of which 582,443 were rejected either due to the provision of incomplete or inaccurate information on signature collectors, authorized representatives of the voters' initiative group, or voters. In Lippetsk, Voronezh, Chelyabinsk, Krasnodar, and Krasnoyarsk, the Court found that signature collectors actually fabricated petitions without actually soliciting voters' signatures. Due to the breadth of deliberate falsification by certain signature collectors, the Court upheld the CEC's decision to withdraw all petitions submitted by those persons.

In another case, L. Ubozhko appealed against the resolution of the CEC to deny his registration as a candidate for President of the Russian Federation, stating that his authorized representatives had met the requirements set by the CEC for registration. In this case, the Court relied upon the testimony of handwriting experts who determined that 172,000 signatures were, in fact, fabricated. The Court also accepted the CEC's determination that inaccurate passport information contained in petitions and lack of certification by authorized representatives of other petitions was in violation of the law. The total number of valid signatures was less than the one million required by law.

## ***Court Cases Involving Pre-Election Campaigns***

Once candidates were registered, the bulk of cases brought before the Supreme Court involved violation of candidate's rights during the campaign period, compliance of CEC regulations with the federal electoral code, in particular with regard to the storage of election documents including ballots, and the integrity of election results. The most high profile campaign case involved legal guarantees of free air time on state television. Presidential candidate Martin Shakkum brought suit over the decision of the leadership of ORT Television not to broadcast candidate debates, claiming that ORT television unlawfully infringed upon his rights as a candidate and alleging further violation these rights by the CEC which failed to enforce legal/regulatory guarantees of free air time and to respond to the candidate's complaint within the time-frame stipulated by law. The Court agreed, finding actions by the ORT leadership and inaction of the CEC illegal.

## ***Allegations of Election Fraud***

Registration and campaign related cases were soon overshadowed, as the first case alleging election fraud was brought before the Supreme Court. Following the first round of elections, the integrity of election results in the Republic of Tatarstan was questioned by V.G. Soloviev. The case was brought directly to the Supreme Court of the Russian Federation, based on the CEC's acceptance of the certified protocol of results from the Tatarstan SEC. As such, the CEC was placed in the position of defendant, rather than the Tatarstan election officials who were alleged to have manipulated the results. The complainant offered as evidence certified copies of protocols of subordinate election commissions which did not correspond with the numbers being reported by the SEC. In this case, the CEC defended its own performance in summarizing and announcing voting results pursuant to the law and assisted the SEC in its defense. Of concern, the CEC attorneys attempted to deny the evidentiary value and legal sufficiency of certified copies of protocols obtained by candidates' observers of Territorial Election Commissions (TEC) and PSECs. By taking such a position, the CEC undermined the transparency and accountability envisioned by the federal electoral code and reinforced the CEC's own regulations and instructions to its subordinate commissions. The case was ultimately suspended by the Court and referred to the Office of the Procurator General for investigation of criminal liability on the part of election authorities in Tatarstan. As of September 1996, the investigation was still underway with representatives of the Procurator General in Tatarstan.

Following the second round of elections, Soloviev brought additional cases alleging manipulation of vote returns in the Subjects of the Russian Federation. A second case was brought before the Court and involved reported results in the Republic of Mordovia. The CEC, to its credit, took a significantly different tact with respect to this complaint, one which served to pinpoint and correct falsified returns and build public confidence in the electoral system and the adjudication of grievances process. CEC attorneys requested a postponement of the case until its representatives could be deployed to Mordovia to review the matter and, if necessary, make adjustments in the official results. The Court concurred. CEC representatives did confirm falsification of results in one territory of Mordovia, where a significant number of votes cast in favor of Zyuganov were recorded as "Against All Candidates," and subsequently adjusted vote totals for the Republic. As a result, the Court determined that there was no basis to hear the complaint, and dismissed the case. The CEC has referred the case to the Procurator General for investigation of criminal liability.

As of September, two additional cases involving alleged falsification in Saratov and Rostov have been brought by Soloviev, the complainant in all election fraud cases to date. These, however, have been forwarded directly to the CEC for their review and determination.

## ***Election Commission Review of Complaints***

For the recent Presidential and State Duma elections, the CEC has established internal "working groups" to process complaints. The responsibilities of these groups correspond with three substantive areas: complaints related to pre-election agitation and media disputes; complaints related to the election process itself, including voting and tabulation; and complaints related to campaign financing. The working groups include participation of commissioners, legal department staff and support staff.

Written complaints brought to the Commission are entered into a "log" and assigned to the appropriate working group, which have three days from the receipt of the complaint to conduct a preliminary review. A team comprised of a commissioner member, an attorney from the CEC Legal Department, and a staff person with expertise in the subject matter generally examines the issues involved and evidence presented, prepares an overview outline, and makes preliminary findings and recommendations. Based on the team's findings and their own deliberation, the working group responds to the complainant. If the complainant is satisfied with this decision, the matter is concluded. If the complainant rejects this decision, the case can be brought forward for a hearing before the full Commission. The Commission's decision can, of course, be appealed to the Supreme Court.

Foreign observers of the Russian election process during the past year have been struck by how often election commission decisions appealed to the Supreme Court seemed to revolve around relatively arcane details of procedure and form. The CEC was particularly demanding of exact information and absolute adherence to formal requirements, especially in the filing of nomination documents and signature petitions. Moreover, observers noticed a tendency for election commissions to view complaints or appeals of their decisions as a sign of failure or an insult rather than a sign of a vigorous and competitive political environment.

By 1 January 1996, the CEC had considered 128 complaints from voters, candidates, electoral associations and blocs concerning the decisions, actions and inactions of election commissions during the State Duma elections. Hearings were held for nearly 40 of these cases. Most appeals involved denials of registration to candidates of single-mandate districts by District Election Commissions (DEC) due to allegedly inadequate, invalid or improperly obtained signatures on petitions. Some related to allegations about miscalculations in voting results announced by district election commissions, including contested elections or decisions invalidating elections in the single-mandate districts.

The 1996 presidential election generated far more complaints than the 1995 State Duma elections alleging infringements or violations related to pre-election campaigning and mass media. The CEC working group responsible for reviewing complaints of that nature considered over a hundred complaints (and many were also heard by the Supreme Court). These complaints involved disputes or allegations involving: denial of broadcasting time on television and radio stations or unfair treatment in broadcast of candidate debates; dissemination of anonymous campaign literature; unequal treatment in placement of newspaper advertising, or negative or false content of editorials; and use of government assets or participation of government personnel to favor a candidate.

With regard to the latter, a significant number of complaints were brought before the CEC concerning reported coercion of voters in the signature collection process, most notably by the Administration of Railways under the jurisdiction of the Ministry of Communications to the benefit of incumbent President Boris Yeltsin. The SECs, at the instruction of the CEC, verified facts brought forth by complainants. Generally, the SECs failed to find concrete evidence of violations, although a number of cases were found to be grounded, in Irkursk, Amur, and Kirov Oblasts and the Udmurt Republic. Complaints were also brought to election commissions in Moscow, Tyumen, and Astrakhan concerning the participation of government executive authorities in campaign activities which benefited the incumbent.

Formal complaints to the CEC during the presidential elections regarding the law and regulations on campaign finance were virtually non-existent; violations brought to the attention of the CEC were voluntarily corrected by candidates and their supporters. Disputes arose at the end of the campaign regarding the responsibility of candidates who withdrew from the election to return funds to the federal budget and regarding the disposition of assets remaining in candidate accounts after the election.

## ***Channeling Complaints Under Present Law***

As noted above, any citizen can file a complaint with the courts or election commissions or both alleging violations of their electoral rights by governmental bodies or election authorities. Pursuant to the Basic Guarantees Law, a complainant is not required to seek administrative redress or preliminary appeal through election commissions prior to seeking court review. (Such a requirement generally exists under laws in the United States, called the doctrine of "exhaustion of administrative remedies.") The fundamental right of access to the adjudication process must be protected, but some problems have arisen under the current laws and procedures as to division of authority and original or appellate jurisdiction among governmental bodies.

- **Division of Adjudication Authority Between the Courts and Election Commissions**

The rights under the law to either pursue complaints or appeals of official decisions through courts or election commissions has resulted in a confusing "parallel track" for complaint adjudication. No procedural or substantive lines of jurisdiction distinguish the two options. In particular, some complainants have submitted their cases simultaneously through administrative channels and to the courts. In these circumstances election commissions have questioned their authority or obligation to pursue their review of the complaint in view of the court's superior juridical status. Some cases appear to have jumped back and forth causing delay and interruptions of their resolution.

- **Access to the Supreme Court**

The Supreme Court is obligated to hear any case properly filed with it regardless of legitimacy. Filing fees are extremely low. Complainants face no serious disincentives or obstacles to filing a case and tying up the court's calendar. For example, the Court was asked to hear an appeal of the CEC decision to deny registration to prospective candidate Yuri Novoshilov despite the fact that he failed to present any documents required by law, including signature petitions in support of his candidacy.

- **Delegation of Review Authority Within the Election Commission Structure**

The election laws specifically contemplate adjudicative review of decisions, actions and inactions of lower level election commissions by both the SEC level and the CEC. Many complaints, however, are submitted directly to the CEC rather than through the hierarchy of lower level commissions. In addition, the vast majority of complaints which are generated from lower level commissions go directly on appeal to the CEC or to the Supreme Court. SECs, in general, appear to be passed over in the appeal process as either unnecessary or hopelessly biased by local political interests. It is uncertain how much discretion to review facts the CEC chooses to exercise in hearing appeals from lower commissions, or if its review is based solely on whether the lower commission properly interpreted and applied the law. And, in at least one instance, the Commission declined to independently investigate allegations regarding vote count manipulation and fraud or challenged the accuracy of the vote count, claiming it was bound by the election law to accept results on protocols provided by SECs.

- **Investigative Power and the Role of Procurator Offices**

Many election-related complaints appear to be filed directly with procurator (public prosecutor) offices although neither the election laws nor the relevant regulations make any reference to this option. In other circumstances, cases appear to be referred to the procurator for investigation and recommendation by both courts and election commissions, especially when criminal conduct may be involved (in which case the procurator may subsequently bring criminal charges directly). The CEC apparently refers serious cases to the Procurator General in Moscow when assistance is needed to investigate facts and gathering evidence, since the CEC lacks manpower and resources for major investigations. It is unclear precisely what process or standard is used for these referrals, what disposition must then be made or on what time-frame, and in what legal status the case remains while it is "out of the hands" of the CEC or courts for procurator review.

### ***For Consideration***

With the rights of citizens and political participants already firmly enshrined in the election laws, improvements in adjudication of complaints is obviously a procedural rather than substantive or policy matter. The primary focus of revisions to the election law and procedures, and any related aspects of judicial practices, in the area of complaint adjudication should be on separating, clarifying and making more efficient the avenues for pursuing grievances and resolving disputes. The objective should be to ensure that the system is not only responsive, but is also capable of rendering fair and enforceable results in time to be meaningful in the election context. Throughout this Chapter, the following impediments have been identified which have tended to confound the existing process. They have included such issues as unclear distinctions as to the proper venues through which complaints should be brought, delays caused by parallel tracks being pursued simultaneously through administrative and judicial channels, and failure of the system to respond in time.

- 11.1 It could be extremely helpful to consider redefining the appropriate channels through which claims and grievances should be pursued to, based on a structure that delineates between the types of issues to which they pertain. Under the current laws, specifically Articles 16 of the Basic Guarantees Law and Article 23 of the Presidential Election Law,

aggrieved persons may appeal for remedy to the election commissions or the courts. Article 23 also states that submission of an appeal to the election commission is not a prerequisite for filing before the court. This non-specific approach, while well-intended, has actually caused some of the problems that have sometimes hampered the effectiveness of the adjudication process in the election context. The advantage of dictating the specific channels for the first line of appeal more precisely is that it could help resolve some of the confusion and delays that have been experienced in the past.

As a springboard for discussion, the table that follows represents one approach as to how the laws might be amended to assign jurisdictions for initial entry points for appeal of complaints by subject matter. The sample of an approach presented here tries to ensure that, to the extent possible, administrative remedies can be exhausted before relief is sought through the courts. This example is based on issues related to presidential elections. However, the approach could be modified to accommodate other types of elections.

Articulation of clear guidelines within the law would greatly assist citizens, candidates and election participants in understanding how they may appeal adverse decisions, actions or omissions or other violations on the part of election commissions or violations committed by officials of state and local-government bodies, the media, candidates or other election participants. It would help the various commissions and juridical bodies in understanding their authorities and responsibilities and where they fit in adjudication process.

## POTENTIAL STRUCTURE FOR CHANNELING COMPLAINTS FOR ADJUDICATION

GENERAL ISSUE OF COMPLAINT	FIRST CHANNEL OF APPEAL	SUBSEQUENT APPEAL
Registration of Candidates and Electoral Blocs	Supreme Court (Since the Central Election Commission registers candidates and blocs, there is no higher level from which to seek administrative remedy)	N/A
Challenges of the Legality of Regulations of the Central Election Commissions	Supreme Court	N/A
Preparation and Implementation of Election Administrative and Voting Procedures (Including Preparation of Voter Lists; Complaints of Observers and Deliberative Voting Members on Actions or Decisions of Election Commissions; Ballot Preparation; Conduct of the Poll; Mobile Voting; Counting the Votes; Summarization of Results, etc.)	Through the Hierarchy of Election Commissions	Through the Courts
Campaign Financing	The Division of the Central Election Commission (or an Independent Campaign Finance Commission, if one is established)	Through the Courts
Challenges Related to Election Results	Through the Hierarchy of Commissions with Territorial Election Commissions obligated to investigate complaints regarding results reported by polling sites; Subject Election Commissions investigating complaints regarding summarized protocols of Territories and the Central Election Commission investigating complaints regarding summarized results reported by Subjects. Supreme Court when brought by complainants who are not satisfied by administrative remedies of the CEC.	The Supreme Court or Procurator General when brought by the Central Election Commission due to failure of lower level commissions to comply with decisions of CEC decisions, or when there is evidence of criminal activity.

GENERAL ISSUE OF COMPLAINT	FIRST CHANNEL OF APPEAL	SUBSEQUENT APPEAL
Pre-Election Campaigns and the Media	<p>Judicial Chamber for Information Disputes:</p> <p>In these cases, the Judicial Chamber would serve as the recourse for seeking administrative remedy.</p> <p><u>Advantages:</u></p> <ol style="list-style-type: none"> <li>1. The Judicial Chamber is an independent juridical body with specific expertise in media and informational issues.</li> <li>2. It would remove the Central Election Commission from having to decide on issues that could influence the balance of the campaigns and the status of candidates, especially when complaints relate to issues vulnerable to subjective or selective interpretation.</li> <li>3. CEC could be party to the complaints being adjudicated.</li> </ol>	<p>The Supreme Court: Cases would be brought by complainants who seek to appeal decisions of the Judicial Chamber for Information Disputes;</p> <p>Supreme Court or Procurator General: Cases brought by the Judicial Chamber in cases in which entities refuse to comply with the rulings of the Chamber.</p>

- 11.2 In dealing with cases related specifically to actions and decisions of commissions including errors, omissions or violations, the law should require appeals of subordinate election commissions to be initially brought to higher commissions. Except in extraordinary circumstances specifically delineated under the law, complainants should not have the option of bringing election-related complaints or appeals of decisions, actions or inactions of subordinate election commissions directly to court. Prior to judicial review, complainants should be required to "exhaust" available administrative remedies. All complaints should be first brought to appropriate commissions and all appeals of their decisions brought to the subject commissions and then CEC. Only appeals of CEC actions should proceed to the Supreme Court (which may refer cases to lower courts or procurator offices for fact finding where appropriate).
- 11.3 Mechanisms should be devised to improve the capacity of SECs to review complaints and appeals. Under the election laws, SECs are permanent bodies, and are specifically recognized as having responsibilities for reviewing appeals of decisions of subordinate election commissions. (DECs and TECs are neither permanent nor empowered to review appeals.) The role of subject election commissions in complaint adjudication should be deliberately elevated by procedural changes (including those described immediately above). Their capacity to professionally and responsibly perform this function should be strengthened through training, additional resources, and monitoring by the CEC.
- 11.4 The scope of authority and responsibilities of courts in reviewing election commissions actions should be clarified in law. After appeals through SECs and the CEC have been exhausted, review at the Supreme Court of the Russian Federation should largely be limited to questions of interpretation and application of the law. To the extent permitted



by general laws and regulations of civil procedure, the Court's role in evidence gathering and fact determination should be limited to extraordinary situations specifically delineated by the election law. The Court should refer cases back to election commissions or lower courts, which are presumably closer to the events and persons involved (or perhaps to procurator offices), for further fact-finding when necessary. Appeals to the Supreme Court should be permitted on a more discretionary basis, with a threshold showing of significance required as to legal issues or potential harm to complainant.

- 11.5 The election laws or Administrative Code should specify a statute of limitations for election-related complaints or appeals of election commission actions. Complainants should be required to file complaints or appeals within a reasonable time of events or discovery of a grievance.
- 11.6 The role of procurators in examining and investigating election-related matters should be clarified, and the investigatory authority and capacity of the CEC should be expanded. Clear guidelines should be established for when complaints may be filed directly with procurator offices (probably only in cases of legitimate allegations of criminal conduct) and under what circumstances and time lines election commissions or courts will refer cases to procurator offices for investigation. The CEC should be granted broader authority and given greater resources for investigating complaints and appeals before it, including subpoena power.
- 11.7 The election laws should be revised to explicitly obligate the SECs and the CEC to investigate allegations of vote count fraud or manipulation by subordinate commissions. The accuracy and honesty of the vote count and tabulation process is fundamental to the election process. The election laws should be amended to explicitly authorize SECs to hear complaints and investigate allegations of vote count irregularities by subordinate commissions, and authorize the CEC to hear complaints and investigate similar allegations against subject commissions.
- 11.8 A compendium of relevant laws and court cases election-related complaint adjudication should be created. Resolution of complaints should yield consistent outcomes. A system of election laws should be comprehensible and predictable for those who participate in the election process. To promote compliance with the law, candidates, electoral organizations, election officials and voters should know what to expect from the law, election law enforcement and complaint adjudication. That information will also assist in revising the law and refining the adjudication process itself. Thus, information about complaint adjudication and other official applications of election law must be compiled, organized, routinely published and made accessible to political participants, commissions and the courts.
- 11.9 There is a wealth of information available which could help identify the successes and failures of the election process on election day, and during the counting and summarization procedures. At each stage commission members who disagree with the decisions of the commission or with the information provided on the protocols are allowed to attach their comments to the protocols. In addition, complaints submitted by voters, candidates and other election participants, and a statement as to how the complaints were addressed and resolved are also supposed to be attached to the protocols. Presumably, the issues have been addressed prior to the time they are transferred to the successively higher level

commission. However, once they are transferred there seems to be no formal method whereby they are reviewed to ensure that they have been properly handled by lower level officials. In addition, if such a review were formalized as a standard practice, analysis of the nature of the complaints would be most beneficial in assisting election administrators in identifying trends, and where legal or procedural reforms, additional training or civic education may be may be called for. It is recommended that TECs be required to review the dissenting opinions and complaints submitted with PSEC protocols, determine where additional action is necessary, and prepare a summary report which quantifies the types of complaints being brought forth, and describing the resolutions which ensued. They should also be encouraged to make recommendations as to how some of these difficulties could be avoided in the future. SEC should be required to follow similar procedures for the subject as a whole. These reports should then be submitted to the CEC in order that they may be apprised of difficulties being encountered and can strategize as to what action may be necessary not only in the immediate term, but also for the future.

