

**COMMISSION ON
SECURITY AND COOPERATION IN EUROPE**

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**RUSSIA'S PARLIAMENTARY ELECTION
AND CONSTITUTIONAL REFERENDUM**

December 12, 1993

**Moscow, Shakhovskoe, Tula, Tver, Vladimir,
Krasnodar, Novorossisk**

Prepared by the Staff of the
Commission on Security and Cooperation in Europe

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This report is based on a Helsinki Commission staff delegation to Russia to observe the December 12, 1993 parliamentary election and constitutional referendum. Because of the importance of the event, and because charges had been leveled of improprieties and unfair access to the media, the Commission sent five staff members to Russia to observe the process for a period of more than two weeks. Michael Ochs and Orest Deychak went to Russia two weeks before the voting to monitor the pre-election campaign. The Commission's Senior Advisor, David Evans, and staff members John Finerty and Heather Hurlburt, arrived subsequently and remained through December 12, when they monitored balloting in various cities and regions.

Apart from Moscow, Commission staff visited: Shakhovskoe, a center of innovative privatization efforts, as well as smaller rural communities in Moscow oblast; Tula and Vladimir (industrial cities several hours' drive from Moscow); Tver (a regional capital in the agricultural-industrial heartland north of Moscow); Krasnodar (the regional center of a largely rural area in southern Russia); Novorossisk (a Black Sea port town), and many communities between Krasnodar and Novorossisk. Commission staff had previously observed voting in Krasnodar (during the March 1990 Supreme Soviet election) and Shakhovskoe (during the April 1993 referendum), and these return visits allowed them to draw comparisons about local problems, political trends and societal attitudes over the course of several years. In all the above locations, Commission staff interviewed election officials, representatives of political parties, candidates and local officials.

The Helsinki Commission would like to thank the U.S. Embassy in Moscow for its support and assistance during the staff delegation's visit. The Commission would also like to thank the National Democratic Institute for International Affairs, which also sent observers to Krasnodar, for making logistical arrangements for the trip.

The Commission wishes to express appreciation as well to the CSCE Office of Democratic Institutions and Human Rights (ODIHR) and to the Swedish Embassy in Moscow, representing the CSCE Chair-in-Office, for their support and assistance to the many observers of the Russian election and referendum.

SUMMARY

- On December 12, 1993, Russia's voters went to the polls in a parliamentary election and constitutional referendum amid widely reported apathy and cynicism. The Central Election Commission later reported that voter turnout was only 54 percent, thereby passing the 50 percent minimum for the referendum to be valid.
- Despite a number of problems and irregularities, both during the campaign and the voting, the Helsinki Commission believes that Russian voters were able to express their political will freely and fairly. The Russians have made genuine progress in bringing their electoral procedures into conformity with international standards, and the election itself represents a significant step in the on-going process of democratization in Russia.
- The election and referendum aimed at normalizing politics in Russia after a year of unrelenting confrontation between the executive and legislative branches. This struggle had culminated in President Boris Yeltsin's September dissolution of the previous parliament and the military crushing of an attempted coup by parliament's supporters in October. The referendum was intended to provide a new basic law for Russia that guarantees human rights and the right to private property, creates a strong presidency and delineates powers between the different branches of government. Yeltsin and his supporters hoped that the new bi-cameral parliament would continue democratization and support market reforms.
- These hopes were only partly fulfilled. The draft constitution, which Yeltsin saw as the linchpin of his own political position, passed with a reported 58.4 percent of participating voters. Russia now has a strong presidency whose current occupant is committed to continued economic and political reforms. But the president's sweeping powers worry all who wonder about Yeltsin's eventual successor.
- The results of the voting for the 450-seat lower chamber (*Duma*) were a great disappointment for Yeltsin. Hardline communists and their agrarian allies, along with the ultra-nationalists, won over one-third and will constitute a solid anti-reform bloc.
- The election's big surprise was the strong showing by the bogeyman of Russian politics, Vladimir Zhirinovskiy. His "Liberal Democratic Party" (LDP) won about one-quarter of the 225 seats allocated by party vote (compared to the 15.4 percent of the pro-Yeltsin Russia's Choice.) Zhirinovskiy casually talks about nuclear war, restoration of Russia within Imperial borders, and Russian expansion to the Indian Ocean. He has now gone from a buffoon or demagogue to a political force to be reckoned with.
- Nevertheless, Zhirinovskiy's LDP did not "win" the election. With only about 15 percent of the seats in the lower chamber, Zhirinovskiy, even if backed by hardline allies, cannot push legislation through overrides by the upper chamber or the president. But he does have a forum for criticizing Yeltsin's policies and mobilizing popular opposition to reform.

