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Observation of the parliamentary elections in the Russian Federation (2 December 2007)

Election observation report

Bureau of the Assembly

Rapporteur: Mr Luc Van den BRANDE, Belgium, Group of the European People's Party

1. Introduction

1. At its meeting on 10 September 2007, the Bureau of the Parliamentary Assembly decided to set up an ad hoc committee, composed of up to 60 members, to observe the parliamentary elections in the Russian Federation, on 2 December 2007, subject to the receipt of an invitation. On 5 October 2007, the Bureau appointed me as chairperson and rapporteur of this ad hoc committee. The Bureau also decided that a pre-electoral mission, composed of two representatives from each political group, who were at the same time members of the ad hoc committee, should take place no later than one month before the elections.

2. On 30 October 2007, President van der Linden received an invitation from the Chairperson of the State Duma, Mr Boris Gryzlov, to send 30 observers to the upcoming elections (Appendix I).

3. From 7 to 10 November 2007, a pre-electoral mission, composed of Mr Luc Van den Brande (Belgium, EPP/CD), chairperson of the ad hoc committee and head of delegation, Mr Geert Lambert (Belgium, SOC), Ms Gisela Wurm (Austria, SOC), Mr Ignacio Cosidó Gutiérrez (Spain, EPP/CD), Mr Andrea Rigoni (Italy, ALDE), Mr Mevlüt Çavuşoğlu (Turkey, EDG), Mr David Wilshire (United Kingdom, EDG), Mr Alessandro Rossi (San Marino, UEL) and Mr Aleksei Lotman (Estonia, UEL), visited Moscow. At the end of the visit, the delegation issued a press statement and I prepared a memorandum for the Bureau of the Assembly on the results of this visit, which is reproduced in Appendix II and was considered at the meeting in Bratislava on 12 November 2007.

4. On 19 November 2007, the Chairperson of the State Duma, Mr Gryzlov, acceded to the request of the pre-electoral mission to increase to 55 the number of Parliamentary Assembly of the Council of Europe members to observe the 2 December elections (Appendix III).

5. The ad hoc committee carried out its observation mission in the Russian Federation from 29 November to 3 December 2007. The list of members of the ad hoc committee of the observation mission are reproduced in Appendix IV.

6. In the absence of a long-term election observation mission from the Organization for Security and Co-operation in Europe/Office for Democratic Institutions and Human Rights (OSCE/ODIHR), which abandoned, on 15 November 2007, its plans to observe the 2 December vote, the Parliamentary Assembly of the Council of Europe delegation co-operated closely with fellow observers from the OSCE Parliamentary Assembly. The two delegations, acting as an International Parliamentary Election Observation Mission, prepared a joint press statement (Appendix V), which was presented by their respective heads at a joint press conference held on 3 December 2007. That statement was also subscribed to by the delegation of the Nordic Council, which observed the elections as well.



7. The ad hoc committee wishes to thank the Central Electoral Commission (CEC), the territorial electoral commissions (TECs) and the Duma for their co-operation in the preparation of the programme and the assistance given on the election day.

2. Political background, legal framework and political party registration

8. The Duma elections took place only a few months ahead of the forthcoming presidential elections in Russia, which will take place on 2 March 2008. During these elections, the incumbent president is precluded from standing for re-election as a result of the constitutional limit of two consecutive terms.

9. In this connection, many analysts in Russia, as well as the majority of our interlocutors, regarded the Duma elections, important as they are in their own right, as a dress rehearsal before the presidential elections of March 2008, or even as a vote of confidence in the head of state and his political course. The president's active and massive support for the United Russia (UR) Party, whose federal list he headed, had an indisputable impact on the electoral race.

10. The Union of Right Forces (URF) tried to have the head of state removed from the UR's electoral list and lodged a complaint with the Supreme Court. The latter, however, upheld the president's right to run on the UR's party list. The URF's attempt to contest that ruling in the Court of Cassation did not yield the results the URF sought to achieve.

11. The president's decision to head the UR list complicated the situation of the UR's rivals, given the president's high approval ratings among the electorate. On 21 November 2007, the president addressed a rally of his supporters calling them to vote for the UR to ensure a victory over what was referred to as Russia's "enemies" who had brought about so many troubles to Russia in the 1990s. Many political analysts regarded this as a call to defeat, at the polls, the liberal and democratic parties. Such a stance taken by the incumbent head of state runs counter to the Code of Good Practice in Electoral Matters (paragraphs 1, 2 and 3), which lays down that state authorities must have a "neutral attitude" to the election campaign, media coverage and party and campaign funding.