# 12

## ***Determining the Winner and Second Round Voting***

The Federal Law *On Election of President of the Russian Federation* establishes a double threshold for any candidate to be declared the winner of the election. Under Article 55 at least 50% of the voters on the voters list have to have taken part in the election for the election to have been considered valid. To be declared the winner of the election a candidate must have received more than 50% of the votes cast on official ballot papers. Ballot papers found in the ballot box of non-standard form are excluded from the calculations.

During the 16 June 1996 first round there were ten candidates remaining in the race as of election day. One candidate had withdrawn. None of the candidates was successful in achieving the threshold of votes required to be declared a winner. The two candidates with the highest number of votes were incumbent President Boris Yeltsin with 35.05% of the votes and Communist Party (KPRF) candidate Gennady Zyuganov with 32.35% of the votes cast. They were slated to run against each other in the repeat voting. Article 56 requires that the second round voting occur within 15 days of the "estimation" of the results from the general election. The date selected for the repeat voting was 3 July 1996. The ballot for the repeat voting also included an option which allowed voters to vote "against both candidates."

The law dictates that second round voting is to be conducted under the same laws that applied to the general election. The only provision which is waived during the second round voting is the 50% threshold for voter turnout requirement. The procedures followed at the polling sites in the processing of voters and during the counting and summarization of vote were the same as those employed in the first round. The special services such as absentee voting, mobile ballot voting by voters outside the polling site, early voting on vessels and remote sites were also available during the second round.

The eligibility requirements for voting in the second round voting were exactly the same as they were for the regular election. Any citizen who had reached the age of 18 by election day was eligible to vote, unless they had been found incompetent by a court or were imprisoned by a decision of the courts. When the voter lists were compiled for the first round election two copies were prepared. One copy was used for the general election; the second copy which had been retained by the Territorial Election Commissions (TEC) was subsequently distributed for use in the second round. Upon receipt of the second copy, the Polling Site Election Commissions (PSEC)

were responsible to update the list based on the final list resulting from modifications and additions made to the first list during the general election. The modifications included:

- all the additions to the list during the voting on election day;
- additions of voters who had moved to the area after the original list was compiled;
- additions of voters who had been omitted from the original list in error but presented identification documents proving their residency or temporary accommodation in the area served by the polling site;
- changes in basic information about the voter; and,
- information about voters who applied to the polling site for an Absentee Voting Certificate which would allow them to vote elsewhere.

For the second round voting the updated lists were to be made available for public scrutiny not later than five days before the date of the second round election.

The Central Election Commission of the Russian Federation (CEC) provided liberal access to the polls by the same groups of observers as those who had been eligible for the general election. These included the deliberative members of the commissions and observers representing candidates who had not advanced to the second round. With regard to the deliberative voting members of losing candidates, their terms are defined in the Federal Law *On Basic Guarantees of Electoral Rights of the Citizens of the Russian Federation* as lasting until 30 days after the announcement of the results of the election. Therefore, even the deliberative voting members representing candidates who failed to advance to the second round retained their posts. The same privileges were retained for observers representing political associations who had nominated losing candidates.

Under Article 56 of the Presidential Election Law, the person who receives the greatest number of votes is declared the winner as long as the number of votes cast for this person is greater than the number of votes cast "against both candidates." The results of the second round gave Yeltsin the victory with 53.8% of the votes over Zyuganov who received 40.30%.

### ***Mid-Week Voting***

Under the laws of the Russian Federation elections must be held on a non-work day. Most commonly elections are scheduled on Sundays. The selection of the 3 July date was subject to controversy because it meant that the election would fall mid-week, on a Wednesday. Choosing a mid-week day was perceived as an attempt to increase participation. Concern was expressed that there could be a drop in turnout for the second round which is relatively common when elections are held very close together. There was also concern that a decline in voter participation would be aggravated further by the likelihood that voters would leave town over a weekend for recreation at their dachas, especially since the weather had warmed significantly. Some controversy was expected over the decision to hold the second round voting mid-week because it would require a presidential decree to make the voting day a holiday to comply with the law requiring non-work day voting. In addition it was expected that the KPRF would resist the mid-week choice because

pundits had universally agreed that a high turnout was essential to a Yeltsin victory. Ultimately, however, the mid-week election day was supported on all fronts.

Although mid-week voting was expected to reduce the number of voters who would be voting with an Absentee Voting Certificate, in areas where IFES observers were present, absentee voting was widespread. In Moscow the use of Absentee Certificates was extensive, demonstrated not only by the high number of certificates issued at the urban sites, but in the number of certificates actually used in the rural areas in large concentrations. Voters who had applied for Absentee Certificates in the general election were allowed to retain them for use in the second round as well. During the second round new applications were processed so that the overall number of voters in possession of Absentee Certificates rose. At rural precincts outside the city of Moscow numbers of absentee voters presenting themselves to vote were as high as 125. In Leninsky Territory of Rostov Oblast where IFES observers were present for the summarization of votes, the number of voters who applied for absentee certificates virtually doubled from 1.1% in the first round to 2.1% in the second round. Likewise, the number of voters who used Absentee Certificates to vote in the territory rose from approximately .8% to 1.3%. In the general election, only .5% of the voters of the Subject at large used absentee certificates, and only .6% had applied for certificates to vote elsewhere.

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# 13

## ***General Issues***

Throughout this report there have been discussions of various issues that may provide food for thought as lawmakers and election officials review the presidential elections to evaluate its strengths, analyze its weaknesses, and pursue options to continue to build on the solid foundation which has already been built. In spite of the difficulties, and sporadic infractions, violations and inconsistencies, the presidential elections were carried out in a competent and efficient manner and generally in compliance with the laws and regulations governing election day activity. The voters were well served and were offered full opportunity to freely exercise their right to vote, and through their ballot, to express their political will. Except as noted, the elections have been widely considered an overall success. However, there are issues which will deserve serious consideration as officials and lawmakers continue to build on the systems and institutions that have not been rooted in fertile soil.

### ***Citizenship as it Relates to Voting***

Certain circumstances were encountered during the presidential elections suggesting that issues regarding citizenship as it relates to the eligibility of voters to participate in the election need to be revisited. IFES observers at the Russian Embassy in Washington noted that questions remain related to proof of citizenship. One of the officials at the Embassy explained that most passports being presented were USSR issued, but the regulations do not clearly indicate how to distinguish between citizens of the Russian Federation and those of the former USSR republics. Therefore it is very likely that citizens of other NIS countries were allowed to vote in the presidential election. Observers also witnessed the refusal of a ballot to a Russian citizen who had been a resident of the United States for two years. This voter was not issued a ballot because there was no registration in her passport although the dates on her passport were still valid.

Other international delegations reported another issue that arose related to questions of citizenship or residency. In particular, there appeared to be an inadequate resolution of issues related to eligibility of ethnic Russians who had immigrated from NIS countries but had no documents that proved their citizenship. In some instances voters in this circumstance told observer delegations that they had been turned away even though they had been on the voter lists and had participated in the elections to the State Duma in December of 1995.

### ***For Consideration***

- 13.1 Guidelines for polling sites should include information to assist officials in determining if a voter satisfies the citizenship requirements, particularly at polling sites outside the

Russian Federation. The instructions should define citizenship for voting purposes, and describe documents or passport information which can be accepted as proof of citizenship. The guidelines should be more explicit with regard to the status of persons holding USSR passports. It would also be helpful if the 1992 citizenship law that is referenced in the regulations be readily available to the PSECs serving these sites.

## ***Influence of Local Administration***

Warranted concern has been raised that undue and improper influence of some local administrative bodies continues to interfere with the fairness of the pre-election campaign and the independence of election officials in the discharge of their duties. The Federal Law *On Election of President of the Russian Federation* is quite clear with regard to the participation of local administrations in the pre-election campaign.

- Article 38 prohibits the conduct of pre-election campaigns or the spread of any pre-election campaign materials by "federal bodies of state power, bodies of state power in Subjects of the Russian Federation, bodies of local self-government, as well as their officials in the process of fulfilling their officials duties..."
- Article 45 restricts the sources from which candidates may receive financial support for their campaigns. Among them are "bodies of local government, state and municipal enterprises, agencies and organizations."

Despite such clear language, there have been a number of complaints that local administrations overtly and covertly violated the law, and that their actions had gone unchallenged by appropriate electoral and enforcement authorities. A number of examples of circumstances alleged by various candidates and noted by observer delegations leave in question the degree to which compliance with these provisions of law are taken seriously by the officials involved. They illustrate the need for this issue to be addressed if the integrity and fairness of the election process is to be preserved.

A number of observer delegations noted in their reports on election day activity that representatives of local administrations were on hand at a number of polling sites and seemed to be intruding on the work of election officials. In some instances, including those witnessed by IFES observers, local administrators were actually giving orders and directives to the Polling Site Election Commissions (PSEC) and overseeing the general conduct of activity. Similar observations were reported by election participants. In Chelyabinsk, for example, Yabloko (the electoral association supporting Yavlinsky) filed a formal complaint with the SEC about the intrusive role of administrative authorities at the polling sites. Ultimately, the SEC rendered a decision that the activities of these officials were in violation of the law. Later in the day they were notably taking a lower profile. According to Yabloko representatives, however, they observed little change in the second round during which administrative authorities continued their oversight of PSEC. Similar allegations were forthcoming from the KPRF of the Russian Federation (KPRF).

Another concern that was raised was that observers representing President Boris Yeltsin seemed to have been affiliated with local administrative authorities. Because the preponderance of these observers seemed to come from local administrations, it leaves open the question whether they were volunteers or whether they had been drawn into service because of their availability through administrative structures. In contrast observers representing other candidates generally seemed

to be more directly tied with the campaigns of the candidates. There is room to consider whether representatives of local administrations should be restricted from participating as deliberative voting members or observers altogether. Their continued presence in these capacities only served to fuel existing concerns and perceptions about the intrusive or improper influence of administrative authorities in the conduct of elections. Article 38 of the Presidential Election Law already precludes these officials from participating in pre-election campaigns in their official capacity. It can be argued that being a partisan deliberative member or observer for a particular candidate falls into this category. Prohibitions against the participation of administrative officials in these roles is warranted to prevent a conflict of interest which could arise from their potential influence over the conduct of the election itself.

Concern was expressed by the KPRF Campaign Headquarters in Rostov, that local officials had formed a "shadow" campaign organization which had been registered by the Ministry of Justice. One such group, called Home for the People, sent a solicitation letter requesting financial contributions for the conduct of charitable activities in the region, organization and conduct of youth programs and projects, consultancy and information services for the public, and to acquire "printed and advertising materials for the conduct of election to the bodies of state power." Nothing in the letter made specific reference to the presidential campaign. The amount being asked for in the letter was five million rubles. The letter provided an account number in which the funds were to be deposited that was apparently not related to the electoral fund of the President. However the signature on the letter was purportedly that of the Vice Mayor of Rostov. It was alleged that the letter had been sent to directors of state enterprises, utility companies, work collectives and collective farms. Concern was expressed that this public association was actually an extension of Yeltsin's campaign apparatus and that the funds channeled through its account were probably used for pro-Yeltsin propaganda, side stepping the restrictions of Article 45 of the Presidential Election Law against campaign contributions from "bodies of local self-government, state and municipal enterprises, agencies and organizations."

During a visit to Rostov, IFES observers also received a copy of an instructional document which provided recommendations and discussed procedures which should be followed in developing information and propaganda for the repeat voting to increase voter turnout and to promote a Yeltsin victory. This instructional document was created by the Oblast Headquarters for Yeltsin Support. According to its title page, however, the target audience for these detailed instructions was not only the staff of the regional Yeltsin campaign offices, but also local and regional administrations. Among the details covered in the instructions were admonitions that certain events and actions related to the campaign had become "inadequate and insufficient" during the second round. The activities being described included "organization of anti-Communist meetings; slashing criticism of Zyuganov and Communists; and, anonymous criticism." Aside from the fact that these instructions were directed to administrators who are precluded under the law from engaging in campaign activities in their official capacity, distribution of anonymous propaganda is also illegal. There was no way to ascertain the impact that these instructions had on decisions or activities actually undertaken by local administrative authorities. However, there is a legitimate question as to whether the adequate and strictly enforced boundaries between campaign and administrative functions have been sufficiently drawn. At the very least, local administrations should have responded advising the organization of the restrictions of Article 38 prohibiting local administrations from engaging in any pre-election campaign activity or distribution of campaign propaganda. And, of course, the question as to appropriateness and legality of distribution of instructional materials which promote illegal campaign activities deserves scrutiny whether or not such activities are actually implemented.



The blurred division between the separate functions of administrators and elected deputies in their official capacities and as participants in campaign organizations was not necessarily one sided. As a Deputy to the State Duma, the head of the KPRF campaign in Rostov acknowledged his use of State Duma letterhead for certain campaign related communications. According to a complaint filed in Moscow, Zyuganov also used State Duma letterhead, staffing and resources for a mailing to local officials to assure them that if he were elected they would not lose their posts. In contrast, IFES learned that Valentin A. Kolesnikov, the head of the Yeltsin campaign headquarters in Rostov had taken leave of his post with the regional administration as Vice Chief of the Inspection Department to work on the campaign.

In one of the more serious instances, a head of a local administration in a territory outside the city of Rostov was very candid about his own efforts to ensure that voters would favor Yeltsin at the polls during the second round. He discussed with IFES observers the pro-Yeltsin campaign strategy designed and implemented by the local administration and funded from the administrative budget. The strategy involved preparation of pro-Yeltsin propaganda and recruitment and payment of individuals to distribute them to voters. In pursuing the matter, IFES observers were advised that no such funds were expended for similar purposes in support of Zyuganov. This official, who had been appointed to his post, also indicated that the local administration had "taken other measures" to ensure that the community voted for Yeltsin and indicated that they would "make sure they didn't let the President down." When pressed as to how this kind of activity could be reconciled with provisions of law which preclude officials from engaging in campaign activity in their official capacity, he did not seem to have much difficulty justifying the position of the administrative body. He reiterated that Yeltsin had actually visited the territory, and that, as the IFES team understood it, the community had recently received at least part of 11 billion rubles which the president had promised which had prompted the administration's interest in seeing that the President was re-elected.

The law clearly restricts donations from bodies of local self-government, state and municipal enterprises, agencies, and organizations to the electoral funds of candidates. It is recommended that the law restricting participation of local administrations in campaign activities be strengthened to explicitly prohibit their own use of any funds from the budgets of these bodies to engage in any campaign activity or to prepare or distribute or otherwise support the campaign of any specific candidate. The law should apply to both executive and legislative bodies as well as their officials and staff members. The laws should also impose personal liability on such persons for violations.

In discussing these issues with members of the Central Election Commission of the Russian Federation (CEC) there was general agreement that such violations are a serious impediment to the conduct of a free and fair election. It was also acknowledged that these types of violations are the vestiges of the soviet system where local officials were "responsible for the outcome of an election." It must be acknowledged that these types of allegations pose difficult challenges to authorities responsible for responding to complaints and adjudicating grievances because of the failure of complainants to file substantive and timely evidence. Some would suggest that the current language of the law is quite mild in dealing with these kinds of activities. In fact, the CEC had recommended stronger language which would have put clearly defined fetters on administrative authorities and officials with regard to involvement in partisan campaign activities. Apparently there was resistance to passage of the stronger language among a number of State Duma members who considered the impact the proposal would have on their own ability to campaign for or against other candidates or their electoral associations in their official capacity as deputies.

Clearly the issue needs to be revisited. Unless these types of allegations are uniformly investigated, and unless affirmative action is taken to censure and penalize any proven complicity in such activities, the effectiveness of restrictions imposed on administrative officials by the law will be seriously shortchanged, and the integrity and fairness of the election process and public confidence in the system will remain in jeopardy.

## ***Simultaneous Conduct of Federal and Local Elections***

On 16 June 1996 a number of Subjects of the Russian Federation held simultaneous elections for President and a variety of local offices. In some subjects the simultaneous elections covered elections for municipal mayors, as well as city and raion councils. It has only been since the summer of 1995 that local legislative bodies had been authorized to enact their own election laws for local offices. It was only late in 1995 that a presidential decree was issued ending the appointment of governors in favor of their being elected.

Although the CEC has supervisory responsibility over SECs, the extent of their participatory role in local elections is unclear. Just as importantly, the lines of authority over conduct of an election are particularly blurred when both local and federal elections are being conducted simultaneously by the same election officials and at the same polling sites. Obviously, during the presidential election cycle the focus of the CEC was necessarily directed to issues related to the conduct of the presidential election. As a result, it was not clear whether there had been time for the CEC to consider issues which could arise from the simultaneous conduct of the presidential and local elections.

In the Moscow mayoral elections, for example, a number of details had to be incorporated into election day processing that differed from those used for the presidential election. In particular, special procedures were necessary in view of the fact that certain voters who would be eligible to vote for president would not be eligible to vote in the mayoral election. Under the local election law and as covered in the Federal Law *On Basic Guarantees of Electoral Rights of the Citizens of the Russian Federation* advance voting in the 15 days immediately preceding the election is permitted in place of the absentee voting allowed with an Absentee Voting Certificate provided for under the Presidential Election Law. Moscow election officials accommodated the differences well, although it is not clear the degree to which federal and local officials specifically coordinated their efforts to find resolutions to some of the problems which had to be dealt with. The fact that different services were provided for the different types of elections also caused confusion and inconvenience for voters attempting to exercise their electoral rights under conflicting rules.

With the new independence granted to local elective bodies to define their own election laws these types of issues are likely to be compounded. The Basic Guarantees Law dictates general parameters to which these local laws will have to comply. However, within those constraints, there will still be room for tremendous diversity in the manner in which the various local election laws approach technical aspects of the election process. The CEC is already evaluating and molding the role it might play as local election laws are being drafted and enacted. For example, the CEC has been called upon to review some local laws and has limited its input to provide advice as to whether these laws comply with the requirements of the Basic Guarantees Law. But no legal guidance has been formalized which defines the relationship of central and local election authorities on an on-going basis. The lines of authority between central and local election officials

will have to be clearly articulated to accommodate those times when local and federal elections are held on the same day.

A formal approach should be considered for accommodating these circumstances in order to avoid jurisdictional problems that could potentially arise. In particular, the role of the CEC to provide technical assistance or the extent of its supervision over SECs needs to be defined to determine who has senior authority when local and federal election laws conflict with one another. Key to the issue is that on any specific federal election day there could be any number of local elections each being conducted under a different local law.

SECs conducting local elections on the same day as federal elections may not yet have resources or directives on which to rely for guidance in evaluating their own election laws to determine where there may be provisions which are in conflict with those present in the relevant federal law. Substantive as well as technical conflicts could result in administrative confusion and contribute to potential disruption of efficiency and accountability at the polling sites on election day. The following are possible questions regarding procedural details that could arise from conduct of the separate elections under different election laws:

- Are the laws consistent regarding the appointment of PSEC?
- Will one voter list be used for both elections, or will separate lists be necessary?
- Will there be circumstances when a voter will be eligible to vote in one type of election but not another being held on the same day?
- Are critical deadlines different in the two laws for the same activity?
- Do the local laws and federal laws contain consistent provisions with regard to voter services such as accommodating voters voting at home or voting in advance? If not, will voters needing these services be issued only one type of ballot? How will the audit trail for ballot accountability be maintained?
- Does the local law make provisions for the presence of observers at the polling sites? During counting? During summarization of results? If there are differences in the types of observers who may be present at various phases will some be made to leave?
- If there are complaints regarding misconduct or violations at the polling site which commission structure (local or federal) is ultimately responsible for adjudication, mediation and remedy?