- Less is known about the orientation of the parliament's 178-seat upper chamber (Federation Council), although one of Yeltsin's top aides, Vladimir Shumeiko, has been elected chairman of this body. Most analysts assume it will contain fewer opponents of reform, but they will likely push for greater regional privileges than the constitution allows.
- Pro-reform forces accused each other of failing to unite around candidates, leaving the field open for nationalists and communists, and reproached Yeltsin for his lack of involvement in the election campaign. But the results indicate that most voters turned thumbs down on the "shock therapy" launched by Yeltsin and Yegor Gaidar in January 1992.
- With the lower chamber split between supporters and opponents of reform, it is unclear whether the bickering pro-reform blocs and parties can create a solid faction to push forward reforms, or even be able to block attempts by the ultra-nationalists, communists and agrarians to roll them back. Both groups will have to woo independent deputies to gain a majority. Thus far, in procedural voting, the reformers have not always been united, while the LDP, communists and Agrarians have maintained relative party discipline. The *Duma* has elected Ivan Rybkin of the Agrarian Union (an orthodox communist official and member of the former Supreme Soviet) as its speaker.
- The alignment of forces among the various parties and blocs may not matter much, in any case, since parliament as an institution has little power compared to the president. Still, Yeltsin can no longer accuse the parliament of illegitimacy, as he did with the Supreme Soviet. He can compromise with legislators, most of whom reject his economic model, or he can rely on presidential powers to overrule them and risk perennial confrontation. In effect, this would resurrect the unstable *status quo ante*, although he now has the constitutionally sanctioned upper hand in this institutional struggle, and also has the authority to govern by decree without prior legislative approval.
- The parliamentary election was Russia's first in which television, the primary source of information for voters, was critical. State television provided free airtime to all the parties and blocs. But they could also buy airtime, for which media outlets charge high prices, so the role of money in Russia's political campaigns has ballooned to paramount importance.
- The United States and other Western countries now face policy choices: to continue insisting on painful economic reforms in the hope of improving economic conditions for Russia's citizens; or, to accept a slowing of reform to keep Russia's voters from supporting ultra-nationalist domestic and foreign policies, at the cost of heightened inflation and setbacks in the creation of a market economy.
- Yeltsin has promised to defend the interests of Russians in the "near abroad" with "greater energy and decisiveness" in 1994, so the United States will also have to deal with intensified Russian pressure on the other former Soviet republics. The stark choices are: to countenance Russian subversion of its neighbors, for fear of weakening Yeltsin further; or to try to bolster Russia's neighbors against intensified imperial instincts in Moscow.

BACKGROUND

On September 21, 1993, President Boris Yeltsin dissolved the Supreme Soviet, claiming that parliament had "lost its ability to fulfill the main function of a representative body -- the function of harmonizing state interests." He introduced presidential rule for three months prior to elections and issued a decree calling for December 11 and 12 elections to a new Federal Assembly of the Russian Federation.

Yeltsin's move was an attempt to cut through the institutional gridlock of Russian politics. Ever since Mikhail Gorbachev began decentralizing the power held so tightly by the Communist Party in Moscow over all of the republics, territories, peoples and individuals of the Soviet Union, competing claims of legitimacy and authority have shaken the political structure of the USSR and its successor states. The dissolution of the USSR, the formation of the Commonwealth of Independent States (CIS), and the emergence of a sovereign Russian Federation left these basic questions about the source and scope of power unanswered in Russia. Almost two years of "clarification" in the form of institutional struggle and debate over economic reform led to a dead end, graphically represented by the sight of tanks blasting away at the White House, the parliament building, on October 3-4, 1993.