12. The campaign was marred by allegations of widescale harassment of the opposition. A regional leader of the Yabloko Party was killed in Makhachkala, Dagestan, which could, however, have been a coincidence. One month earlier a regional leader of the UR in Primorie (Far East) was also killed. During opposition rallies that were held in Moscow and St Petersburg on 24 and 25 November 2007, several arrests and detentions were made, including those of important political figures such as the URF's leader, Mr Nikita Belykh, his fellow party member Boris Nemtsov, the leader of the "non-systemic opposition" spearheaded by the Other Russia movement, the former world chess champion Garry Kasparov, to name just a few.

13. Since the elections to the Duma in 2003, electoral legislation has undergone significant changes. Russia has switched to a fully proportional system. Federal lists can contain up to 600 names, which allows well-known personalities to be added to party lists (for example, the head of state heading the federal list of the UR Party). Russia is now a single constituency and votes are counted on a nationwide basis. To be eligible for representation in the Duma, a political party needs to clear the 7% threshold (5% in 2003). This threshold, one of the highest in Europe and second only to that in Turkey, inevitably resulted in a number of political parties not being represented in the Duma. The need for greater political stability is given as the reason behind the introduction of the new threshold.

14. Under the Russian Constitution, at least two parties have to be represented in the Duma. In the event that only one party passes the 7% threshold, the party that comes second in the electoral race will get seats in the Duma irrespective of the number of votes it gets.

15. The minimum turnout threshold requirement (previously 50%) for elections to be valid has been abandoned. The possibility to vote against all candidates is no longer available. Although this possibility does not exist in most other European countries, the "vote against all" previously offered a disgruntled electorate an opportunity to demonstrate its protest. As a result, reportedly, the protest vote was given to the communists regarded by many as the only true opposition party with a guaranteed entry into the new parliament.

16. The political party registration process has also been modified. To qualify for registration, a political party must have not less than 50 000 members (previously 10 000), and regional branches, each with not less than 500 members in more than a half of the subjects (*soubiekty*) of the federation. Each one of the other regional branches must have not less than 250 members of the political party. A citizen of the Russian Federation may be a member of only one political party. A member of a political party may be registered with only one regional branch of the given political party at the place where he or she resides permanently or most

of the time. In addition, parties not represented in the Duma must pay a deposit of 60 million roubles (approximately €1.8 million) or collect 200 000 signatures, of which less than 10 000 signatures can originate from one particular region or from the expatriate community. Under the new legislation, the formation of electoral blocs is forbidden; members of the Duma can no longer change allegiances and leave their party to join another one without the risk of losing their seat in the Duma. Laws regarding campaign funding are extremely complex, if not dissuasive, and discourage smaller parties from running.

17. The registration of party lists was completed on 28 November 2007. Eleven political parties were registered as contestants in these elections; three parties were denied registration on the grounds of gross irregularities in the lists of signatures they produced in their support.

18. Reportedly, pressure was exerted on some candidates from opposition parties' lists to make them change political allegiance. Should a party lose 25% of the candidates due to defections from its list, it is de-registered. This, however, did not happen, neither could those reports be confirmed.

19. In a new development regarding observation, this year invitations were only issued to international observers after the expiration of the political party registration period. Those institutions and organisations concerned received their invitations on the same date – 30 October 2007. This created understandable difficulties in the organisation of their respective programmes, which was particularly the case with our own pre-electoral mission. Furthermore, in an unprecedented development, numerical limits were imposed on international observers, who were given equal quotas that were subsequently increased, not least following complaints from our pre-electoral delegation.

3. Election administration

20. More than 95 000 polling stations were set up throughout the country. In addition, there were 320 polling stations abroad to take care of the expatriate vote, including a few dozen polling stations in the so-called "non-recognised republics". Polling stations were set up on ships and at railway stations.

21. Ballot papers were sent by e-mail to the electoral commissions in the subjects of the federation. They were stamped and signed by two electoral commissioners. The total number of protection elements on the ballot papers was 11.

22. Altogether, about 109 million ballot papers were printed (about 107 million voters in Russia proper and about 1 million voters abroad).