### ***For Consideration***

- 13.2 Obviously, there are many considerations that need to be addressed. Some have suggested that there should be a legal requirement that local elections be held on days separate than those scheduled for federal elections. This concept is common in a number of established democracies. The arguments in favor of simultaneous conduct of elections include fiscal efficiency, and prospects of ensuring that both local and federal elections enjoy maximum participation of voters who can become more apathetic if they are called to the polls too frequently or for a series of elections scheduled in close sequence.

- 13.3 A viable alternative to a prohibition of simultaneous elections is the enactment of a law that says that if local and federal elections are to occur on the same day, the provisions of the federal law will supersede the local law. Where necessary, exclusions are specifically identified. Conversely, local legislative bodies could consider legislation which would set aside certain provisions of local law deferring to the federal law for the purposes of holding their elections simultaneously with a federal election.
- 13.4 If the current flexibility is to be maintained, there are at least some issues that should be addressed to ensure that potential problems can be alleviated to the greatest extent possible. Formal guidelines might include the following considerations:
- How will the CEC be apprised of a local jurisdiction's intent to conduct an election at the same time as a federal election? The CEC should have access to an ongoing calendar identifying the election dates in those Subjects and municipalities that will be conducting gubernatorial and local elections.
  - It would be helpful for the CEC to devise a checklist that SECs could use to help them in their comparison of the two sets of laws.
  - It would be beneficial for the CEC to devise a reporting mechanism whereby SECs could notify them of substantive difficulties that they may encounter based on their comparison of the different laws.
  - The capacity of the CEC to provide technical advice or support in determining how potential problems may be overcome in handling the different elections under different sets of procedures should be clearly defined.

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# 14

## ***Summary of Considerations for Potential Legal and Procedural Reform***

Throughout this report recommendations have been presented for consideration by lawmakers and election administrators as they evaluate the 1996 presidential elections and pursue legal and procedural reforms. The following pages contain an index of IFES suggestions which may provide a springboard for discussion and debate. The index includes a brief description of the issue being raised. Where statutory amendments are recommended, the relevant articles are identified. A reference number has been given to each item for consideration which identifies the Chapter in which the general subject matter is covered. In the right hand column are the page numbers where a full discussion of the issues or experiences which prompted the recommendations may be found.

## ***Considerations for Potential Legal Reform***

Article of Presidential Election Law	LEGAL RECOMMENDATIONS FOR CONSIDERATION	Page # in IFES Technical Analysis
--------------------------------------------	-----------------------------------------	-----------------------------------------

<b><i>Chapter 3: Administrative Structure (Pages 8-15)</i></b>		
Articles 11, 12, 13 and 14  (Also See Article 13, Basic Guarantees Law)	3.1 These articles allow each registered candidate for President to appoint a deliberative voting member to election commissions. They do not conform to the Basic Guarantees Law which allows deliberative voting members to be appointed by the candidate or the nominating electoral association or bloc.	10
Article 19  (Also See Article 13, Basic Guarantees Law)	3.2 Members with deciding vote are entitled to be present at "all sessions" of the relevant commission. However, "all" is omitted from language when deliberative members are referenced, leaving intent unclear. Under Art. 19 deliberative members are to "be informed of meetings," but their right to be present is not definitively ensured. Also, if there is a distinction between "meetings" and "sessions" the law should define it.	10
Article 19  (Also See Article 13, Basic Guarantees Law)	3.3 Under the Presidential Election Law, deliberative voting members are entitled to "receive certified copies" of documents and materials of the respective and subordinate commissions. Art. 13 of the Basic Guarantees Law does not ensure that these members may actually receive copies. This entitlement is integral to transparency and should be added to Art. 13 of the Basic Guarantees Law.	10
No Relevant Article	3.4 Neither law defines the role of deliberative voting members at polling sites on election day. Duties in which they may and may not engage while serving on a polling site election commission on election day should be clarified	11
Article 19  (Also See Article 13, Basic Guarantees Law)	3.5 The laws should clarify the terms of deliberative voting members and their status during repeat voting if the candidate they represent does not advance to the second round. Neither law clarifies the status of losing candidates and the point at which they lose their "registration." Only "registered" candidates are entitled to have deliberative voting members.	11

Article of Presidential Election Law	LEGAL RECOMMENDATIONS FOR CONSIDERATION	PAGE # in IFES Technical Analysis
--------------------------------------------	-----------------------------------------	-----------------------------------------

Article 15  (Also See Article 12, Basic Guarantees Law)	3.6  Both laws provide that the CEC acts on a "permanent" basis. However, the lengths of terms of member is not addressed, although grounds for being relieved of duty "before expiry of term" are identified. It is recommended that terms of CEC members be staggered so that only half of the members are replaced at any given time. Each appointing body should replace only some of their appointees while the rest remain until the next time set for replacement of members.	12
Not Applicable  (See Article 11, Basic Guarantees Law)	3.7  Art. 11 of the Basic Guarantees Law states that authorities and duties of electoral commissions for various elections are to be established under specific federal laws or statutes enacted by the elected bodies of subjects and local self-governments. The law does not address the role of the CEC during elections at the subject or local levels. Whether it is to be consultative or supervisory, the parameters of their authority for elections in these jurisdictions should be defined in law.	13
Article 12, 13 and 14  (Also See Article 13, Basic Guarantees Law)	3.8  These laws dictate that appointments of members to Subject, Territorial and Polling Site Election Commissions are to be made considering proposals of public associations, elected bodies of local self-governments, and certain groups of voters. The laws fail to make selection from these proposals obligatory, and fail to set any limits as to how many may be appointed from the same proposing group. To ensure balance, guidelines for appointments should be specified in law.	14
Articles 12, 13 and 14  (Also See Article 13, Basic Guarantees Law)	3.9  The laws guarantee that election commissions are independent within their competence from bodies of state and local self-government during the preparation and conduct of elections. However, it is local administrations which provide resources, logistic, staffing and financial support. Local executive authorities also influence appointments of commission members. To dilute the potential influence of executive authorities over election commissions, the law should limit the number of seats on any commission that can be filled by officials, employees of local administrations, or persons proposed by executive authorities to no more than one-third of the membership. The law should also preclude these appointees from being elected chairmen.	14  Also See Chapter 13, General Issues: Influence of Local Administration s Page 145

Article of Presidential Election Law	LEGAL RECOMMENDATIONS FOR CONSIDERATION	PAGE # in IFES Technical Analysis
--------------------------------------------	-----------------------------------------	-----------------------------------------

Articles 12, 13 and 14  (Also See Article 13, Basic Guarantees Law)	3.10 The laws make no provisions for premature relief from duty of members of Subject, Territorial and Polling Site Election Commissions. Consideration should be given to specifying circumstances or grounds on which a member may withdraw from service or be relieved for cause. The procedure for replacement of the member should also be dictated by law.	
<b>Chapter 4: Transparency Mechanisms (Pages 16-29)</b>		
Articles 20, 53 and 54  (Also See Article 14, Basic Guarantees Law)	4.1 The laws should be amended to guarantee the rights of all categories of observers to be present at TECs and SECs during the entire period of summarization of results and receive certified copies of protocols upon request. Articles 53 and 54 should require that the third copy of the protocol and the summary tables be posted at these sites to facilitate "familiarization."	26
Article 20  (Also See Article 14, Basic Guarantees Law)	4.2 Employees or officials from local administrations should be excluded from eligibility to serve as observers at polling sites. During the presidential elections, their presence on behalf of one of the candidates was often unduly intrusive as they directed activities of the election commissions and generally perceived as suspect in terms of the independence of the polling state commissions.	27
Articles 51, 52, 53 and 54	4.5 It is recommended that the law be augmented to require that observers and deliberative voting members wear badges or stickers that identify their status at the polling sites or at Territorial and Subject Election Commission offices throughout election day. This would allow them freedom of movement at the site while making their role clear to voters, to each other, and to others who are present.	27
Articles 20 and 53  (Also See Article 14, Basic Guarantees Law)	4.6 The laws should clarify that certified copies of the protocols are to be given to individuals on request and may not be denied on the basis that they must be reviewed by a higher level commission prior to release. The laws should also dictate procedures for notification of recipients when errors result in the original protocol having to be corrected. (Also See Chapter 10, <i>Counting the Votes and Reporting the Results</i> , Recommendations 10.32 and 10.33)	27



Article of Presidential Election Law	LEGAL RECOMMENDATIONS FOR CONSIDERATION	PAGE # in IFES Technical Analysis
--------------------------------------------	-----------------------------------------	-----------------------------------------

Article 18	4.9 The official term of Territorial Election Commissions should be extended for ten days after publication of the official results. The TECs should also remain accessible through this time period to respond to service requests and inquiries of voters, the media and election participants. During the presidential elections, TECs closed their doors as soon as they finalized the summary tables even though their terms had not yet expired inhibiting public access to copies of summarization documents and tables.	28
Articles 52, 53 and 54  (Also See Article 32, Basic Guarantees Law)	4.10 Consideration should be given to requiring deliberative voting members and candidate observers to also sign the protocols or attach dissenting opinions at the time the documents are prepared. This practice could alleviate some challenges to the results and inhibit the potential for subsequent unwarranted or unexplained alteration of protocols out of the presence of the observers.	29
No Relevant Article	4.12 Consideration of new legislation such as the proposed (but rejected) <i>Federal Law On Public Control Over Elections and on the Openness and Publicity of Vote Returns</i> should be initiated early in the new legislative session rather than in the midst of the pre-election preparations, so that political interests are less likely to overshadow technical and administrative merits.	29
<b>Chapter 5: Nomination and Registration of Candidates (Pages 30-37)</b>		
Article 28	5.1 The deadline by which an electoral association must be registered should be related to the date of the presidential election dictated by Art. 4, instead of the "announcement of the day of the election." The day on which the "announcement" may be made is not a date certain leaving the deadline for registration unclear and fluctuating, whereas "the first Sunday after expiration of the constitutional term" can be definitively calculated.	31
Article 35	5.2 The law provides no guidance as to when electoral associations or other nominating organizations may first convene their conferences to select their authorized representatives and nominate their candidates. There is no official beginning of the nominating period.	32

Article of Presidential Election Law	LEGAL RECOMMENDATIONS FOR CONSIDERATION	PAGE # in IFES Technical Analysis
--------------------------------------------	-----------------------------------------	-----------------------------------------

Article 29	5.3 It is recommended that the law be augmented to more clearly address the legal status of an electoral bloc. The law is deficient in setting a deadline for formation of a bloc, establishing rules regarding how a bloc will be named or identified, the status of a bloc if during the signature gathering process, or after the candidate is registered a member association withdraws from the bloc. Lawmakers should consider provisions which clearly define the status of blocs as legal entities.	32
Articles 30 and 34	5.4 Currently, eligibility of an electoral association, bloc or voters' initiative group is contingent on a decision of the CEC to register its authorized representatives. Under the law these groups appoint their representatives independently, so it is not clear on what basis their registration would be denied. It would be more appropriate to construct the law so that the CEC reviews the registration status and submitted documents for compliance, and in turn, certifies the nominating organization rather than the appointed individuals who represent them. This would not necessarily preclude issuance of certificates to the authorized representatives. If the current system is maintained, the law should specify the grounds on which authorized representatives could be rejected, and the impact of such denial on the eligibility of the organization to participate in the election.	32
Article 34	5.5 The law allows for collection of signatures at places of employment where cases illustrate there is a perception of pressure being applied on employees to sign petitions. In order to minimize opportunities for abuse, the law should restrict collection of signatures on pay days or at places where employees receive their pay. Similar restrictions should be imposed regarding collection of signatures at locations or times when citizens apply for or receive entitlements, pensions, services or other subsidies.	33
Article 34	5.6 The law fails to clarify the status of signature collectors or to define any terms which may apply to their involvement. The law should regulate whether or not they may be paid and, if so, the sources and accounting requirements for such payments. The law should define minimum qualifications if the CEC is ultimately authorized to accept or reject signatures based on the qualifications of collectors.	33

Article of Presidential Election Law	LEGAL RECOMMENDATIONS FOR CONSIDERATION	PAGE # in IFES Technical Analysis
--------------------------------------------	-----------------------------------------	-----------------------------------------

Article 34	5.7 The law requires that each signature page of a petition must be "confirmed" by the person collecting the signatures as well as an authorized representative. It is not clear that confirmation requires the signatures of the individuals.	34
Article 35	5.8 The law should clearly define the procedures by which petitions will be evaluated, and dictate the specific grounds on which a petition must be rejected. Without specific legal guidelines, administrative steps in the review of petitions will remain potentially subjective with "selective" or varying degrees of scrutiny being applied. Grounds for evaluation of petitions should distinguish between technical deficiencies that can be remedied and those that will automatically cause registration to be denied. Consideration should be given to creating a double threshold: 1) that the petition contain at least 1,000,000 "valid" signatures; and, 2) that errors or invalid signatures in excess of a legally established threshold will cause the petition to be declared null and void.	35
Article 35	5.9 It may be worthwhile to consider initial review of petitions at the subject level, under evaluation criteria and procedures dictated by law, since the signatures are collected by subject. Upon their evaluation, a protocol of their findings could be submitted to the CEC which would issue a final decision regarding registration based on cumulative summaries from the various subject. The law would have to give details related to how submission of petitions and related documents would be coordinated, and restructure deadlines for submissions. The CEC could retain its authority to reverify petitions and to overrule recommendations or findings of Subject Commissions.	35
Article 34	5.10 Currently, there are no limits on the number of voters' initiative groups who can nominate the same candidate. Each group works separately and each must gather 1,000,000 signatures separately. As a result a candidate could be supported by many millions of signatures, but still fail to be registered because no individual group achieved the minimum threshold. The feasibility of merging voters's groups petitions under a single umbrella should be considered.	36

Article of Presidential Election Law	LEGAL RECOMMENDATIONS FOR CONSIDERATION	PAGE # in IFES Technical Analysis
--------------------------------------------	-----------------------------------------	-----------------------------------------

Article 35	5.11 A candidate who is denied registration may appeal to the Supreme Court and the decision of the court is "final." The law should require that notice of denial of registration include the grounds described fully and inclusively in the advisory notice to the candidate. A legal question should be addressed as to whether new grounds can be brought forward once an appeal has been filed and the Supreme Court has rendered its ruling.	36
Articles 28, 29, 32, 34  (Also See Articles 18 and 20, Basic Guarantees Law)	5.12 It is recommended that a completely separate law be created to cover political parties. A law on political parties separate from the Law on Public Associations could more effectively cover issues relevant to their unique status. In particular, such a law could define an alternative approach to issues related to ballot access. Under the current law the qualifications and petition procedures for candidates nominated by registered electoral associations are not significantly different than those for independent candidates; they both must qualify by gathering 1,000,000 signatures. Emphasis could be redirected under a party law to establish substantive criteria by which a group could qualify as a political party. That criteria could include a petition process. Once qualified, candidates nominated by the party would not have to submit a petition, since the party has already demonstrated a modicum of support among the citizens. The petition process could be retained for independent candidates. The law could dictate that a party would retain its status as a nominating organization as long as its candidate received a minimum threshold percentage of the votes cast in the election. Failure of the candidate to garner the required number of votes would result in the party losing its status. To re-qualify for political party status, a new petition would have to be circulated by the group. (Also See Chapter 7, <i>Campaign Financing</i> , Recommendation 9.3)	36

Article of Presidential Election Law	LEGAL RECOMMENDATIONS FOR CONSIDERATION	PAGE # in IFES Technical Analysis
--------------------------------------------	-----------------------------------------	-----------------------------------------

<b>Chapter 6: Pre-election Campaigns and the Media (Pages 38-65)</b>		
Articles 38, 39 and 40  (Also See Articles 23 and 24, Basic Guarantees Law)	6.1 Attention should be given to providing uniformly applied definitions of key terms related to the pre-election campaigns. Among those needing clarification are: <ul style="list-style-type: none"> <li>• "equal conditions;"</li> <li>• "state radio and TV;"</li> <li>• "campaign period;" and,</li> <li>• "campaigning."</li> </ul> Provisions should also be created that delineate "campaigning" by "nominees" and their supporting organizations during the signature gathering period, and "campaigning" after a candidate is registered.	42
Article 24  (Also See Article 40, Basic Guarantees Law)	6.2 Article 24 in the Law on the Election of President, and Article 40 in the Basic Guarantees Law should be brought into conformity regarding the eligibility of various election participants to have access to free and paid broadcast media.	44
Article 37 and 50  (Also See Article 20, Basic Guarantees Law)	6.3 The law should be amended to include a specific deadline for the withdrawal of candidates without penalty, except under exceptional circumstances articulated in law. The deadline should be in time to preclude tactics whereby candidates may use their free air time to promote other candidates. (Also See Chapter 8, <i>The Ballot</i> , Recommendation 8.4)	47
Article 24, 39 and 40  (Also See Article 23, Basic Guarantees Law)	6.4 The law fails to address issues related to any obligations (or waiver, thereof) of independent media in providing equal conditions for the pre-election campaigns. Nor does the law provide guidance as to the responsibility of the CEC and Subject Election Commissions to "exercise control over adherence to the established order of conducting pre-election campaigns" as it relates to the independent media.	47

Article of Presidential Election Law	LEGAL RECOMMENDATIONS FOR CONSIDERATION	PAGE # in IFES Technical Analysis
--------------------------------------------	-----------------------------------------	-----------------------------------------

Article 40  (Also See Article 24, Basic Guarantees Law)	6.5 A deadline should be established in law by which regulations of the CEC regarding granting of broadcast time must be adopted. The deadline for adoption and publication of the regulations should be well before the deadline for the registration of candidates.	47
No Relevant Article	6.7 Lawmakers should use the CEC's Regulations of the Procedure for Granting Air Time on Channels of State TV and Radio to Candidates for President of the Russian Federation and Publication of Campaign Materials in Newspapers and Periodicals to determine where the laws fail to address significant issues, and which details provided in the regulation should be formalized in law.	48
(See Article 152 of the Civil Code)	6.8 It is recommended that the electoral commissions be removed from the lead position in monitoring and interceding in certain cases involving violations of campaign rules. In particular, are those cases involving alleged "insults to the honor dignity or professional reputation of another person." Appeals to the courts should be up to the participants involved through the normal channels prescribed in Article 152 of the Civil Code which provide sufficient remedy for these types of grievances. Since intervention by election commissions must rely on subjective judgement at best, and could result in a perception of "selective" application. It is important to remove election commissions from actions which, by their very nature, can be perceived as biased or impossible to enforce uniformly and consistently.	49

Article of Presidential Election Law	LEGAL RECOMMENDATIONS FOR CONSIDERATION	PAGE # in IFES Technical Analysis
--------------------------------------------	-----------------------------------------	-----------------------------------------