The events of that weekend clarified one thing: President Boris Yeltsin commanded enough support -- at least during that critical Saturday and Sunday -- among certain military and KGB units to defeat in battle the forces holed up in the besieged parliament building. The deputies led by Speaker Ruslan Khasbulatov and Vice-President Alexander Rutskoi, armed veterans of paramilitary units and ethnic conflicts, backers of the communist authorities in Trans-Dniestria, anti-Semites, fascists and anti-Yeltsin groups of all stripes were determined to undo Yeltsin and his policies. They rejected his September 21 dissolution of the Supreme Soviet and call for pre-term parliamentary elections. When Yeltsin announced an October 3 deadline for leaving the White House, they swarmed the police lines surrounding the building and attempted, at Rutskoi's behest, to take over Ostankino (the headquarters of state television) and the office of Moscow's Mayor. Faced with a genuine threat of losing power in an armed uprising, Yeltsin turned to the military. After initial hesitation, Defense Minister Grachev provided the firepower necessary to crush the insurgents. Up to that point, Russia's political struggle, despite a year and a half of perennial tensions and vituperation between president and legislature, had been remarkably peaceful, except for the May Day 1993 violence in the capital.

In the aftermath of this military intervention into politics, the December 12, 1993 constitutional referendum and parliamentary election were designed to give legal clarification to the new structure of power and to create corresponding institutions. The draft constitution established a presidency clearly more powerful than the legislature and empowered to set the course of Russia's foreign and domestic policy. A simultaneous parliamentary election, Yeltsin hoped, would provide legislative backing for those policies. In a word, Boris Yeltsin was asking Russia's electorate to sanction the normalization of politics legally and institutionally, and to bless Yeltsin's reform program politically.

Yeltsin had reason to expect success. Six months earlier, in the April 1993 referendum, Russia's voters had voiced backing both for him, and more surprisingly, his socio-economic policies, while calling for new parliamentary elections.¹ After that referendum, Yeltsin moved to bypass the Supreme Soviet by convening a Constitutional Assembly while announcing his intention to hold parliamentary elections in the fall. The refusal of the Supreme Soviet to cooperate or disappear led to the final confrontation and the destruction of the White House.

In calling for the election, Yeltsin also may have calculated that the Russian electorate had welcomed his showing of a "strong hand." His decisive measures against the parliament, however brutal, apparently ended the standoff that had led Russian politics into a pattern of paralysis punctuated by crises, accompanied by growing disillusionment and disgust among the citizenry. In fact, in the aftermath of the October 3-4 weekend, Russia's reformers evidently thought that the "Red-Brown" threat had evaporated, and that a constitution enshrining strong presidential powers and their own electoral victory were practically assured.

The electoral law they crafted was also designed to bolster their position. By establishing a semi-proportional system and requiring that parties exceed 5 percent of the vote nationwide to enter parliament, they hoped to keep small, troublesome parties out and exploit the advantages of the well organized, equipped and financed Russia's Choice. They perhaps also sought to promote the development of Russia's still embryonic political parties generally.

Finally, the election also was the opening stage in the future presidential campaigns of some of Russia's leading politicians: Sergey Shakhrai, Grigory Yavlinsky, Anatoly Sobchak and others are laying down markers and canvassing support for their expected bids to succeed Boris Yeltsin. Before December 12, however, few included Vladimir Zhirinovskiy in that group of frontrunners, despite his remarkably strong third-place showing in the June 1991 presidential election.

THE DRAFT CONSTITUTION

Until December 12, 1993, Russia had not agreed and ratified a new basic law to replace the 1978 Brezhnev constitution designed for the USSR, which technically remained in effect. That document's legitimacy and authority were badly tattered, however; the USSR no longer existed, both the Supreme Soviet and Yeltsin had amended it several hundred times, and it contained mutually contradictory provisions. Various bodies had elaborated drafts of a new constitution, including the Constitutional Committee of the Supreme Soviet (chaired by Oleg Rummyantsev), the Communist Party, and the Constitutional Assembly

¹ See Commission on Security and Cooperation in Europe, *Report on the April 25, 1993, Referendum in Russia* (Washington, D.C., May 1993)

convened by Yeltsin in June 1993. While Yeltsin rejected the "Rumyantsev" constitution (backed by Khasbulatov), and ignored the communist version, drafting in the Constitutional Assembly also ran into serious difficulties. Its membership, which included representatives of Russia's regions and republics, could not agree on the relations between Russia's 89 republics and regions, and between all of them and the central government in Moscow. While, in general, the republics and regions sought greater control over their resources and a better deal with Moscow, especially over taxation, they bickered with each other over their respective status and rights.