23. In a welcome development, facilities were made available to the disabled to allow them access to the polling stations. However, those facilities were only available at a very limited number of polling stations. Mobile ballot boxes were also used to take care of the home-bound.

24. Legislation does not provide for non-partisan domestic observers. The number of party observers was approximately 3 million. Representatives of the NGO "Golos" were accredited as journalists.

25. The CEC produced excellent briefing packs for all international observers.

26. The CEC set up an electoral complaint hotline. Complaints were processed promptly, normally within one hour. Altogether, about 10 000 complaints were received from voters who used the hotline.

4. The media environment

27. In the absence of a long-term OSCE/ODIHR presence, this delegation did not have a credible independent media monitoring analysis which an ODIHR mission normally makes available to parliamentary observer delegations.

28. However, throughout its discussions with the over-whelming majority of its interlocutors, not least members of the diplomatic corps accredited in Moscow, as well as political rivals of the ruling party, the delegation was repeatedly told that the UR dominated in the propaganda war through direct, but mostly indirect, political advertising. At the same time, existing legislation in Russia does provide for equal media access to political parties running in the elections and the letter – if not the spirit – of the legislation appears to have been observed.

29. We were told that while the print media provided a wide range of opinions, the three state television stations with nationwide coverage failed to demonstrate impartiality in political reporting. Furthermore, the print media, in particular, the more independent papers, do not have a wide audience. Such a media environment

was not conducive to public confidence in the democratic process. The head of state was omnipresent on television, calling on his supporters to vote for the UR. As a result, there was no clear separation between the state and political parties. In fact, the UR was merged with the state. This kind of problem could be solved through the establishment of an independent system of “public service broadcasting” in the state-owned or state-controlled channels. In the circumstances, it was very difficult for the voters to get an accurate and unbiased picture of the political parties and the issues.

30. Based on our own observations and discussions with interlocutors, we drew the conclusion that the electronic media did not provide impartial and fair coverage of the campaign. This was, in particular, reported to the delegation during meetings with representatives of different political parties, who complained about a heavy bias in favour of the UR. The URF was particularly bitter about being singled out for a highly negative coverage on the state television channels. The clear bias shown by state-owned or controlled television over the entire period of the campaign and before cannot be ignored and remains a major shortcoming.

31. During the campaign, television debates took place with the participation of different political parties. However, the UR did not accept to take part in the debates, demonstrating, in my opinion, a certain disregard for voters and the other political forces, as well as an unwillingness to explain its political platform. This made it more difficult for the voters to directly compare the platforms of the various political parties.

5. Election day

32. At the polling stations visited by our observers, the voting was generally well organised. It took place in a calm and, mostly, orderly manner. This was confirmed by the information our delegation received from other sources as well. The Central Electoral Commission (CEC), as well as electoral officials at lower levels, deserve credit for their high level of professionalism.

33. The delegation welcomed the improvements made in the organisation of the polling, such as arrangements made for the vote by the disabled. It encourages the CEC to continue its laudable work in this area.

34. On the negative side, our observers reported some cases of family voting and open voting, which resulted in the lack of secrecy, in particular at stations equipped with e-voting machines and those with the newly introduced under-sized voting booths. In some cases, polling stations were difficult to find due to unclear signposting. Our observers heard allegations of threats against voters and the misuse of absentee voters' certificates. In particular, we heard allegations of voters being brought to polling stations by bus loads where they voted using such certificates. However, we could neither confirm, nor disprove such allegations.

35. At some polling stations, people not on the voters' lists and without absentee certificates were allowed to vote. Seals on some ballot boxes were inadequate.

36. Some of our observers reported a heavy presence of plain-clothes security officers and uniformed police at polling stations. A few observers were interrogated and photographed by police, which could be regarded as intimidation. In a few isolated cases, international observers were denied access to polling stations.

37. Domestic partisan observers representing various political parties were present at the majority of the polling stations.

38. The ad hoc committee observed the opening of the polls, the vote itself, as well as the vote counting in Moscow, St Petersburg, Yaroslavl, Yekaterinburg, Irkutsk, and Vladivostok and visited some 200 polling stations, which represented more than 408 000 registered voters. The results of their observations and comments were taken into consideration in the statement issued after the election.

6. Results of the elections

39. Following the 2 December elections, four parties acceded to the Duma – United Russia (64.3% of the voters), Communist Party (11.57%), Liberal Democratic Party (8.14%) and Fair Russia (7.74%). The turnout was 63.78%.