Article 39  (Also See Article 26, Basic Guarantees Law)	6.9 The law should define alternative avenues through which election participants may bring complaints regarding media and campaign disputes. In particular, it is recommended that the law stipulate that these complaints may be brought to the Judicial Chamber for Informational Disputes or to the courts. The Chamber has the specialized expertise in these kinds of disputes. This approach would also remove election commission members from having to make decisions which have the potential of altering the campaign playing field to the advantage of one candidate over another. In addition, election commissions could be a party to such cases, especially in view of their role in establishing the regulations, allocating campaign funds to candidates, publishing biographical information, etc. (Also See Chapter 11, <i>Adjudication of Grievances</i> , Recommendation 11.1)	55
No Relevant Article	6.10 Regarding alleged violations in the context of the media and pre-election campaign environment, consideration should be given to precluding the Judicial Chamber (or election commissions if their current role in this area is retained) from pursuing cases independent of a filed complaint by a candidate or election participant. In the fluid and spontaneous adversarial environment of the campaign it is unrealistic that such intervention could be universal. Since not all cases about which the Judicial Chamber (or the election commissions) could become aware, could feasibly be pursued, independent intervention on a sporadic basis could result in unequal treatment.	55
Article 30  (Also See Article 26, Basic Guarantees Law)	6.11 It is recommended that a schedule of alternative penalties be devised for campaign violations in lieu of de-registration of the candidate.	55
No Relevant Article	6.12 The body of decisions of the Judicial Chamber for Informational Disputes and the CEC, especially those regarding pre-election campaigns and the media, should be reviewed to determine where trends may have emerged. Although use of precedents is not yet entrenched in the legal system of the analysis of these cases could suggest where legal reforms are warranted.	55

Article of Presidential Election Law	LEGAL RECOMMENDATIONS FOR CONSIDERATION	PAGE # in IFES Technical Analysis
--------------------------------------------	-----------------------------------------	-----------------------------------------

Article 43  (Also See Article 24, Basic Guarantees Law)	6.13 It is recommended that these articles be augmented to clarify what information must be provided in identifying the person or group responsible for campaign material. In particular, consideration should be given to requiring that the name of the individual responsible be included. If the sponsor is an organization, the name of the organization should also contain appropriate contact information. In addition, it might be worthwhile to require that the disclosure include the account number from which the costs for the publication were paid as well as the hold of the account. Such a measure would help reduce opportunities for circumvention of the laws and provide a tangible basis of evidence in the adjudication of complaints.	63
No Relevant Article	6.14 In the interest of ensuring public disclosure of decisions and actions taken by the Central Election Commission, various articles within the election laws require that certain materials be published in the mass media. The same is true with regard to the significant decisions of the Judicial Chamber on Information Disputes. Officials have frequently faced a reluctance on the part of the print mass media to cooperate. Refusal to publish these public notice documents has been based on space limitations, lack of public interests and potential loss of readership in a more competitive market, and -- most notably -- the expectation that information is to be published free of charge. To ease the burden on both sides, it is recommended that the laws be amended to redefine public notices be giving commissions and agencies the latitude to publish a legal notice which briefly describes the key points of the decisions or regulation rather than its full text. The legal notice could then include information as to where a copy of the full document may be obtained by those who may have a particular interest.	64



Article of Presidential Election Law	LEGAL RECOMMENDATIONS FOR CONSIDERATION	PAGE # in IFES Technical Analysis
--------------------------------------------	-----------------------------------------	-----------------------------------------

<b>Chapter 7: Campaign Financing (Pages 66-81)</b>		
Articles 45 and 46	7.1 These articles as well as relevant provisions of laws governing other types of elections should be augmented to clearly describe the scope of regulatory jurisdiction related to campaign funding. Specifically, laws should be revised to clearly identify the nature and type of political expenditures covered by financial restrictions and reporting requirements. Terms need to be defined and campaign activities and spending with certain characteristics, including those by persons or groups other than candidates should be treated presumptively as for the purpose of influencing the election and, therefore subject to campaign finance rules. Legal standards should be re-examined and redefined based on objective and reasonable criteria.	77
Articles 40, 41 45, 46 and 47	7.2 Under current laws only candidates are formally recognized as official campaigning entities governed by campaign finance rules, spending limitations and reporting requirements. The laws fail to cover the campaign activities engaged in by electoral associations and other politically oriented organizations prior to the registration of candidates and throughout the campaign period. The omission of guidelines in the law regarding their activities provides a window of opportunity for circumvention of the rules as such campaign activities and expenditures are undertaken on behalf of a candidate rather than through the candidate's personal electoral funds.	77
No Relevant Articles	7.3 Adoption of a separate law on political parties could significantly benefit effective regulation of campaign finances. A comprehensive federal law could include provisions regarding public disclosure of financial activity of political parties, not only during the election but between elections. Such laws relative to campaign financing and reporting by political parties and nominating organizations would also create a basis for distinguishing the campaign activities of specific candidates from those of organizations over which the candidate may have no control.	77

Article of Presidential Election Law	LEGAL RECOMMENDATIONS FOR CONSIDERATION	PAGE # in IFES Technical Analysis
--------------------------------------------	-----------------------------------------	-----------------------------------------

Articles 38 and 45  (Also See Article 23, Basic Guarantees Law)	7.4 The laws need to address issues of political ethics with regard to restrictions on use of official resources of executive and legislative office holders for political purposes. While the laws generally restrict election commissions, governmental bodies and other official entities from participating in pre-election campaigns, and prohibits these entities from contributing to the electoral funds of candidates, they are not specific enough in addressing issues related to their separate use of public funds and official resources. The laws must more definitively prohibit uses of government funds, facilities, equipment and personnel for the purposes of influencing or affecting election outcomes. The laws should apply to both executive and legislative officeholders and employees and impose personal liability upon such persons for violations.	78
Article 45	7.5 The law fails to address non-monetary or "in-kind" contributions to support political campaigns of candidates. This article prohibits use of "other monetary resources" except those received by candidates in their electoral funds. No guidance is provided regarding contributions such as printing, campaign commodities provided "at no charge" or in exchange for non-monetary remuneration or trade. Such omissions create vast opportunities to circumvent funding limitations and reporting requirements. It is also recommended that the law include a prohibition of receiving or spending of funds in the form of cash or "in-kind" contributions which are undocumented or for which no audit trail is created.	78
Article 45	7.6 It is recommended that limitations on political contributions and expenditures be set much higher. The current limits are so low as to invite circumvention of the law. It would be more effective to permit higher levels of spending within a system that is more effective in seeing that they are fully reported.	78

Article of Presidential Election Law	LEGAL RECOMMENDATIONS FOR CONSIDERATION	PAGE # in IFES Technical Analysis
--------------------------------------------	-----------------------------------------	-----------------------------------------

Article 46  (Also See Article 28, Basic Guarantees Law)	7.7 A more routinized pre-election financial reporting scheduled should be imposed. The schedule for bank reporting should be stated in specific terms on a regular schedule rather than a rotating "three days after receipt" of contributions. The Presidential Election Law and the Law on Election of Deputies to the State Duma should be brought into conformity with the Basic Guarantees Law in requiring regular reporting by candidates or electoral associations before election day as well as after the election. The law should be structured to require that discrepancies or inadequate information be completely reconciled by the time of post-election reports, with serious sanctions defined for grossly negligent misreporting.	79
No Relevant Article	7.8 Campaign finance authority should be transferred from the election commission to a specialized and independent agency or CEC division separate from one responsible for fiscal matters related to the administrative conduct of the elections (ideally with authority also over permanent political party financial reporting pursuant to a political party law.) A newly established campaign finance agency would need manpower and other resources, as well as investigatory power and legal authority to bring cases of non-compliance to the courts if warranted.	79
Articles 38 and 46	7.9 Although the laws provide for the appointment of agents for the candidates, the law should also require appointment of "financial managers" by the candidates and electoral associations and blocs to be responsible for forming and maintaining the electoral fund accounts and compliance with reporting requirements. Specialized training should be provided to these "financial managers". Candidates, or chairmen of electoral associations or blocs should be required to personally attest to the accuracy and completeness of the financial reports, to the best of their information and belief.	79

Article of Presidential Election Law	LEGAL RECOMMENDATIONS FOR CONSIDERATION	PAGE # in IFES Technical Analysis
--------------------------------------------	-----------------------------------------	-----------------------------------------

Article 45	7.10 There should be created a structure of fines, penalties and punishments for violations which is clearly defined, graduated, proportionate and strongly enforced. Personal responsibility of candidates, and political organization officials should be established to encourage accountability and compliance. For example, simple fines should be imposed for minor infractions or tardiness in reporting. More severe penalties should be imposed to the degree that violations are more serious or deliberate. Sanctions should not be candidacy based. Cancellation of a candidate's registration serves no purpose if findings of violations cannot be determined or upheld in court until after the election.	81
Article 45  (Also See Article 28, Basic Guarantees Law)	7.13 Funding from the federal budget for elections commissions and election participants must be transferred in a timely and reliable manner. A deadline should be established calling for the transfer of allocations to candidate's electoral funds within 48 hours of the candidate's registration.	81
<b>Chapter 8: The Ballot (Pages 82-85)</b>		
Article 50	8.1 The law does not adequately address the issue of ballot security during transit and storage in the period between the time ballots are initially printed, during distribution and while they are being held by Polling Site Election Commissions prior to election day. The law should define the audit trail by which at each transfer point, quantities are verified and receipts are signed by delivery personnel and those taking receipt. Provisions should also require that ballots be maintained in locked and secured storage.	83
Article 50  (Also See Article 30, Basic Guarantees Law)	8.2 The laws require that the ballots be "certified" by the Polling Site Election Commission but does not indicate when this certification should take place. As a security measure by which to recognize officially issued ballots from others which may have been put in the ballot box fraudulently, it is ineffective unless only issued ballots the certifications. The law should make it clear that all certifying stamps and signatures should be affixed on election day, and that only the number of ballots needed should be certified. If done in advance, or if unissued ballots are also certified, the security factor intended is nullified.	83

Article of Presidential Election Law	LEGAL RECOMMENDATIONS FOR CONSIDERATION	PAGE # in IFES Technical Analysis
--------------------------------------------	-----------------------------------------	-----------------------------------------

Article 37	8.4 The law should dictate a deadline for withdrawal of a candidate in order that final ballots can be printed with the correction. (Also See Chapter 6, <i>Pre-Election Campaigns and the Media</i> , Recommendation 6.3)	84
<b>Chapter 9: Conduct of the Poll (Pages 86-97)</b>		
Article 51	9.1 The law requires that before the first voter votes, the ballot boxes are to be displayed and sealed in front of all authorized persons who are present. The law should clarify that the display of the ballot boxes include all mobile ballots boxes that will be used, and that all boxes should remain in full view of the commission members and observers, except when mobile boxes are being used to serve voters outside the polling site.	86
Article 51 and 52	9.1 The display and sealing of the ballot boxes is the only pre-voting activity required under the law. It is recommended that the law also require certain base line data be calculated and written on the protocol as part of the preparation on election day prior to the first voter voting. These would include verifying the quantity and entering the number of ballots received by the polling site, the number of voters listed on the prepared main voter list, and how many have voters have applied for Absentee Voting Certificates. The current laws calls for these entries to be made after the closing of the polls. However, they should be part of pre-voting documentation; their quantities would not change in the course of the day. Entered prior to the opening of the voting they would become the base line figures against which voter activity and ballot accountability would be based. The information should be announced to committee members and observers. (Also See Chapter 10, <i>Counting the Votes and Reporting the Results</i> , Recommendations 10.1 and 10.2)	86
Article 52, 53 and 54	9.4 The lists of deliberative voting members and observers which are supposed to be attached to the second copies of protocols should also be initiated from before the first voters vote as documentation recording who was present for opening preparations.	87

Article of Presidential Election Law	LEGAL RECOMMENDATIONS FOR CONSIDERATION	PAGE # in IFES Technical Analysis
--------------------------------------------	-----------------------------------------	-----------------------------------------

(See Article 30, Basic Guarantees Law)	9.5 Reconsideration should be given to amending the Presidential Election Law to conform to the Basic Guarantees Law which provides for advance voting for those who will be away from their precincts on election day for all voters, not just those at remote sites. (See Recommendations 9.7 and 9.14)	88
Article 51	9.6 The law should clearly define the role of deliberative voting members on election day. Article 51 indicates that entry of the voter's ID onto the voter list may only be made by a member with deciding vote, implying that other tasks may be accomplished by members with deliberative vote. Tasks in which they may and may not engage should be clarified in the law.	89
Article 51	9.7 The law does not provide sufficient detail as to the use and processing of voters using Absentee Voting Certificates. For example, there is no indication that this voter must sign the voter list to which his name has been added. The law does not indicate what happens to the certificate. If the voter keeps it there is a potential for voting more than once. If this service is retained, the law should require the certificate to be retained by the Polling Site Election Commission as documentation to support the addition of these voters to the list and the distribution of ballots to these individuals.	89
Article 51	9.8 The law requires voters to present their passports or "identity card substituting for it." The law should describe other types of identification which can be accepted or the kind of information which must be included on the alternative identification document.	89
	9.9 There is no reference in the law regarding "invitations to vote" which are commonly distributed by Polling Site Election Commissions. The law should strictly prohibit acceptance of the invitation in lieu of identification.	90

Article of Presidential Election Law	LEGAL RECOMMENDATIONS FOR CONSIDERATION	PAGE # in IFES Technical Analysis
--------------------------------------------	-----------------------------------------	-----------------------------------------

Article 14	9.10 The law authorizes establishment of polling sites to accommodate voters serving on military and commercial fleets, at remote or foreign sites. The law neither specifies that procedures at these sites are to be the same as for regular domestic polling sites; nor does it authorize alternative procedures and counting provisions which may be adopted under stipulated circumstances. The law should identify what rules may and may not be waived. At the very least, the law should require that rights to secret voting and accountability standards be preserved.	90
Article 51	9.12 The law allows Subject Election Commissions to authorize early voting at remote sites and on military and commercial fleets. No guidance is provided regarding polling or counting procedures which are to be implemented during early voting. The fails to indicate by whom, how and when counting of these votes is to take place, or how results will be transmitted for integration into summaries.	93
Article 14	9.13 The law should also provide for voting in foreign locations at sites other than embassies. It is recommended that every site in a foreign state be established as its own polling site with all the same responsibilities, even if they report their results to an embassy. In these cases the embassy could serve in a similar capacity as a territorial commission in terms of providing technical support, accumulating individual protocols, and reporting aggregate totals for all locations in the country where the embassy is located.	93
Article 51 (Also See Article 30, Basic Guarantees Law)	9.14 The law should provide clear limitations as to the circumstances which make someone eligible to vote outside the polling site. There is no limitation as to where mobile ballot boxes and ballots may be taken. If it is only to person's at their residence, it is not clear under the current law.	93
Article 51 (Also See Article 30, Basic Guarantees Law)	9.17 Consideration should be given to establishing a deadline by which applications for voting outside the polling site must be made, even if that deadline is a certain hour on election day. This would allow officials to make the appropriate notations on the voter list, and allow observers and commission members to know how many voters will be served before the mobile boxes and ballots leave the site.	96

Article of Presidential Election Law	LEGAL RECOMMENDATIONS FOR CONSIDERATION	PAGE # in IFES Technical Analysis
--------------------------------------------	-----------------------------------------	-----------------------------------------

Article 51  (Also See Article 30, Basic Guarantees Law)	9.18 The law is specific that the number of ballots taken from the site with the mobile ballot boxes must equal the number of applications. In practice, officials took extra ballots in case a voter spoiled his ballot. If this is to be allowed, the law should provide for it and set limitations as to how many extra ballots may be removed. The law should also specify that only those applications which have been received prior to the deadline may be taken with the mobile ballot boxes. The law should also require that applications taken over the phone or made in person by family members on behalf of the voter the actual application form should be used. (In practice officials are making notations on scraps of paper.) Entries on these applications should include the data about the voter as well as the person making the request on behalf of a voter, the signature of the official taking the request, and the date and time of the request.	96
Article 51  (Also See Article 30, Basic Guarantees Law)	9.19 The law should require that applications taken over the phone or made in person by family members on behalf of the voter the actual application form should be used. (In practice officials are making notations on scraps of paper.) Entries on these applications should include the data about the voter as well as the person making the request on behalf of a voter, the signature of the official taking the request, and the date and time of the request.	96
Article 51  (Also See Article 30, Basic Guarantees Law)	9.20 The law should require that officials facilitating voting outside the polling site work in pairs, and that the officials and any observer who accompanies them should sign the applications acknowledging issuance of the ballot.	96
Article 51  (Also See Article 30, Basic Guarantees Law)	9.21 It is recommended that the statement on which officials attest to the number of ballots received for mobile voting, and being returned unused, and the number of applications processed, also include the name and authorizing candidate or organization of any observer who accompanied the mobile ballot box.	96



Article of Presidential Election Law	LEGAL RECOMMENDATIONS FOR CONSIDERATION	PAGE # in IFES Technical Analysis
--------------------------------------------	-----------------------------------------	-----------------------------------------

<b>Chapter 10: Counting the Votes and Reporting Results (Pages 98-126)</b>		
Article 52  (Also See Article 8, Basic Guarantees Law)	10.1 Just as it was recommended that additional preparatory steps be taken before voting begins, it is also recommended that the law dictate additional steps be taken before the first ballot box is opened for the vote counting to begin. They should include performing calculations and making additional entries on the protocol, including the number of unused ballots that have been canceled, the number of ballots spoiled by voters, the number of voters who have been added to the list, and the number of voters who signed the voter lists. None of these figures will be impacted by the actual counting so that their entry on the protocol before counting begins will serve to complete the base line entries for accountability purposes.	100
Article 52	10.2 The law should require that, once completed, these base line entries on the protocol should be announced to all authorized observers who are present before the first ballot box is opened. This information will reassure observers and help them understand how ballots are being accounted for and how results will be balanced to actual voters.	100
Article 52	10.3 The law requires that ballots from the mobile ballot boxes should be "counted" first. However, it is not clear whether "counting" means counting for quantity or for the votes cast. Other important procedural details should also be clarified with regard to their handling.	102
Article 52	10.4 The law should require that in comparing the number of applications with the actual ballots contained in mobile ballot boxes, those related to each box should be accounted for separately. Documentation should record information identifying each box by number, the officials responsible for the box, and the quantity of ballots and applications related to the box.	102

Article of Presidential Election Law	LEGAL RECOMMENDATIONS FOR CONSIDERATION	PAGE # in IFES Technical Analysis
--------------------------------------------	-----------------------------------------	-----------------------------------------

Article 52	10.5 When votes are counted, it is recommended that mobile ballots be counted separately from those in the stationary ballot box. Once the initial comparison of ballots and applications has been accomplished, the ballots from all mobile boxes found to be in compliance could be commingled for the purposes of counting the votes cast outside the polling site. Commingling ballots from all mobile ballot boxes will help to preserve secrecy.	102
Article 52	10.6 The actual votes counted for candidates from the mobile ballot boxes should be recorded separately on the protocol. These ballots should also be packaged separately. By keeping them segregated, should there be a challenge to the mobile balloting, they would not taint the results of the count for in person voting at the polling site.	102
Article 52	10.7 Because this type of procedure would take a little longer, it is recommended that stationary ballot boxes be opened and counted first.	102
(See Article 30, Basic Guarantees Law)	10.8 Although the Basic Guarantees Law requires that ballots be "certified" with a stamp of the polling site or two signatures of commission members, failure of a ballot to contain the certification is no included in the grounds for declaring a ballot invalid.	103
Article 49 and 52	10.9 The provisions that state the grounds on which a ballot must be rejected does not contain other potential disqualifications implied by other provisions of law. Under Article 49 it is implied that "Use of pencils for these purposes is not allowed." If use of pencil in marking the ballot is impermissible it should be included in the grounds for rejecting a ballot.	103
Article 15 (15)	10.11 Under this provision the CEC is obliged to "establish a uniform procedure for processing the results of the voting." This directive should clarify the language to also oblige the CEC to establish uniform procedures for the counting itself. Under their regulations, the CEC left it to the polling sites to "determine their own procedures" in the actual counting of votes. The law should require that counting procedures be uniform and consistent at all polling sites.	106