The military defeat of the pro-parliament insurrectionists on October 3-4 gave Yeltsin the momentum -- and powers of intimidation -- to shape the draft as he wanted. The resulting document created a presidential republic with a multi-party political system, and division of powers among the executive, legislative and judicial branches of government.

The draft enshrined basic human rights in Russia: freedom of conscience, freedom of movement (within the country as well), freedom of thought and expression, freedom of assembly, and presumption of innocence. Various articles protect specific rights often violated by the Soviet regime, by barring the deprivation of citizenship, the subjection of people to involuntary medical or scientific experiments, forced labor and the application of unpublished laws. Also protected are social rights and entitlements, such as support for the family, invalids, the elderly, the right to housing, education, etc.

Not surprisingly, Yeltsin engineered the creation of a strong presidency, which analysts have described as a mixture of the French and American models. Elected for a maximum of two consecutive 4-year terms, the president is head of state, and sets the course of the country's domestic and foreign policy. He selects the prime minister (who puts a government together), he appoints the head of the Central bank, the justices of Russia's Constitutional Court, Supreme Court and High Court of Arbitration, the General Procurator (Attorney General) and, as commander in chief, appoints the High Command of the armed forces. The president can also issue decrees that are binding throughout Russia, and introduce a state of emergency or martial law. Federal laws hold sway in any dispute with the legislation of Russia's constituent parts.

Presumably reflecting Yeltsin's unhappy experience with Alexander Rutskoi (originally his hand-picked running mate in the June 1991 presidential election), the new constitution envisages no vice-presidency. Without specifying a successor, the draft stipulated a procedure for succession: the prime minister would become acting president until new presidential elections take place within three months.

The president can dissolve parliament and call for new elections, if the *Duma* (lower chamber) rejects the president's choice of a prime minister three times, votes no-confidence in the government twice in three months, or votes no-confidence in the government after the prime minister has asked for a vote of confidence. But the president cannot dissolve the *Duma* in its first year of existence, except for rejecting the president's candidate for prime

minister. The president cannot dissolve the Federal Council (upper chamber) under any circumstances.

Parliament's ability to impeach the president is severely restricted. The *Duma* must first form a commission (about which no further information is specified), to decide whether to ask the Supreme Court and the Constitutional Court to rule on whether the president has committed a "grave" crime or an act of treason. If the Supreme Court so rules, and if the Constitutional Court agrees, the *Duma* commission can then recommend to the *Duma* that the president be impeached. A two-thirds vote by the *Duma*, followed by a two-thirds vote by the Federation Council within three months, is necessary for impeachment.

As long as the president is assured of at least a third-plus-one of the votes in the *Duma*, he can prevent the passage of legislation to which he is opposed. If the lower chamber sends such legislation to the Federation Council, which then rejects it, the *Duma* requires a two-thirds vote to override this intra-parliamentary veto. If such legislation is passed by both chambers and is then rejected by the president, a two-thirds vote of both chambers is needed to override a presidential veto.

The draft also created an independent judiciary, in which judges cannot be removed and enjoy immunity. Three courts top the system: the Constitutional Court interprets the constitution and decides whether other legal acts accord with its provisions; the Supreme Court handles civil, criminal and administrative matters, and the High Court of Arbitration rules on economic disputes.

Critics of the draft charged that the powers of the presidency are too broad, while the legislative branch is handicapped -- a particularly worrying imbalance in a country with a centuries-old tradition of overly strong, centralized executive power. In fact, most of the contending parties and blocs did not support the draft. Only Russia's Choice strongly backed it, and even some of its leading representatives, such as Sergey Kovalev, expressed concerns. The attitude of the other parties, including the pro-reformist, was lukewarm or strongly negative. Thus, Shakhrai saw the draft as a "lesser evil," whereas Yavlinsky denounced it as conducive to "dictatorship" -- an assessment echoed by the Communist Party (the Agrarian Union did not loudly attack the draft). Notably, Zhirinovskiy supported the draft, applauding and manifestly coveting its sweeping presidential powers.

Other critics, especially in the republics and regions, focused on the constitution's treatment of Russia's constituent parts. The draft contained no mention of the "sovereignty" of the republics, it equalized the status of the republics and regions, and did not incorporate, as did previous versions, the Federation Treaty of March 1992, which gave the republics wide-ranging prerogatives.

Finally, Part II of the draft permitted deputies of the *Duma*'s first convocation to be simultaneously a member of the government. This provision concerned critics who hoped to see a strict division of powers.