7. Conclusions and recommendations

40. While the 2007 Duma elections were to a great extent free in terms of a variety of voting options, they were definitely not fair. The cumulative effect of the amended electoral legislation has hindered political pluralism in that this legislation makes it more difficult for new and smaller parties to compete effectively.
41. The fact that the president ran on the UR list without stepping down from his functions as head of state, and not being a member of that party, is unprecedented in the 47 member states of the Council of Europe.
42. The extensive abuse of administrative resources (state infrastructure, funds and personnel on public payroll) on behalf of UR is a clear violation of paragraphs 1, 2 and 3 of the Code of Good Practice in Electoral Matters. At the same time there is no reason to conclude that the 2 December elections failed to meet all five electoral principles as defined in the aforementioned code.
43. The majority of the appointed governors were included on UR's lists, which was misleading to voters as such senior officials are hardly likely to abandon high public office to take up duties in the new Duma.
44. Contestants were put in inequitable positions due to the massive state backing of UR.
45. Equal access to the media should be remedied through the introduction of independent public service television broadcasting.
46. The prohibitively high 7% threshold for a party to be able to enter the Duma should be lowered to allow more political pluralism and political representation of voters. This high threshold and the ban on parties forming electoral blocs discourage the development of new political parties and more pluralistic parliamentary representation.
47. Political party registration rules, as well as electoral financial regulations, should be revisited.
48. The practice of excessive use of force against opposition leaders and their harassment must be abandoned and effective investigations should be conducted promptly to ensure the prosecution and sanctioning of the perpetrators. At the same time, opposition leaders should express their opinions with full respect for national legislation.
49. The authorities should investigate all allegations of fraud and irregularities and, if those allegations are confirmed, bring those responsible to justice.
50. Election observation being a co-operative exercise, interaction between the Parliamentary Assembly of the Council of Europe and the Duma should be further strengthened. The Parliamentary Assembly of the Council of Europe stands for inclusion rather than exclusion. Members of the new Duma are encouraged to make full use of Russia's membership of the Council of Europe in order to consolidate the cause of democracy and human rights in Russia. The Parliamentary Assembly of the Council of Europe stands ready to contribute further, working hand in hand with its Russian colleagues, to achieve that goal.

Appendix

APPENDIX I

Unofficial translation

Chairman of the State Duma, Federal Assembly of the Russian Federation 103265, Moscow, Okhotny Ryad 1,

30 October 2007

No. 1.1-0506

Dear Mr Chairperson,

In accordance with the Constitution of the Russian Federation the elections to the State Duma – one of the two Chambers of the Federal Assembly – the Parliament of the Russian Federation – will take place on 2 December 2007. On behalf of the State Duma, I have the honour to invite 30 representatives of the Organisation headed by you to take part in the observation of the election. We believe that the practice of the presence of foreign observers at the elections contributes to the elaboration of international standards of democratic elections.

In compliance with Federal Law on election of the Deputies of the State Duma of the Federal Assembly of the Russian Federation, foreign representatives should be accredited at the Central Election Committee in order to be present as official observers at the elections in different subjects of the Russian Federation. The law lays down that the work of observers is carried out at the expenses of the sending party.

His Excellency Mr René van der Linden, President of the Parliamentary Assembly of the Council of Europe, Strasbourg

APPENDIX II

14 November 2007 AS/Bur/Ahru(2007)4

Ad hoc Committee to Observe the Elections to the State Duma of the Federal Assembly of the Russian Federation (2 December 2007)

Memorandum prepared by Mr Luc Van den Brande (Belgium/EPP/CD), Chairperson of the ad hoc committee, on the pre-electoral mission to Russia (7-10 November 2007)¹

APPENDIX III

Letter from Mr Boris Gryzlov, Chairman of the State Duma to President van der Linden

(unofficial translation)¹

APPENDIX IV

AS/Bur/Ahru(2007)1rev 30 November 2007

Ad hoc Committee for the Observation of the Parliamentary Elections in Russia 2 December 2007 – List of members¹

APPENDIX V

Russian Duma elections “not held on a level playing field”, say parliamentary observers

(Moscow, 3 December 2007)¹

1. This document is available on the Council of Europe Internet site, at the following address: www.assembly.coe.int.