Article of Presidential Election Law	LEGAL RECOMMENDATIONS FOR CONSIDERATION	PAGE # in IFES Technical Analysis
--------------------------------------------	-----------------------------------------	-----------------------------------------

Article 52	10.12 During the presidential election some sites used a "stack and count" method of counting, while others used a tally sheet in the counting process where each vote was recorded with tick mark on a piece of paper. It is recommended that the tally sheet method be mandatory. Not only does it provide physical documentation to validate the results reported on the protocol, it provides greater transparency as observers can hear and observe the distribution of votes among candidate. The tally sheet method took no more time during the presidential elections.	106
Article 52	10.16 The law provides a list of the information which must be provided on the protocol. The first item is the number of voters originally on the voter list plus those that have been added throughout the voting on election day. The description of this item fails to indicate that the number of voters who applied for and received Absentee Certificates are to be deducted from this figure.	112
Article 52	10.17 As written, the description of third item to be reported on the protocol is inappropriately worded. Currently it requires commissions to report "the number of ballots issued to voters at the polling sites on election day." Under this wording officials could come to a result by a mathematical calculation involving the number of ballots received, less those left unused, issued for mobile voting, or spoiled by voters. Although the mathematics can be correct, it would provide no meaningful point of balance to account for the ballots against voters participating. The wording should be changed to require the reporting of "the number of signatures on the voter list acknowledging that the voter received a ballot at the polling site."	112
Article 52 (Also See Article 51)	10.18 The list of items to be reported on the protocol does not include enumeration of ballots spoiled by voters and replaced.	112
Article 52	10.17 The ninth item to be enumerated on the protocol is the number of invalid ballots with a separate entry of those containing no markings. As worded it is not clear whether the initial entry is to represent all invalid ballots or only those that are marked.	112

Article of Presidential Election Law	LEGAL RECOMMENDATIONS FOR CONSIDERATION	PAGE # in IFES Technical Analysis
--------------------------------------------	-----------------------------------------	-----------------------------------------

Article 52	10.18 The law fails to make mention of any entry on the protocol regarding ballots from mobile ballot boxes declared void because their number exceeded the number of applications.	113
Article 51 and 52  (See Article 31, Basic Guarantees Law)	10.21 The deficiencies of the law regarding required entries on the protocols also exist in Article 31 of the Basic Guarantees Law. In addition, Article 31 requires enumeration of ballots cast in advance. Although not allowed in the current presidential election law for domestic voters, provision for early voting is allowed for voters in remote sites. However, Article 52 makes no mention of an entry to identify the number of ballots cast early. Article 31 refers to the number of ballots voted "at places of residence," while Article 51 refers to voting "outside the voting premises." Article 31 does not require a separate indication of the number of ballots with no markings, or exclusion of ballots of non-standard form from the total ballots found in the ballot boxes. Nor does Article 31 call for a separate entry for the number of ballots from the mobile ballot boxes.	113
Articles 52, 53 and 54	10.25 The law dictates that counting at the polling site are to continue without a break until the results are established. The law should impose a similar requirement during the stages of summarization of results, particularly at the territorial level.	122
Articles 20, 53 and 54  (Also See Article 14, Basic Guarantees Law)	10.28 Neither law guarantees the rights of observers to be present at the Territorial or Subject Election Commissions during the summarization of results. Their presence at these levels is critical to the transparency of the election.	123

Article of Presidential Election Law	LEGAL RECOMMENDATIONS FOR CONSIDERATION	PAGE # in IFES Technical Analysis
--------------------------------------------	-----------------------------------------	-----------------------------------------

Articles 52, 53 and 54  (Also See Articles 31 and 32, Basic Guarantees Law)	10.29 The presidential law does not conform to the more effective language in the Basic Guarantees Law that provides that observers have the right to receive certified copies of the relevant protocols upon request. This is a serious omission which should be corrected to ensure that transparency mechanisms are preserved throughout the process.	124
<b>Chapter 11: Adjudication of Grievances (Pages 127-140)</b>		
Articles 23, 27, 34, 35, 39, and 45  (Also See Article 16, Basic Guarantees Law)	11.1 Issues regarding the channeling complaints through the hierarchy of election commissions and the courts need to be revisited. Under the current laws an aggrieved individual or entity is entitled to appeal to the election commissions or to the courts. The law also provides that appeals through the election commission structure is not a prerequisite for filing before the court. Under the current adjudication system the process has been hampered by jurisdictional questions and delays which have sometimes made resolution untimely and ineffectual given the time constraints of the brief election period. Alternative approaches to clarifying jurisdictions and assigning more efficient avenues for appeal should be investigated. One alternative that could be considered would amend laws to clarify the first line of entry for cases to appropriate adjudication authorities based on subject matter of the complaint.	135
Articles 23, 27, 34, 35, 39, 45  (Also See Article 16, Basic Guarantees Law)	11.2 In cases related specifically to actions and decisions of commissions, including errors, omissions or violations, the laws should require appeals to be brought before higher level commissions. Except in extraordinary circumstances specifically delineated under the law, complainants should not have the option of bringing election related complaints or appeals of decisions of election commissions directly to a court. Prior to judicial review, complainants should be required to "exhaust" available administrative remedies.	138

Article of Presidential Election Law	LEGAL RECOMMENDATIONS FOR CONSIDERATION	PAGE # in IFES Technical Analysis
--------------------------------------------	-----------------------------------------	-----------------------------------------

No Relevant Article	11.4 The scope of authority and responsibility of the courts in reviewing election commission actions should be clarified in law. After appeals through the hierarchy of elections commissions have been exhausted, review at the Supreme Court of the Russian Federation should largely be limited to questions of interpretation and application of law. To the extent permitted by general laws and regulations of civil procedure, the Court's role in evidence gathering and fact determination should be limited to extraordinary situations specifically delineated by election law. The Court should refer cases back to election commissions or lower courts for further fact finding when necessary.	138
No Relevant Article	11.5 Election laws and administrative codes should specify a statute of limitations for election-related complaints or appeals of election commission actions.	139
No Relevant Article	11.6 The role of procurators in examining and investigating election related matters should be clarified. The investigatory authority and capacity of the CEC should be expanded. Clear guidelines should establish when complaints may be filed directly with the procurator and, specify the time lines within which the courts and the CEC will refer cases to the procurator for investigation. The CEC should be granted broader authority and greater resources for investigation complaints, including subpoena power.	139
No Relevant Article	11.7 The election laws should be revised to explicitly obligate superior election commissions to investigate allegations of vote count fraud or manipulation of election results on the part of subordinate commissions.	139

Article of Presidential Election Law	LEGAL RECOMMENDATIONS FOR CONSIDERATION	PAGE # in IFES Technical Analysis
--------------------------------------------	-----------------------------------------	-----------------------------------------

Chapter 13: General Issues (Pages 144-150)		
No Relevant Article	13.2	<p>The issue of simultaneous conduct of federation-wide and subject or local elections should be deliberated in view of the fact that federal and local election laws may, in fact, conflict with one another on procedural issues related to election day processing of voters. A viable alternative to a prohibition of simultaneous federation-wide and local elections is enactment of provisions that dictate that, with regard to the rules for the conduct of the poll on election day, federal laws will supersede local law when both elections are held on the same day. Such provisions would ease the burdens on polling site commissions as they carry out their duties, and would avoid confusion among voters who otherwise would be served under two different sets of rules.</p>
		149

## **Considerations for Procedural and Administrative Reform**

Procedural and Administrative Recommendations	Page # in IFES Technical Report
-----------------------------------------------	---------------------------------------

<b>Chapter 4: Transparency Mechanisms (Pages 16-29)</b>		
4.3	To facilitate the work of observers on election day, polling site election commissions should be provided "user friendly" hand-outs to distribute among observers.	27
4.4	More emphasis must be placed on training for election commissions in special polling sites such as hospitals, prisons, consulates, and military installations regarding the legal rights of observers to be present.	27
4.6	Supplementary instructions and training is required to bring all Polling Site Election Commissions into compliance with the letter as well as the spirit of the election laws and the Central Election Commission regulations regarding the right of observers to receive certified copies of the protocols on request. In particular, commission members must be made to understand that providing certified copies is not to be delayed until the protocol has been reviewed by higher level commissions. (Also See Chapter 10, <i>Counting the Votes and Reporting the Results</i> , Recommendations 10.32 and 10.33)	27
4.7	Polling Site Election Commissions must be counseled on the significance of certified copies of protocols as admissible evidence in a court of law. It is therefore critically important that officials thoroughly review copies of protocols created by observers for accuracy before affixing appropriate certification. (Also See Chapter 10, <i>Counting the Votes and Reporting the Results</i> , Recommendation 10.31 and 10.34)	28
4.11	It would be beneficial if electoral associations, blocs and candidates were provided with improved information regarding the rights of deliberative voting members and how their role differs from that of other observers. It was evident throughout the presidential election that election participants did not appear to utilize their deliberative members to their full capacity. Deliberative voting members, in most cases, acted as observers but did not fully exercise their rights of access to commission sessions, information and election documents during the campaign period.	29



**Chapter 6: Pre-Election Campaigns and the Media  
(Pages 38-65)**

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| <p>6.15 In spite of the success of the effort to attract young people to the process, concerns were raised that should be heeded in the future. Some observer expressed criticism that general themes promoted in the ads and youth festivals organized for this element of the CEC's voter education program appeared to parallel the campaign being waged by the president's own re-election support organizations. As political diversity and multi-party competition continue to grow in the evolving democratic election process, officials will have to become increasingly sensitive to ensuring that any activities or programs with which they are associated remain absolutely neutral in format, content, and execution. Even a perception of partisanship on the part of election administrators at any level can undermine public confidence in the process.</p> | 64 |
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**Chapter 7: Campaign Financing (Pages 66-81)**

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| <p>7.11 Mechanisms should be created for research access to official campaign finance information regarding pre-election and post election campaign reports. Software should be developed and data base capacity for inputting report information and making it available by computer.</p>                                                                                                                                                                                     | 80 |
| <p>7.12 Ongoing work must be undertaken to develop a civic culture that supports disclosure and monitoring of campaign finance information. Political participants news media and the general public must be persuaded that monitoring campaign finance information and understanding the potential influence of campaign contributions on state policy is important. Political scientists should be encouraged to conduct long term, post election research in this area.</p> | 81 |

**Chapter 8: The Ballot (Pages 82-85)**

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| <p>8.3 In the future improvements should be developed in the printing process to enhance the security of the ballot. Ballots should be treated like currency. Such enhancements to the production of ballots should eventually include: use of security paper; sequential numbering of ballots within Subjects; uniform padding and packaging techniques; and, introduction of counterfoils or stubs from which ballots are torn at a perforation. The stubs would be retained as part of the accountability process.</p> | 83 |
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**Chapter 10: Counting the Votes and Reporting Results  
(Pages 98-126)**

10.13	Instructions developed by the CEC for counting of votes should provide step by step details as to how the ballot papers are to be handled and processed during the counting of votes. Instruction should include mechanisms by which the accuracy of the counting can be verified during the counting process. Procedures should also be designed so that observers can see and hear how the ballots are being read and tallied. Instructions should not defer decisions as to how the actual handling of the ballots is to take place to the Polling Site Election Commissions. Procedures should be defined that can be carried out uniformly throughout the Russian Federation.	107
10.14	The ballot scanning devices that proved their merit in testing during the presidential election should be considered for use at the Territorial Election Commissions to scan the protocols submitted by Polling Site Election Commissions.	110
10.15	If scanning devices ultimately find a permanent place in the counting of votes, it will be important to not only build pre-election testing of the program into the system; it will also be advisable to incorporate a standard policy for random, manual counting testing to ensure the integrity of the programming as part of normal activity after the close of the polls.	110
10.22	The protocol should be redesigned to provide space and detail which would allow commission members to actually perform the calculations on the face of the protocol itself, to alleviate some of the confusion experienced by officials in completing the accountability portion of the form.	112
10.23	As evolution of the SAS continues to unfold, it is recommended that additional data become a standard part of election programming. Such pre-set data should include the number of voters on the voter lists prior to the opening of the polls, and the number of ballots issued to each polling site. Pre-entry of this data would provide additional opportunities for programming more meaningful checks and balances. It would also allow the CEC to accumulate statistical data including projections of turnout throughout election day.	119
10.24	It is recommended that officials consider how the SAS data can be organized into suitable formats for providing election related information to candidates, electoral associations and other nominating organizations as well as the media during the pre-election period. Information about polling sites, voters lists, etc. can be extremely useful in campaign planning and in organizing media coverage of the elections.	120

<b>Procedural and Administrative Recommendations</b>	<b>Page # in IFES Technical Report</b>
------------------------------------------------------	------------------------------------------------

10.26	At Territorial Election Commission offices, procedures should require Polling Site Election Commission Chairmen to be present and to verify the data entry of their protocols into the SAS system. A precinct printout should be generated and signed by the data entry technician and the PSEC Chairman. Certified copies of the precinct printout should be made available to observers on request.	122
10.27	Currently, instructions regarding completion of the protocols and SAS programming requires an absolute balance of data related to the ballot accountability portion of the protocol. This is an unrealistic expectation that leaves no room for inadvertent human error which is bound to occur. Such expectations encourage artificial adjustments in entries to force a balance. Protocols should be an accurate reflection of actual activity even if minor errors must be acknowledged. The system should incorporate a tolerance factor for insignificant errors which should be documented for the permanent record. Without accurate accounting there can be no reliable audit trail.	122
10.30	In the Uniform Procedure for the Tabulation of Vote Returns and Compilation of Protocols, the CEC evoked Article 40 (13) of the Administrative Code under which fines and penalties would be imposed on officials who failed to make the third copies of the protocols available for familiarization. The same penalties should apply for officials who fail to provide certified copies of protocols upon request. The effectiveness of such warnings becomes mute unless it is enforced.	125
10.32	It would be helpful if officials made a notation in their records about observers who requested and received certified copies of the protocols so that they could be advised of subsequent corrections which may have been made on the protocols. Copies of the corrected protocols should also be made available upon request.	125
<b>Chapter 11: Adjudication of Grievances (Pages 127-140)</b>		
11.3	Mechanisms should be devised to improve the capacity of Subject Election Commissions to review complaints and appeals through training, additional resources and monitoring by the CEC.	138

<b>Procedural and Administrative Recommendations</b>	<b>Page # in IFES Technical Report</b>
------------------------------------------------------	------------------------------------------------

11.8	Information about complaint adjudication and outcomes and other official applications of relevant laws should be compiled, organized, routinely published and made accessible to political participants, commissions and the courts. This information would be beneficial in promoting compliance with the law, and assisting participants to know what to expect from enforcement and the adjudication system. It would also assist lawmakers in determining where legal reforms may be warranted. The same compilation and publication should apply to decisions of the Judicial Chamber for Informational Disputes. (Also See Chapter 6, <i>Pre-Election Campaigns and the Media</i> , Recommendation 6.12)	139
11.9	At each stage of the process, commission members who disagree with the decisions of the commission or with information provided on the protocols are allowed to attach their comments to the relevant documents. Complaints submitted by voters, candidates, observers and other election participants and a statement as to how the complaint was resolved are also supposed to be attached to the protocols. It is recommended that Territorial Election Commissions prepare a summary report of the dissenting opinions and written complaints to be transmitted to the subject election commission. In turn, Subject Election Commissions should prepare a similar summary report for the subject at large and submit the report to the Central Election Commission. These summaries would be most beneficial in helping superior level commissions identify trends and the necessity for improved training strategies, or legal and procedural reform.	139
<b>Chapter 13: General Issues (144-150)</b>		
13.3	Administrative guidelines should be developed to assist subject and local officials in overcoming procedural conflicts that may arise when local elections are conducted simultaneously with federation-wide elections. Such guidelines could include preparation of a checklist to assist local officials in comparing local and federal laws for the purposes of identifying where procedural differences may exist. An evaluation should also include an outline of the CEC's capacity to provide technical advice or support in developing resolutions.	156

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# 15

## ***Attachments***

- ***Comparison of Russian Election Laws***
- ***List of Federal Laws and Other Normative Acts Regulating Elections of the President of the Russian Federation***
- ***Examples of Laws Governing Media and the Pre-Election Campaign***
- ***Election Calender: A Quick Reference Guide For the Election of President of the Russian Federation 16 June 1996***



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**COMPARISON OF RUSSIAN ELECTION LAWS**

	DUMA ELECTION LAW	PRESIDENTIAL ELECTION LAW	BASIC GUARANTEES LAW
Overview/Status	24/11/94 Duma passes 1st reading; 15/3/95 Duma passes 2nd reading; 24/3/95 Duma passes 3rd reading; 12/4/95 Federation Council (FC) vetoes; 21/4/95 Duma passes with minor revisions; 4/5/95 FC vetoes again; 11/5/95 Duma overrides FC veto; 23/5/95 President vetoes - conciliatory committee (CC) set up; 9/6/95 Duma passes CC version; 14/6/95 FC rejects again; 15/6/95 FC passes law; 21/6/95 President signs law.	16/12/94 Duma passes 1st reading; 15/3/95 Duma passes 2nd reading; 24/3/95 Duma passes 3rd reading; 12/4/95 Federation Council (FC) vetoes; 4/5/95 FC approves law; 17/5/95 President signs law.	26/10/94 Duma passes law; 15/11/94 Federation Council (FC) passes law; 6/12/94 President signs law.
Term of Office	4 years (Constitution, Art. 96)	4 years (Constitution, Art. 81)	N/A
Election Timing; How Called	Election called by President at least 4 mos. prior to expiration of term (3 mos. in case of Duma dissolution.) (Art. 4)	Election called by Fed. Council at least 4 mos. prior to expiration of term (3 mos. in case President "ceases fulfillment of powers.") (Art. 4)	N/A
How Elected	450 deputies - 225 elected in single mandate districts (SMD); 225 elected in proportion to number of votes cast for federal lists of candidates of electoral assoc/blocs. (Art. 5)	Direct vote of people. (Art. 1)	N/A
Franchise Requirements & Privileges	Citizens 18+ years; special provisions for military, temporary residents, out of country citizens, voters residing in rest homes, hospitals, sanatoriums, spas, etc. (Arts. 3,12) DISQUALIFIED: citizens declared incompetent by court or imprisoned. (Art. 3)	Citizens 18+ years; special provisions for military, temporary residents, out of country citizens, voters residing in rest homes, hospitals, sanatoriums, spas, etc. (Arts. 3, 24) DISQUALIFIED: citizens declared incompetent by court or imprisoned. (Art. 3)	Citizens 18+ years of age. DISQUALIFIED: citizens declared incompetent by court or imprisoned. (Art. 4)
Districting Authority	Determined by CEC. Dists. must be approved by law NLT 110 days before election; CEC publishes list of dists. NLT 108 days before election. (Art. 11)	N/A	Specifies electoral district rules for local governments and local elections (i.e. non-federal level). (Art. 9)