Many of Russia's newspapers published the draft constitution on November 9, 1993. In all likelihood, the vast majority of Russia's electorate remained unfamiliar with most of its provisions: television, not increasingly expensive newspapers, is the public's most common source of information, and though Ostankino and other channels broadcast numerous programs on the draft and the division of powers it envisaged, it is uncertain how many interested viewers such programs attracted. It is clear, however, that Yeltsin and his supporters in government responded to indications that the draft enjoyed weak support. As election day neared and indications grew that the constitution might fail for lack of the required 50 percent turnout, the Central Election Commission hurriedly announced plans to print twenty-five million more copies.

On election day, voters received a separate ballot for the referendum, which asked: "Do you accept the constitution of the Russian Federation?"

For the draft constitution to pass, at least 50 percent of the electorate needed to cast ballots; 50 percent of those voting needed to vote in the affirmative.

STRUCTURE OF THE NEW PARLIAMENT

Yeltsin's September 21 decree mandated a bicameral parliament (Federal Assembly): a 450-member lower house (the State *Duma*), which resembles the U.S. House of Representatives, and a 178-member upper house (the Federation Council), analogous to the U.S. Senate.

Members of both chambers will serve for only two years. In 1995, therefore, there will be new parliamentary elections. Deputies to the upper chamber will in the future be appointed by regional governments and legislatures, not elected.

THE ELECTION LAW AND PROCEDURES

The election law divided Russia into 89 regions (though the Republic of Chechnya refused to participate), containing 225 election districts, and over 100,000 polling stations. A 25 percent turnout was necessary for the vote to be valid, both nationwide and within individual districts for local candidates.

Half of the *Duma's* 450 seats were single-seat constituencies elected on a "winner take all" basis; the other 225 were filled by proportional representation, with parties and blocs receiving seats according to the proportion of votes they won nationwide. Hence, in 225 election districts for the *Duma*, people could vote for one local candidate and also cast another vote for one of the 13 blocs or parties registered to run in the election. A party needed at least five percent of the vote to enter the *Duma*.

For the 178-member Federation Council, two candidates were directly elected from each of the Russian Federation's 89 republics, regions and provinces.

Administration of the Referendum and Election

Electoral Commissions: The Central Electoral Commission (CEC), created on September 29, administered the election process. Yeltsin appointed Nikolai Ryabov, a deputy chairman of the previous Supreme Soviet and a close confidant, to chair the CEC, which had 21 members. Beneath the CEC were the 225 constituency electoral commissions corresponding to the new 225 districts, and then local district electoral commissions. The CEC created these constituency districts on the principle of roughly equal numbers of voters, with the average totalling 508,000. Administrators within each constituency district determined their local voting district boundaries.

All three administrative levels of election commissions drew their membership from the local administration and legislative bodies, such as regional or local councils. The 13 parties and blocs eligible to run in the elections, as well as individual candidates, were entitled to appoint one voting member to electoral commissions.

Registration of Parties and Candidates: State Duma

Proportional Voting: "Electoral associations" -- a federal party, a federal political movement or a bloc of such public associations -- needed to be registered at the Ministry of Justice to register for the election. To be put on the ballot, parties had to register a list of candidates before they could begin gathering the required 100,000 signatures due before November 7.

Thirty-five blocs initially registered their intention to participate. Of these, 21 parties and blocs presented lists of signatures in at least seven republics or regions by the deadline, with no more than 15 percent of the signatures coming from any one region, as required. On November 10, the CEC found eight of the 21 ineligible, mostly for not having collected the 100,000 necessary valid signatures, or for having too many signatures from one region. Thirteen parties and blocs thus remained in the race.

Single Constituency Seats: Candidates running for single-seat districts had to be nominated by groups of citizens or electoral associations. In the former case, they needed the signatures of at least one percent of the electorate in their constituency/district by November 14. On November 19, the registration of candidates for single-seats was completed. According to the CEC, nearly 1,500 candidates registered to run for 224 seats. (Because only one candidate of the required two in one Tatarstan constituency was registered, that election was postponed for 12 weeks).

Among these candidates, the largest group is composed of heads of regional governments; the next largest are members of Russia's new business class. Reportedly, and in contrast to previous elections, officials of the "power" ministries (defense, security, internal affairs) were not highly represented among candidates.