## COMPARISON OF RUSSIAN ELECTION LAWS

	DUMA ELECTION LAW	PRESIDENTIAL ELECTION LAW	BASIC GUARANTEES LAW
Districting Principles	Single mandate districts (SMD): contiguous territories; pop. deviation no more than 10% (15% in remote areas); at least 1 SMD in each Subject. (Art. 11)	Single federal election district encompassing entire territory of R.F. (Art. 5)	Contiguous territory; pop. deviation no more than 10% (15% in remote areas and up to 30% in areas of indigenous small nations). (Art. 9)
Election Commission Hierarchy; Central Election Comm. (CEC); Subject Election Comm. (SEC); District Election Comm. (DEC); Territorial Elec. Comm. (TEC); Precinct Election Comm. (PEC)	<u>5 Levels:</u> CEC, permanent body; SEC, permanent body, 4 yr. term; DEC, one for each of 225 single mandate dists, formed NLT 92 days before election; TEC formed NLT 60 days before election; & PEC, formed NLT 44 days before election. (Arts. 16-28)	<u>4 Levels:</u> CEC, permanent body; SEC, permanent body, 4 yr. term; TEC, formed NLT 60 days before election; & PEC, formed NLT 44 days before election. (Art. 10-18)	<u>5 Levels:</u> CEC; SEC; DEC; TEC; & PEC; procedure for formation specified in federal laws. (Arts. 11-13)
Formation of Electoral Associations & Blocs	Elec. assoc. must be registered with Ministry of Justice NLT 6 mos. prior to announcement date of election; elec. blocs formed by 2 or more elec. assoc. and must register with CEC within 5 days of submitting the resolution forming the elec. bloc. (Arts. 32, 33)	Elec. assoc. must be registered with Ministry of Justice NLT 6 mos. prior to announcement date of election; elec. blocs formed by 2 or more elec. assoc. and must register with CEC within 5 days of forming. (Arts. 28, 29)	Elec. assoc. must be registered with Ministry of Justice NLT 6 mos. prior to announcement date of election; elec. blocs formed by 2 or more elec. assoc. ; elec. blocs must register with relevant elec. comm. (Art. 2, 18)
Period of Election Campaign; Restrictions	Begins on day of registration of candidates and ends at 12 p.m. local time on the day preceding the election; no opinion polls or forecasts published within 5 days of election and on election day; no anonymous campaign materials; no posting of campaign materials on monuments, historical buildings or inside the voting premises. After registration, a candidate may not take advantage of his/her official standing in order to be elected. (Arts. 44, 45, 50)	Begins on day of registration of candidates and ends at 12 p.m. local time on the day preceding the election; no opinion polls or forecasts published within 5 days of election; no anonymous campaign materials; no posting of campaign materials on monuments, historical buildings or inside the voting premises. After registration, candidates holding government office must take leave of absence during campaign. (Arts. 37, 38, 43)	Begins on day of registration of candidates and ends one day prior to election day; no opinion polls or forecasts published within 5 days of election; upon registration, candidates holding government offices or employed by mass media must take leave of absence during campaign. (Art. 22, 26)



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**COMPARISON OF RUSSIAN ELECTION LAWS**

	DUMA ELECTION LAW	PRESIDENTIAL ELECTION LAW	BASIC GUARANTEES LAW
Eligibility for Nomination	Citizens 21+ years old. <b>DISQUALIFIED:</b> Citizens declared incompetent by a court or imprisoned. (Art. 3)	Citizens 35+ years old; at least 10 yrs. residing in territory of R.F. <b>DISQUALIFIED:</b> Citizens declared incompetent by a court or imprisoned. (Art. 3)	Specifies min. ages for candidates for local gov't legislative and exec. bodies. (Art. 4)
Nomination Requirements	Candidates may be nominated by elec. assocs/blocs or directly by citizens; candidates <b>MAY NOT</b> run in more than one single mandate district (SMD); candidates <b>MAY</b> run in both a SMD and on an electoral assoc/bloc's federal list. (Arts. 6, 39, 42)	Candidates nominated by elec. assocs/blocs, or directly by citizens. (Art. 6)	Candidates may be nominated by elec. assocs/blocs or directly by citizens. (Art. 18, 19)
Signature Requirements	<b>Electoral Assoc/Bloc:</b> Min. of 200,000 sigs. with no more than 7% from one Subject of R.F.; sig. sheets must state name of Subject of R.F. where sigs. collected; elec. assoc/bloc may begin collecting sigs. upon receipt of certified copy of candidate list; sigs. due to CEC NLT 55 days prior to election; CEC then determines registration status of fed. list candidates within 10 days of submission of sigs.  <b>Single-Mandate District (SMD):</b> Min. of 1% of voters in the district; candidates affiliated with an elec. assoc/bloc may begin collecting sigs. upon receipt of certified copy of cand. list; indep. cand. may begin collecting sigs. on day of official publication of list of single mandate districts; sig. lists due to District Elec. Comm. (DEC) NLT 55 days prior to election; DEC then determines registration status of candidates within 5 days of submission of sigs. (Arts. 39, 41, 42)	Min. of 1,000,000 sigs. with no more than 7% from one Subject of the R.F.; sig. sheets bound separately by Subjects of the R.F.; sig. collection begins upon receipt of registration certificate; sigs. due to CEC NLT 60 days before election; CEC determines registration status of candidates within 50 days of election. (Art. 34, 35)	Signature requirements shall be established by specific federal laws. The maximum number of sigs. required may not exceed 2% of registered voters. (Arts. 18 & 19)





## COMPARISON OF RUSSIAN ELECTION LAWS

	DUMA ELECTION LAW	PRESIDENTIAL ELECTION LAW	BASIC GUARANTEES LAW
Other Requirements for Electoral Assocs/Blocs with Candidates on Federal List	Federal candidate list nominated at elec. assoc/bloc congress by secret ballot & submitted to CEC; CEC issues or refuses to issue <i>certified copy</i> of list of candidates within 3 days of receipt; no more than 12 candidates on list who do not belong to regional groups (maximum 270 candidates allowable on list); list may be split into regional groups of candidates; all candidate names & their position order on list must be disclosed to CEC; info re 3 fed. list candidates and 3 regional list candidates (if applicable) shall be included on sig. sheets. (Arts. 37, 38, 39)	N/A	N/A
Rights of Candidates, Electoral Assocs/Blocs during Campaign	Elec. comm. reimburses cand. an amount not to exceed 10 times min. mo. wages (as of 27/7/95 min. mo. wage was 55,000 roubles); candidates cannot be prosecuted; mass media must provide equal conditions to all candidates for campaign statements; CEC establishes procedures for granting air time. A candidate may withdraw no later than 3 days prior to election day. • (Arts. 44, 47, 48)	CEC reimburses candidates an amount equal to candidate's avg. mo. income but not to exceed 20 times min. mo. wages (as of 27/7/95 min. mo. wages was 55,000 roubles); mass media must provide equal conditions to all candidates for campaign statements; candidates cannot be prosecuted; CEC establishes procedures for granting air time. A candidate may withdraw at any time before election day. • (Art. 37, 40)	The appropriate level of elec. comm. shall reimburse candidates in amounts established by specific laws; candidates cannot be prosecuted; mass media must provide equal conditions to all candidates for campaign statements; CEC establishes procedures for granting air time. Any candidate may withdraw at any time before the election. • (Arts. 20, 22, 24)

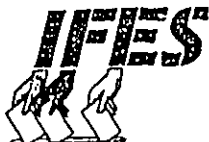


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**COMPARISON OF RUSSIAN ELECTION LAWS**

	DUMA ELECTION LAW	PRESIDENTIAL ELECTION LAW	BASIC GUARANTEES LAW
Financial Limits & Disclosure	Max. expenditure per candidate not to exceed 10,000 times min. mo. wages (as of 27/7/95 min. mo. wage was 55,000 roubles); max. expenditure per electoral assoc/bloc not to exceed 250,000 min. mo. wages; donations not allowed from foreign countries, non-citizens, international orgs., local gov'ts, state & city agencies, military units, charitable or religious orgs.; candidates for deputy submit financial reports to Dist. Elec. Comm., Elec. assoc/blocs to CEC. - Deadline: NLT 30 days after publication of election returns. (Arts. 52, 53)	Max. expenditure per candidate not to exceed 250,000 times min. mo. wages; donations not allowed from foreign countries, non-citizens, international orgs., local gov'ts, state and city agencies, military units, charitable or religious orgs.; candidates and electoral assoc/blocs submit financial reports to CEC NLT 30 days after publication of election returns. (Arts. 45, 46)	Maximum expenditure per candidate to be specified in individual federal laws; donations not allowed from foreign countries, non-citizens, international orgs., local gov'ts and religious orgs. Relevant level of elec. comm. must make periodic reports prior to election day re the amounts & sources of funds based on info submitted by elec. assoc/blocs & cand; cand. & elec. assoc/blocs submit fin. report to relevant elec. comm. NLT 30 days after election. (Art. 28)
Complaint Adjudication	Complaints may be taken to next higher level of Elec. Comm. or to a court; complaints re CEC action/inaction may be filed with Supreme Court which must act on complaint within 5-10 days of receipt or immediately if filed within 5 days of election. (Art. 31)	Complaints may be taken to next higher level of Elec. Comm. or to a court; complaints re CEC action/inaction may be filed with Supreme Court which must act on complaint within 5-10 days of receipt or immediately if filed within 5 days of election. (Art. 23)	Complaints may be taken to next higher level of Elec. Comm. or to a court; complaints re elec. comm.'s action/inaction may be filed with Supreme Court which must act within 5-10 days or immediately if filed on election day. (Art. 16)



## COMPARISON OF RUSSIAN ELECTION LAWS

	DUMA ELECTION LAW	PRESIDENTIAL ELECTION LAW	BASIC GUARANTEES LAW
Administrative Voting Procedures	<p><u>Single-Mandate Dist. (SMD)</u> candidates listed on ballot in alphabetical order with their elec. assoc/bloc affiliation (if applicable);</p> <p><u>Federal list</u> candidates order on ballot determined by lot; Pct. Elec. Comm. notices time/place of election NLT 20 days prior to election; voters mark ballot FOR candidate/list of choice or for "none of above"; absentee voting permitted; vote counting occurs at precincts after polls close; vote protocols (results) submitted to next higher election commission; ballot retention period 1 yr., documents kept at least 6 mos., protocols (results) kept 1 yr. after day setting date of new elections. * (Arts. 57, 58, 59, 61)</p>	<p>Candidates listed on ballot in alphabetical order with their elec. assoc/bloc affiliation (if applicable); Pct. Elec. Comm. notices time/place of election NLT 20 days prior to election; voters mark ballot FOR candidate of choice or for "none of above"; absentee voting permitted; vote counting occurs at precincts after polls close; vote protocols (results) submitted to next higher elec. commission; election documents kept at least 6 mos, protocols (results) kept until next election date is set. *(Arts. 50, 51, 52, 54)</p>	<p>Pct. elec. comm. notices time/place of election NLT 20 days prior to election; voters mark ballot FOR candidate/list of choice or for "none of above"; absentee voting permitted; vote counting occurs at precincts after polls close; vote protocols (results) submitted to next higher elec. comm.; election documents kept for time established by fed. laws; ballots must be preserved for min. 1 yr., protocols for min. 1 yr. after next elec date is set. * (Arts. 6, 30, 31, 32)</p>
Election Observers	<p>Observers representing candidates, elec. assoc/blocs, candidates' attorneys, representatives of media, and foreign observers may be present at polls during voting, calculation of votes and drafting of protocols (election results); 3rd copies of protocols made available to observers, members of elec. commissions with deliberative vote, &amp; media representatives at all Pct. Elec. Comm (PEC), Territorial Elec. Comm. (TEC), Dist. Elec. Comm. (DEC), &amp; Subject Elec. Comm. (SEC). (Arts. 58 - 61)</p>	<p>Observers representing candidates, elec. assoc/blocs, candidates' attorneys, reps of media &amp; foreign observers may be present at polls during voting, calculation of votes and drafting of protocols (election results); 3rd copies of protocols made available to observers, members of elec. commissions with deliberative vote, &amp; media reps at all Pct. Elec. Comm (PEC); Territorial Elec. Comm. (TEC); &amp; Subj. Elec. Comm. (SEC). (Arts. 52 - 54)</p>	<p>Observers sent by elec. assoc. or by cand and foreign observers may be present at polling stations; observers entitled to copy of protocol (elec. results) at pct. or dist. level; elec. comms. of all levels shall share info. re voting returns and election outcomes in the presence of observers representing candidates, elec. assoc. and foreign observers.; observer may be removed from premises if s/he attempts to violate the secrecy of the ballot or attempts to influence a voter. (Arts. 14, 30, 31, 32)</p>



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**COMPARISON OF RUSSIAN ELECTION LAWS**

	DUMA ELECTION LAW	PRESIDENTIAL ELECTION LAW	BASIC GUARANTEES LAW
<b>ELECTION RESULTS:</b> release & availability of information in protocols of Precinct Election Commissions (PECs); Territorial Election Commissions (TECs); District Election Commissions (DECs); Subject Election Commissions (SECs); and Central Election Commission (CEC)	Any voter, observer, or media representative may examine protocols at the PEC or DEC level; DEC must publish protocols of TECs & PECs pertaining to single mandate districts NLT 1 mo. after elec; CEC must publish in its bulletin all voting results except for PECs NLT 3 mos. after election day. (Art 65)	Any voter, observer, or media rep. may examine protocols at the PEC, TEC or SEC; TEC must publish its protocol NLT 5 days after election day & the PECs protocols within their TEC NLT 15 days after election day; CEC must publish in mass media protocols of SECs NLT 1 mo. after elec. day; CEC must publish in its bulletin all voting results, except for PECs, NLT 3 mos. after election day. (Art. 58)	Any voter, candidate observer or media rep. may examine voting returns of each elec. pct; the complete data included in the protocols of all levels of elec. comms. except PECs, shall be made public within 3 mos. after election. (Art. 33)
Declaring the Winner	<u>Single Mandate Dist.(SMD):</u> candidate who receives most votes (plurality) is elected; if a winning candidate ran for both a SMD & on fed. list, s/he takes SMD seat; <u>Federal List:</u> elec. assoc/bloc must win min. 5% of votes cast for distribution of deputy mandates. If list was split, mandates assigned first to non-regional candidates and then to regional candidates in proportion to number of votes cast for the federal list in that Subject(s) of R.F. (Arts. 61, 62, 70)	Candidate who receives more than one half of votes is elected. If no majority, a run-off is held between top two candidates; runoff election to occur no later than 15 days after the estimation of the results of first election. (Art. 55)	N/A
Voter Turnout Threshold	Minimum 25% voter turnout requirement (based on the # of voters signing for ballots) or election invalid. (Art. 61)	Minimum 50% voter turnout requirement (based on the # of voters signing for ballots) or election invalid. (Art. 55)	N/A
Filling Vacancies	<u>Single-Mandate Dist. (SMD):</u> New election called except if less than one year of term remains, then position stays vacant until next election. <u>Federal List:</u> Mandate transferred to next candidate on fed. list; if no candidates remain, mandate stays vacant until next election. (Art. 67, 68)	If president ceases to exercise powers due to resignation, health or impeachment, duties are temporarily filled by Chairman of Government (Prime Minister). Constitution, Art. 92	N/A

**FEDERATION COUNCIL:** 5/7/95 Duma passes law to elect future members of the Federation Council (FC); 27/7/95 FC supports Duma law to elect future members of their upper chamber by a razor-thin one vote margin (90 of 178 members voting in favor); 11/8/95 President vetoes law; 12/8/95 Duma fails to override presidential veto. Yeltsin favors forming upper chamber via appointees who are the head of the executive and legislative branches of each of the 89 Subjects of the Russian Federation. No further legislative action or presidential decree had been issued on this matter as of September 1, 1995 when this election law grid was published.

\* CONTRADICTIONS ARE FOUND BETWEEN PROVISIONS OF "BASIC GUARANTEES LAW" AND "DUMA AND/OR PRESIDENTIAL ELECTION LAW(S)".



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**LIST**  
**OF FEDERAL LAWS AND OTHER NORMATIVE ACTS**  
**REGULATING ELECTION OF THE PRESIDENT OF THE RUSSIAN**  
**FEDERATION**

Name of Law	Examples of Articles Regulating Election of the RF President
Federal Laws	<p>Article 2</p> <p>In accordance with the Federal Law "On Election of the President of the Russian Federation" the following comprises the legislation on the election of the President:</p> <ul style="list-style-type: none"> <li>• Constitution of the Russian Federation,</li> <li>• Federal Law "On Basic Guarantees of Electoral Rights of Citizens of the Russian Federation",</li> <li>• Federal Law on the election of the President of the Russian Federation,</li> <li>• other federal laws.</li> </ul> <p>Other federal laws comprising the legislation on the election of the President include laws regulating certain aspects of the election process and determining basic legal notions used for regulating elections.</p>
Civil Code of the Russian Federation (CC).	<p>Article 21</p> <p>capability of a citizen is determined.</p> <p>Art. 21, Part 1</p> <p>the ability of a citizen through his actions to acquire and exercise his civil rights, to create for himself civil obligations and fulfill them (civil capability) fully arises upon attaining maturity, i.e. upon reaching 18 years of age.</p> <p>Article 48</p> <p>the notion of a legal entity is determined.</p> <p>Article 153-181</p> <p>general rules for concluding transactions are determined.</p> <p><i>Comments. The norm of Article 169 concerning the invalidation of transactions concluded for the purpose contradicting the foundations of the law, order and morals applies to the violation of the procedure for financing an election campaign.</i></p>
Civil Procedural Code of the RSFSR (CPC)	<p>Establishes the procedure for legal proceedings in all courts of the Russian Federation including cases concerning complaints against actions of administrative bodies and officials. The latter category includes cases concerning complaints in connection with the application of the election legislation.</p>
Law of the Russian Federation on Appealing Actions and Decisions in Court which Violate Rights and Freedom of Citizens dated 27 April 1993.	<p>Article 1</p> <p>every citizen is entitled to submit an appeal to a court if he considers that his rights and freedom have been violated by illegal actions (decisions) of state bodies, bodies of local self-government, institutions, enterprises and associations thereof, public associations or officials.</p>

	<i>Comments: in accordance with this law actions of state bodies, bodies of local self-government, institutions, enterprises and associations thereof, public associations or officials violating the electoral rights of citizens of the Russian Federation may be appealed. This law applies unless the Federal Law "On Basic Guarantees of Electoral Rights of Citizens of the Russian Federation", federal laws on elections or other federal laws provide for a special procedure for appealing such actions.</i>
Federal Law on Public Associations dated 14 April 1995.	<p>Article 5 a public association is understood as a voluntary self-governed non-profit entity created upon the initiative of citizens who united on the basis of common interests for the implementation of common purposes specified in the charter of the public association.</p> <p>Article 7 public associations may be established in one of the following organizational and legal forms:</p> <ul style="list-style-type: none"> <li>• public organization;</li> <li>• public movement;</li> <li>• public foundation;</li> <li>• public institution;</li> <li>• body of public self-activity.</li> </ul> <p>Federal Law regulates the procedure for establishment, activity, reorganization and liquidation of public associations.</p>
Federal Law "On Charity Activity and Charity Organizations".	<p>Article 6 A charity organization is a non-government (non-state and non-municipal) non-profit organization established for the fulfillment of purposes stipulated by this Federal Law by carrying out charity activity in the interest of the society in general or certain categories of citizens.</p> <p>Article 7 Charity organizations are established in the form of public organizations (associations), foundations, institutions or in other forms stipulated by federal laws for charity organizations. A charity organization may be established in the form of an institution if its founder is a charity organization.</p>
Law of the Russian Federation on Mass Media dated 27 December 1991 with Alterations and Addenda dated 13 January 1995.	<p>Article 2 definition of a mass media organization.</p> <p>Article 7 notion of a founder of a mass media organization.</p> <p>Article 18 status of a founder of a mass media organization.</p> <p>Article 19 status of an editorial board of a mass media organization.</p> <p>Article 47 rights of a journalist are determined.</p> <p>Article 49 duties of a journalist are determined; the procedure for</p>

	disseminating mass information and fundamentals of relations among mass media and citizens and organizations are also determined.
Federal Law "On Fundamentals of State Service of the Russian Federation" dated 5 July 1995.	<p>Article 12 determines the "state servant" notion. A state servant is a citizen of the Russian Federation who in the procedure established by the federal law performs state position duties of the state service for monetary remuneration paid from the federal budget of the relevant budget of a constituent entity of the Russian Federation".</p> <p>Article 10 restrictions related to state service are described. In particular, a state servant is not entitled to use facilities of material and technical, financial and informational support, other state property and official information for purposes other than official ones and to use his official position in the interests of political parties and public associations.</p>
Code of Laws on Labor of the Russian Federation.	<p>Article 111 during the period of performing state or public duties, if in accordance with the effective legislation these duties may be performed during business hours, it is guaranteed that employees retain jobs (positions) and average salaries. A citizen shall retain his average salary if he exercises the electoral right.</p>
Federal Law on General Principles of Organization of Local Self-government in the Russian Federation dated 12 August 1995.	<p>Article 1 "body of self-government" notion is defined.</p> <p>Article 21 "municipal servant" notion is defined.</p> <p>Article 60 it is established that the restrictions set forth by the federal legislation for state servants shall apply to municipal servants until the relevant federal law (on municipal service) is adopted.</p>
Law of the Russian Federation on Russian Federation Citizenship dated 28 November 1991.	Whether a person is a citizen of the Russian Federation and the procedure for acquisition and termination of the citizenship of the Russian Federation are established.
Law of the Russian Federation on the Right of Citizens of the Russian Federation of Freedom of Movement, Selection of Place of Stay and Place of Residence within the Russian Federation dated 25 June 1993.	<p>Article 2 "place of stay" and "place of residence" notions are defined.</p> <p>Place of stay means a hotel, sanatorium, rest home, boarding house, camp ground, tourist base, clinic, another similar institution as well as dwelling premises which are not a citizen's place of residence where he temporarily resides.</p> <p>Place of residence means a dwelling building, apartment, official dwelling premises, specialized buildings (dormitory, hotel-shelter, rotating stock building, special building for solitary and elderly people, boarding house for the disabled, veterans and others) as well as other dwelling premises where a citizen permanently or predominantly resides as an owner, under a lease (sublease) contract or on other grounds provided for by the legislation of the Russian Federation.</p>

Criminal Code of the RSFSR (CC).	<p>Article 21 and 24 punishment is determined in the form of imprisonment.</p> <p><i>Comments: in accordance with Article 32 of the Constitution of the Russian Federation, citizens kept in places of confinement by court sentences are not entitled to elect or be elected.</i></p> <p>Article 132 responsibility is established for impeding the exercise by a citizen of the Russian Federation of his electoral rights or work of election commissions. Impeding must entail graft, fraud, use of violence or a threat to use it, as well as a threat to destroy property.</p> <p>Article 133 responsibility is established for forgery or counterfeiting election documents, deliberately incorrect counting of votes or the determination of election results.</p> <p>Article 133-1 determines responsibility for violation of the election legislation by a person who during the year has been subject to an administrative reprimand for similar violations.</p>
Code of the RSFSR on Administrative Offenses	<p>Article 40-1 responsibility is established for impeding the exercise by a citizen of his electoral rights, violation of the secret ballot, impeding work of election commissions by officials, failure by officials to submit to an election commission information and materials required for its work or their failure to fulfill a decision of the commission adopted within the limits of its competence.</p> <p>Article 40-2 responsibility is established for conducting an election campaign when it is prohibited.</p> <p>Article 40-3 responsibility is established for disseminating false information concerning a candidate.</p> <p>Article 40-4 responsibility is established for violating the rights of a member of an election commission, trustee of an electoral association or candidate for deputy, an observer or foreign (international) observer.</p> <p>Article 40-5 responsibility is established for violating the right of citizens to familiarize themselves with the list of voters.</p> <p>Article 40-6 responsibility of a member of an election commission is established for issuing ballots to citizens for purposes of granting them an opportunity to vote for other persons.</p>



**Article 40-7**

responsibility of an employer (administration) is established for refusal to grant a registered candidate, candidate's trustee or member of an election commission time off provided for by the law to participate in the preparation and holding elections.

**Article 40-8**

responsibility of a mass media organization or journalist is established for violating terms and conditions of conducting an election campaign stipulated by the election legislation.

**Article 40-9**

responsibility is established for printing and disseminating anonymous printed materials during a period of preparation and holding elections.

**Article 40-10**

responsibility is established for deliberate destruction and damaging printed campaign materials.

**Article 40-11**

responsibility of a candidate, person elected as a deputy or for an elected position or an electoral association (electoral bloc) is established for failure to submit information concerning the amount of proceeds (donations) to electoral funds and sources of formation of electoral funds as well as a report concerning all expenses incurred for holding elections, as well as the responsibility of a chairman of an election commission or a person in place of him for failure to publish within a specified period a report concerning spending budget funds allocated for the preparation and holding of elections, as well as information and reports submitted by candidates or electoral associations (blocs).

**Article 40-12**

responsibility of a candidate is established for illegal acceptance of donations from foreign sources.

**Article 40-13**

responsibility is established for failure to submit or publish information concerning voting or election results. Responsibility is differentiated for chairmen of election commissions of various levels.

**II. Edicts of the President of the Russian Federation**

- Edict of the President of the Russian Federation No. 2335 dated 31 December 1993 "On Judicial Chamber for Informational Disputes under the President of the Russian Federation"
- Edict of the President of the Russian Federation No. 228 dated 31 January 1994 "On Approval of Statute on Judicial Chamber for Informational Disputes under the President of the Russian Federation"
- Edict of the President of the Russian Federation No. 1723 dated 23 August 1994 "On Development and Establishment of "Vybery" [Elections] State Automated System of the Russian Federation"
- Edict of the President of the Russian Federation dated 28 February 1995 "On

Ensuring Establishment, Functioning and Development of "Vybory" [Elections] State Automated System of the Russian Federation"

III. Acts of the Government of the Russian Federation, Federal Ministries and Agencies

- Rules for registration and removal of a citizen of the Russian Federation from the register at the place of stay and place of residence within the Russian Federation approved by the ordinance of the Government of the Russian Federation dated 17 July 1995
- Instruction on the procedure for executing registration and removal of citizens of the Russian Federation from the register by bodies of internal affairs at the place of stay and place of residence within the Russian Federation approved by the order of the Minister of Internal Affairs dated 23 October 1995
- Instruction of the State Tax Service of the Russian Federation dated 29 June 1995 "On Application of the Law of the Russian Federation 'On Income Tax on Individuals'"

*Comments: this instruction approves the form of the income declaration.*

IV. Normative and Certain Other Acts of the Central Election Commission of the Russian Federation Regulating Election of the President of the Russian Federation:

- Temporary statute on system administrator of the information center of the election commission approved by the resolution of the Central Election Commission of the Russian Federation dated 28 July 1995
- Instruction on the procedure for financing events related to elections of the President of the Russian Federation, deputies of the State Duma of the Federal Assembly of the Russian Federation, to other federal state bodies stipulated by the Constitution of the Russian Federation, and activities of election commissions, approved by the resolution of the Central Election Commission of the Russian Federation dated 28 July 1995
- Instruction on the procedure for accounting for proceeds and spending monetary assets of electoral funds of candidates for President of the Russian Federation approved by the resolution of the Central Election Commission of the Russian Federation dated 1 February 1996
- Explanations on the procedure for submitting an income declaration for a candidate for President of the Russian Federation approved by the resolution of the Central Election Commission of the Russian Federation dated 14 February 1996
- Calendar plan of events related to the preparation and holding of elections of the President of the Russian Federation approved by the resolution of the Central Election Commission of the Russian Federation dated 22 January 1996
- Explanations on the procedure for collecting signatures in support of a candidate for the President of the Russian Federation, acceptance and verification of signature lists and other documents submitted to the Central Election Commission of the Russian Federation by authorized representatives of electoral associations, electoral blocs and initiative groups of voters approved by the resolution of the Central Election Commission of the Russian Federation dated 22 January 1996
- List of documents submitted to the Central Election Commission of the Russian Federation by electoral associations, electoral blocs and initiative groups of voters in connection with elections of the President of the Russian Federation approved by the decision of the Central Election Commission of the Russian Federation dated 13 December 1995 and supplemented by the decisions of the Central Election Commission of the Russian Federation dated 14 and 21 February 1996
- List of election documents issued by the Central Election Commission of the Russian

Federation to electoral associations, electoral blocs, initiative groups of voters and candidates for President of the Russian Federation in connection with elections of the President of the Russian Federation

- Explanations on the procedure for activities of trustees of candidates for President of the Russian Federation, members of election commissions with the right of a deliberative vote, authorized representatives of electoral associations, electoral blocs, initiative groups of voters, observers and representatives of the mass media when holding elections for President of the Russian Federation approved by the resolution of the Central Election Commission of the Russian Federation dated 26 February 1996 and supplemented by the resolution of the Central Election Commission of the Russian Federation dated 25 March 1996
- Explanations on the procedure for activities of foreign (international) observers when holding elections for President of the Russian Federation approved by the resolution of the Central Election Commission of the Russian Federation dated 26 February 1996
- Resolution of the Central Election Commission of the Russian Federation dated 13 March 1996 "On Explanations of Certain Issues of Organization of Activities of Precinct Election Commissions Formed at Election Precincts Established Beyond the Territory of the Russian Federation and Their Interaction with Ministries, Agencies and the Central Election Commission of the Russian Federation"
- Resolution of the Central Election Commission of the Russian Federation dated 20 March 1996 "On Labor Remuneration for Members of Territorial (Rayon, City and Others) and Precinct Election Commissions with the Right of a Deciding Vote During Preparation for and Holding of Elections for President of the Russian Federation"
- Resolution of the Central Election Commission of the Russian Federation dated 20 March 1996 "On Explanations on the Procedure for Issuing and Accounting for Absentee Voting Certificates for the Right to Participate in Elections for President of the Russian Federation and on the Form of Register of Absentee Voting Certificate Issuance"
- Resolution of the Central Election Commission of the Russian Federation dated 20 March 1996 "On Explanations of the Procedure for Compiling List of Voters by Precinct Election Commission for Holding Elections for President of the Russian Federation and Submitting It to the General Public for Familiarization"



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## Examples of Laws

### Governing Media and the Pre-Election Campaign

Title of Law	Examples of Articles with Specific Relevance to Media and the Pre-Election Campaigns
<b>Federal Law on Basic Guarantees of Electoral Rights for the Citizens of the Russian Federation</b>	<p><b>Article 22, Para.1:</b> Candidates employed by mass media to released from Office</p> <p><b>Article 23:</b> Rights of all citizens and electoral associations to pre-election campaigning, and to campaign for or against candidates; electoral associations and candidates guaranteed equal access to mass media; description of campaign activities; candidates and electoral associations are independent in determining form and nature of campaigns in mass media; members of electoral committees, bodies of state and local self-governing bodies not entitled to participate in pre-election campaigning.</p> <p><b>Article 24:</b> Candidates and electoral associations entitled to free air time on the state and municipal radio and television within territories of relevant electoral districts; by agreement may pay for additional time on state radio and television network; fees for paid air time shall be equal for each candidate or electoral association; CEC coordinates with state bodies in charge of securing rights and freedoms in mass media to issue instructions for granting time; mass media promoted or co-promoted or funded by state or municipal bodies, organizations, institutions, etc. obliged to provide equal opportunities to candidates or electoral associations to advocate their programs; printed propaganda must include information on persons or groups in charge of issue; anonymous propaganda is prohibited.</p> <p><b>Article 25:</b> Pre-election campaigns not to involve abuse of freedom of mass media by stimulating social, racial national or religious intolerance or animosity, or appeal to seizure of power, violent modification of constitutional system or state integrity or war; electoral committee is authorized to appeal to court for cancellation of candidate's registration for violations; court to examine appeal within 3 days; electoral committees shall audit observance of procedures for pre-election campaigns.</p> <p><b>Article 26:</b> Pre-election campaigns begin from date of candidate registration and terminate one day prior to election day; publishing of public opinion polls or forecast of outcome or any other study of results prohibited beginning 5 days prior to election.</p> <p><b>Article 28:</b> Defines authorized campaign fund-raising and limitations; requirement for establishment of candidate election fund; use of election funds solely for campaign purposes; relevant electoral committees obliged to periodically make information public about amounts and sources of raised electoral funds based on data submitted by candidate or electoral association; with full reporting to electoral commission of funds and expenses within 30 days after election; and electoral commission must publish reports within 45 days after election.</p>

<p><b>Federal Law on Basic Guarantees of Electoral Rights for the Citizens of the Russian Federation, Continued</b></p>	<p><b>Article 29:</b> Any and all monetary assets collected for election fund shall be transferred to account with a bank or other credit institution; account shall be opened by candidates or electoral associations by permission of corresponding electoral committee upon registration of the candidate; CEC to establish procedures for opening and keeping the accounts and reporting of assets by agreement with Central Bank; rights to dispose of funds granted to candidate or electoral association; after elections, balances to be transferred to accounts of donating or allocating organizations and persons.</p>
<p><b>Federal Law on Election of the President of the Russian Federation</b></p>	<p><b>Article 37, Para. 1:</b> Candidate working in mass media relieved from official duties during the campaign period;</p> <p><b>Article 38:</b> Citizens, candidates, electoral associations, electoral blocs, initiative groups entitled to campaign freely; restricts state and municipal bodies and their officer, military units and institutions, charitable organizations and religious associations, members of electoral committees from campaigning; pre-election campaigns begin upon registration of candidate and end 12:00 p.m. prior to the day preceding election day; identifies allowable campaign activities including use of mass media; journalists, officials of boards of editors of mass media not allowed to conduct information television and radio programs, take part in elucidation of election through mass media if they are candidates or agents of the candidates or members of electoral commissions.</p> <p><b>Article 39:</b> p.1 cites misuse of freedom of mass media similar to Article 25 in Law on Basic Guarantees of Electoral Rights; p.3 requires electoral commission to exercise control over adherence to established order of pre-election campaigns; if informed of unlawful speeches or distribution of unlawful propaganda must pursue measures to prevent these activities through respective bodies, and may appeal to Supreme court to cancel candidates' registration.</p> <p><b>Article 40:</b> Provides candidates broadcasting time on TV and radio financed at the expense of respective budgets (federal or subject) on equal grounds free of charge; electoral associations, blocs and initiative groups entitled to use state and municipal TV and radio; instructions on procedures for granting air time to be published by CEC with participation by state bodies that ensure basic rights and freedoms in mass media, and considering suggestions of candidates, electoral associations, blocs and initiative groups; identifies forms for use in mass media; candidates are entitled to use municipal radio and TV; candidates, electoral associations, blocs and initiative groups are entitled to determine the form and nature of their propaganda; interruption of TV and radio broadcasts containing campaign materials with advertising for goods, works or services; TV and radio programs shall give information on conduct of the pre-election campaigns in a separate bloc only without any comment and identification bloc shall be at not charge; persons employed by mass media may not take part in reporting the election through the mass media if they are candidates; TV and radio broadcasts containing pre-election campaigning shall be recorded on video and audio tape to be stored for 6 months.</p> <p><b>Articles 45</b> Relating to campaign funds of the candidates; limitations on fund-raising and sources of funds; transfer of electoral funds to accounts with Divisions of Savings Banks of the Russian Federation; reporting of deposits and</p>

	<p>expenditures and account activity by banks to the CEC; refunding improper or unlawful contributions; candidates restricted from using money from any sources other than their official election fund; CEC entitled to apply to Supreme Court for deregistration of candidate found to have used other monetary resources for the conduct of the pre-election campaign other than those from the election fund account.</p> <p>Article 48: Procedures for the Accounting of funds and financial reports; p.1, CEC to determine procedures in compliance with legislation; p.3, candidates to submit financial reports to CEC within 30 days after election; CEC to provide copies of reports to mass media.</p>
<b>Laws of Russian Federation on Mass Media</b>	<p>In particular: Articles 3, 4, 28, 34, 35, 43, 44, 45, 47, 49, 51, 58, 62</p> <p>Article 3: Inadmissibility of censorship;</p> <p>Article 4: Inadmissibility of Misuse of freedom of mass communication;</p> <p>Article 28: Mass communication products disseminated only after editor-in-chief permits publication;</p> <p>Article 34: Storekeeping of radio and TV broadcasting materials; preservation of their own broadcasts recorded or aired; maintain registration log of on air broadcasts; registration log to identify date and time of broadcast, topic, author, announcer and participants; sets time for which materials and registers have to be maintained;</p> <p>Article 35: Obligatory reports including official reports on demand of state agencies regulated by their statutes and other materials whose publication is mandated by legislation of the Russian Federation;</p> <p>Article 43: Right of any citizen to refutation and disproof of information that does not correspond to reality or denigrates the person's honor, dignity which was spread by the given mass medium; citizen or organization may provide or read his own text in the refutation.</p> <p>Article 44: Prescribes manner and order of refutation.</p> <p>Article 45: Defines grounds on which demand for refutation can be denied.</p> <p>Article 46: Citizen's right to answer in the same mass medium which disseminated information counter to reality.</p> <p>Article 47: Defines rights of a journalist.</p> <p>Article 48: Defines duties of journalists .</p> <p>Article 51: Inadmissibility of abusing journalists rights including spread of rumors in the guise of authentic reports, concealment or falsification of publicly important information, or spreading information with the aim of discrediting a private citizen or particular categories of private citizens [...] of political convictions.</p>

	<p><b>Article 58: Responsibility for the infringement on the freedom of mass communication including illegal termination or suspensions of a the functioning of a mass medium, compulsion of journalists to spread information or to refuse to spread it; interference in the activity and breach of professional independence of the editorial office, breach of rights of journalists.</b></p> <p><b>Article 60: Responsibility for Breaches of Legislation on Mass Media including prevention of the spread of mass media products put out on lawful grounds[...] violations of rules for spreading obligatory reports, advertisements[...]</b></p> <p><b>Article 62: Compensation for moral damage inflicted on a private citizen as a result of spread by a mass medium information running counter to the reality and denigrating the honor and dignity of a person or causing to him other non-property damages [...] by decision of a court by the mass medium, guilty officials, and private citizens.</b></p>
<b>Civic Code</b>	<p><b>Article 19:</b> p.4, Acquisition and exercise of rights and obligations under a name of another person not allowed; p.6, Damage caused to a person as a result of improper use of this person's name must be compensated; if improper use of a name of a person by means or in form that harms his/her honor, professional reputation or dignity, provisions of Article 152 of Civic Code apply.</p> <p><b>Article 152:</b> Protection of honor, dignity and professional reputation; p.1, any citizen has right to demand in court official objection of any information discrediting his personal honor, dignity or professional reputation, if person who disseminated such information cannot prove it in court; p.3, any citizen whose rights and legal interests have been discredited by information provided in mass media has right to publish response in same mass media source; p.5, any citizen whose honor, dignity or professional reputation has been discredited has right to demand compensation of losses or moral damage together with official objections to such information.</p>
<b>Criminal Code of Russian Federation and Code of Administrative Misdemeanors of Russian Federation</b>	<p><b>Article 40(11):</b> Fines assessed to candidates, deputies or electoral associations and blocs who fail to provide or publish reports on all campaign contributions and all expenditures.</p> <p><b>Article 40(12)</b> Fines and confiscation of contributions assessed for unlawful receipt of funds by candidates or electoral associations.</p>

### Regulations

While these examples cover a great deal of information about rules which must be applied, they are not necessarily inclusive of all laws that impact the pre-election period. Representatives of the mass media, candidates, electoral associations, initiative groups, local administrative authorities, members of electoral commissions and other participants who will be engaged in activities or responsibilities related to the pre-election campaign should research other laws that may apply.

In addition, participants should be vigilant in familiarizing themselves with pertinent Regulations adopted by the Central Election Commission and other state and local bodies who bear responsibilities relative to the pre-election campaign period. Often the regulations provide procedural detail not explicitly articulated in the law. Some applicable regulations have already been adopted, while others may be considered for adoption in the near future. In either case it will be important to stay informed in order to ensure full compliance with all legal requirements. Examples of Regulations to watch for include:

- Regulations on the Procedure for Accounting for Receipt and Spending of Monetary Assets of the Election Funds of Candidates
- Procedure for Accounting of Receipt and Spending of Monetary Assets of Election Funds of Candidates
- Regulations on Use of Mass Media in the Pre-Election Campaign
- Explanations or Instructions Adopted by Local Administrative Authorities on Use of Municipal Mass Media in the Pre-Election Campaigns
- Explanations of the CEC Regarding Activities of Candidates, Their Agents, Members of Commission, and Representatives of Media, Electoral Associations, Electoral Blocs and Initiative Groups





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**Election Calendar**  
**Quick Reference Guide**

For the Election of President  
 Of the Russian Federation  
 16 June 1996

*This calendar is intended to serve only as a quick reference guide. The information and descriptions of the deadlines and election activities provided in this calendar have been abbreviated and are not intended to represent the full text or requirements of the relevant laws. To gain a thorough and accurate understanding of the legal requirements, readers should refer to the actual laws and to the regulations and instructions issued by the Central Election Commission.*

Deadline*: # Days Prior/After Election Day	Activity	Responsible Entity	Authority*
6 Months Prior to Announcement of the Election (18 June 95)	Electoral Association wishing to forward candidates for election must be registered by Ministry of Justice	Ministry of Justice	Article 28 69/582-II (12)
(15 November 1995)	Once registered, electoral Associations, blocs and voter initiative groups may nominate their proposed candidate for election of President	Electoral Associations, blocs and voters' initiative groups	69/582-II (15)
150 Days Prior	Last date by which funds from Federal Budget is to be transferred to CEC (Within 10 days of announcement setting date of election)		Article 44
(2 March 1996)	Last day for registration of Electoral Blocs (Within 5 days of submission of minutes of congresses during which joining of bloc was adopted)	Central Election Commission	69/582-II (13)
	Last day for issuance of registration certificate to voters' initiative groups, electoral associations or blocs (or within 5 days of submission of required documents, whichever is earlier)	Central Election Commission	Article 34 69/582-II (17)
	Latest date by which electoral associations, blocs and voters' initiative groups may start gathering signatures (or immediately upon issuance of registration certificate, whichever is earlier)	Central Election Commission	Article 34 69/582-II (18)
125 Days Prior (10 February, 1996)	Procedures for accounting for assets of electoral funds defined	Central Election Commission Together with Central Bank of Russian Federation	69/582-II (32)
120 Days Prior	Shortest time frame allowed between setting of the election and election day	Council of Federation of Federal Assembly	Article 4
(April 1, 1996)	Regulations on media access issued for Electronic Media and Periodicals	Central Election Commission with State Bodies enforcing constitutional rights & freedoms of citizens in the domain of mass media	69/582-II (28-29)
60 Days Prior (16 April 1996)	Territorial Commissions formed	Elective body of local governments	Article 13 69/582-II (1)
	Polling stations must be established	Head of local administrations In Agreement with TECs	Article 24 69/582-II (3)
	Last day by which nominating petitions and documents must be submitted to CEC (by 6:00 p.m.)	Representatives of Electoral Associations, blocs and initiative voters' groups	Article 34

**\* REFERENCE OF AUTHORITY OR DATE:**

Article #: Law on Election of President

[ ]: Law on Basic Guarantees of Electoral Rights of Citizens

Deadline*: # Days Prior/After Election Day	Activity	Responsible Entity	Authority*
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60 Days Prior (16 April 1996)	Polling Stations established at military units (See 10 June 1996 for exceptional cases)	Commanders of military units upon decision of Electoral Committees of Subjects of Russian Federation	69/582-II(5)
	Polling Stations formed in sanitoriums, medical institutions, remote areas, vessels, polar stations, etc. (See 10 June 1996 for exceptional cases)	Heads of local admiistrtrions with agreement of Territorial Election Committees	69/582-II (4)
	Polling Stations formed for citizens staying in foreign states	Heads of diplomatic representatives or consular establishments in relative state	69/582-II (6)
	Data on lists of voters must be forwarded to polling station committees . (See Article 25, requiring forwarding of data 40 days prior to election)	Heads of local administrations	69/582-II (8)
	Voter lists must be compiled. (See Article 25)	Polling Station Committees	69/582-II (9)
	List of voters must be available for public familiarization . (See Article 27 requiring lists to be available 30 days prior to election)	Polling Station Committees	69/582-II (10)
50 Days Prior (26 April 1996)	Last day by which candidates must be registered by CEC (or within 10 days of receipt of documents, whichever is earlier)	Central Election Commission	Article 35  69/582-II (20)
	And final day by which refusal to register candidates must be decided		
	Last date by which pre-election campaigns may begin (or as of date of registration of candidate)	Mass media, candidates, nominating organizations, etc.	Article 38
	Electoral associations, blocs, voters' initiative groups may nominate authorized representatives for election of President (or as of date of registration of candidate)	Electoral associations, blocs, voters' initiative groups	69/582-II (14)
	Registration certificates issued to registered candidates (or within 10 days documents are accepted, whichever is earlier)	Central Election Commission	69/582-II (21)
	Agents for Candidates may be appointed and supporting documents submitted to CEC (or as of date of registration of candidate, whichever is earlier)	Candidates	69/582-II (23)
	Agents of Candidates are registered, (or upon submission of applications)	Central Election Commission	69/582-II (24)
	Candidates, electoral associations, blocs, voters' initiative groups may receive assistance in holding campaign events, meetings with voters, etc. (Or as of date of registration of candidate, whichever is earlier)	State bodies of power, bodies of local self-government, election commissions	69/582-II (30)
48 Days Prior	Last day by which registration of candidate must be transferred to mass media (or within 2 days of registration, whichever is earlier)	Central Election Commission	Article 35  69/582-II (22)
44 Days Prior (2 May 1996)	Polling Station Committees must be formed (See Article 10 which requires formation 45 days prior to election)	Bodies of local government	Article 14  [Article 10]  69/582-II (2)
40 Days Prior (6 May 1996)	Polling Station lists with addresses and telephone numbers of polling station election committees must be published	Heads of local administrations	Article 24  [Article 10]  69/582-II (7)
	Data on lists of voters must be forwarded to election committees	Heads of local administrations	Article 25

\* REFERENCE OF AUTHORITY OR DATE:

Article #: Law on Election of President

Deadline*: # Days Prior/After Election Day	Activity	Responsible Entity	Authority*
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30 Days Prior	Election Committees of subjects of Russian Federation must be formed	Legislative and executive bodies of state power of subjects, with suggestions of public organizations, elective bodies of local government, meetings of voters at work service, studying and residence	Article 12
	Lists of voters submitted for public familiarization (See Item (10) Annex to CEC Regulation 69/582-II requiring availability for familiarization 60 days prior to election)	Polling Station Committees	Article 27 [Article 8]
30 Days Prior (18 May 1996)	Cut off date from which voters who will be away or unable to go to the polling station on election day are eligible to receive a free certificate of the right to participate so they can vote at another location other than the normal polling station where they appear on the voter list. Absentee vote certificates can be issued	Voters & Polling Station Committees	Article 51 69/582-II (42)
	Form and text of ballot in Russian language must be approved (see Article 50, 28 Days Prior)	Central Election Commission	69/582-II (38)
28 Days Prior	Form and text of ballot in Russian language must be approved	Central Election Committee	Article 50
(21 May 1996)	Special places must be established for posting of printed propaganda materials (See Article 43 requiring establishment 20 days prior)	Local administrations	69/582-II (31)
20 Days Prior (26 May 1996)	Special places must be established for posting of printed propaganda materials	Local administrations	Article 43
	Notification to voters as to the time and place of voting must be given by mass media and other means	Polling Station Committees	Article 51 [Article 30] 69/582-II (41)
	Ballots shall be printed based on CEC instructions	Election Committees of Subjects of the Russian Federation	Article 50 69/582-II (39)
16 Days Prior	List of voters completed, with duplicate copies forwarded to Territorial Election Committee	Polling Station Electoral Committees	Article 25
15 Days Prior (31 May 1996)	First date on which advance voting is allowed on vessels, polar stations, fleet, foreign ports and other remote sites	Election Committees of Subjects of the Russian Federation and special relevant Polling Station Committees	Article 51 69/582-II (43)
	First day advance voting is possible for voters who will be absent from their residences	Subject or Precinct Election Commissions	Article 51 [Article 30]
(12 June 1996)	Premises for Polling Stations must be available to Polling Stations Committees	Heads of local administrations	69/582-II (36)
(11 June 1996)	Ballots must be delivered (See Article 50: 4 Days Prior to Election)	Polling Station Commission	69/582-II (40)
5 Days Prior (June 10, 1996)	Last day by which polling stations in sanitoriums, remote sites, medical institutions, spas, vessels and polar stations must be established	Head of local administrations	Article 24 69/582-II (4)
	Last day data on voters submitted to officials at remote sites, vessels, polar stations, foreign posts, etc. for preparation of voter lists for these sites	Head of local administrations, commanders of military units, heads of sanatoria, etc.	69-582-II (8)

\* REFERENCE OF AUTHORITY OR DATE:

Article #: Law on Election of President

[ ] : Law on Basic Guarantees of Electoral Rights of Citizens

( ): Date or Item # in Annex to CEC Regulation 69/582-II as published by the Central Election Commission

Deadline*; # Days Prior/After Election Day	Activity	Responsible Entity	Authority*
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4 Days Prior (11 June 1996)	Ballots must be distributed to Polling Station Committees	Election Committees of Subjects of Russian Federation	Article 50 69-582-II (40)
2 Days Prior	12 p.m. Pre-election campaigning must end (00:00 15 June 1996)	Candidates, electoral associations, blocs and initiative voters' groups	Article 38 69-582-II (27)
1 Day Prior	Last Day candidates may withdraw from candidacy	Candidates & Central Election Committee	Article 37 69-582-II (25)
Election Day (16 June 1996)	8:00 a.m. - 10 p.m. Voting Occurs	Polling Station Committees	Article 51
	Ballots are counted at Polling Stations	Polling Station Committees	Article 52
(20 June 1996)	Results based on polling station protocols are summarized	Territorial Election Commissions	69-582-II (44)
(27 June 1996)	Results based on Territorial Committee protocols are summarized for Subjects of the Russian Federation	Electoral Commissions of the Subjects of the Federation	69-852-II (45)
15 Days After (2 July 1996)	Results of the election must be summarized based on protocols submitted by election committees of the subjects of the Federation and protocols from polling stations outside the territory of the Russian Federation	Central Election Committee	Article 55 69-582-II (46)
18 Days After (6 July 1996)	Results of election must be published (Within 3 days of date protocol of results is signed) [See Article 33 which requires District Electoral Committees to publish summarized results within 3 days after election]	Central Election Committee	Article 55 [Article 33] 69-582-II (47)
28 Days After	Polling station committees must submit financial reports to territorial election committees (not later than 10 days after publication of results)	Polling Station Committees	Article 46
30 Days After	Candidates must return unexpended monetary resources to Central Election Committee proportionally to amount CEC allocated to them	Candidates	Article 47
	Powers of members of Central and Subject Election committees with deliberative votes expire (unless person responsible for their appointment was elected president)		Article 19 [Article 13]
	Reports of campaign receipts and expenditures must be submitted to CEC	Candidates or Electoral Associations	[Article 28]
	Date by which repeat voting must take place as necessary (not later than 15 days after estimation of results of the common election)	CEC	Article 55
48 Days After	Candidates must submit financial report to Central Election Commission (Not later than 30 days after publication of election results) [See Article 28 requiring reports not later than 30 days after election day]	Candidates	Article 45 [Article 28] 69/582-II (33)
After delivery to Central Election Commission	Financial statements of candidates are provided to mass media [See Article 28 requiring publication of reports 45 days after they are submitted]	Central Election Commission	[Article 28] 69/582-II (34)
60 Days After	Election date delayed in the event fewer than two candidates registered in normal nomination period	Central Election Commission	Article 35
78 Days After	Final deadline by which Election Committees of Subjects must submit financial reports to CEC (Not later than 60 days from publication of results)	Electoral Committees of Subjects of Russian Federation	Article 45
100 Days After	Postponement of election date if fewer than two registered candidates remain by election day to allow for new nomination and registration period	Central Election Commission	Article 35

Deadline*: # Days Prior/After Election Day	Activity	Responsible Entity	Authority*
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108 Days After	Final deadline by which Central Election Commission must submit financial report to Houses of the Federal Assembly (no later than 90 days from publication of election results)	Central Election Commission	Article 46 69/582-II (35)
120 Days After	Last date by which repeated election must be held if common election is declared not to have taken place, or if no candidate was elected during common election or during repeat voting	Council of Federation of Federal Assembly	Article 57
138 Days After	Final deadline by which CEC's financial report must be published in official gazette and provided to mass media (within 30 days of its submission to Houses of Federal Assembly)	Central Election Commission	Article 46 69/582-II (36)
360 Days After	Documents of election committees must be retained	Committees of Subjects of the Russian Federation, territorial election committees and polling station committees	Article 54
Date next Presidential Election Is Called	Election results must be retained	Central Election Committee, Committees for Subjects and Territorial Committees	Article 55
Registration of Candidates for Next Presidential Election	Powers of deliberative voting members of CEC and Subject Election Committees originally appointed by Presidential Candidates in prior presidential election expire		Article 19

**\* REFERENCE OF AUTHORITY OR DATE:**

Article #: Law on Election of President

[ ]: Law on Basic Guarantees of Electoral Rights of Citizens

( ): Date or Item # in Annex to CEC Regulation 69/582-II as published by the Central Election Commission 22 January 1996



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## **PUBLISHED FINANCIAL REPORTS OF CANDIDATES FOR PRESIDENT OF THE RUSSIAN FEDERATION<sup>1</sup>**

**FINANCIAL REPORT**  
on receipt and spending of financial resources of election funds of a candidate to the Presidency of  
the Russian Federation  
Candidate for President of the Russian Federation  
Boris Nikolaevitch Yeltsin

### **I. Receipt of resources on the election account:**

Sources	#	Amount in (thsnds. of rubles)
1	2	3
Total amount received including:	01	16408606, 404
- funds received from the Central Election Commission	02	300000, 000
- personal funds of the candidate to the President of the Russian Federation	03	62375, 000
- funds contributed by the election association (bloc), initiative group of voters, which nominated candidate to the President of the Russian Federation	04	280000, 000
- contribution of legal entities	05	14985350, 000
- contribution of physical persons	06	780881, 400
- Total amount returned, including:	07	1980644, 300
- contributed against the law	08	1980644, 300
- returned because of candidate's withdrawal	09	-
Total amount in the election fund (lines 01-07)	10	14427962, 100

<sup>1</sup>

Figures shown were reported in Vestnik (No. 18), the official publication of Central Election Commission of the Russian Federation.

## II. Expenditures from the election account:

Expenditures	#	Amount in thousands of rubles
1	2	3
Total amount of expenditures including:	11	14421787, 449
- expenditures on preelection propaganda in mass media (radio, television)	12	10357576, 101
- expenditures on preelection propaganda in periodicals	13	748240, 552
- expenditures on public events (meetings with voters, rallies, demonstrations)	14	56800, 000
- expenditures on production of printed materials (flyers, posters, advertising banners)	15	3021570, 796
- production of videomaterials		296825, 089
- other expenditures pertaining to preelection propaganda - total, including:	16	237600, 000
- legal support		150000, 000
- information research		87600, 000

## III. Balance of left in the election account:

Sources	#	Amount in thousands of rubles
1	2	3
Balance of funds left (lines 10-11)	17	6174, 651
Total amount of unspent resources returned to, including:	18	-
- Central Election Commission	19	128, 433
- legal entities	20	-
- physical persons	21	-
- election association (bloc), initiative group of voters	22	-
- allocated to the budget	23	6046, 218
- Balance of unspent resources left on the day of report submission	24	-

Other financial resources for organization and conduct of the preelection campaign outside the election fund of the candidate were not used.

Date of report submission:

August 5, 1996

Candidate to the Presidency of the Russian Federation:

B.N. Yeltsin

**FINANCIAL REPORT**  
on receipt and spending of financial resources of election fund of a candidate to the Presidency of the  
Russian Federation  
Candidate for President of the Russian Federation  
Gennadi Andreevich Zyuganov

**I. Receipt of resources in the election account:**

Sources	#	Amount in thsnds. of rubles
1	2	3
Total amount received including:	01	11370070
- funds received from the Central Election Commission	02	300000
- personal funds of the candidate to the President of the Russian Federation	03	-
- funds contributed by the election association (bloc), initiative group of voters, which nominated candidate to the President of the Russian Federation	04	2850000
- contribution by legal entities	05	7151771
- contribution by physical persons	06	1068299
- Total amount returned, including:	07	19300
- contributed against the law	08	19300
- returned because of candidate's withdrawal	09	-
Total amount in the election fund (lines 01-07)	10	11350770

**II. Expenditures from the election account:**

Expenditures	#	Amount in thousands of rubles
1	2	3
Total amount of expenditures including:	11	11328482
- expenditures on preelection propaganda in mass media (radio, television)	12	1536426
- expenditures on preelection propaganda in periodicals	13	4839537
- expenditures on public events (meetings with voters, rallies, demonstrations)	14	289884
- expenditures on production of printed materials (flyers, posters, advertising banners), production of videomaterials	15	4167798
- other expenditures pertaining to preelection propaganda - total, including:	16	494837
- sociological research		253465
- travel expenses		94270
- souvenirs		70000
- transport expense		60812
- writing accessories		16290



**III. Balance of funds left in the election account:**

Sources	#	Amount in thsnds of rubles:
1	2	3
Balance of funds left (lines 10-11)	17	22288
Total amount of unspent resources returned to, including:	18	-
- Central Election Comission	19	-
- legal entities	20	-
- physical persons	21	-
- election association (bloc), initiative group of voters	22	-
- allocated to the budget	23	-
- Balance of unspent resources left on the day of report submission	24	-

Other financial resources for organization and conduct of the preelection campaign outside the election fund of the candidate were not used.

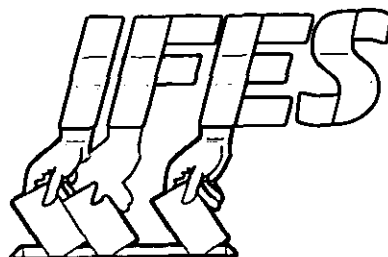
Date of report submission:

August 9, 1996

Authorized Representative of

Candidate to the Presidency of the Russian Federation:

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