

## **Political institutions: from Yeltsin to Medvedev<sup>1</sup>**

### **Political institutions: the legacy of Yeltsin**

The 1999 – 2000 electoral cycle, although it was formally conducted under the same rules as the preceding one of 1995 – 1996, considerably changed the political agenda. Firstly, the Communists represented by the Communist Party of the Russian Federation (CPRF) led by Gennady Ziuganov and his allies lost control of the State Duma that they had acquired thanks to a number of fortunate coincidences in 1995<sup>2</sup>. Secondly, the victory of Vladimir Putin in the first round of the Presidential election and a sharp decline in popular support for Ziuganov in that election (29% as against 40% in 1996) meant that the threat of a Communist candidate winning the Presidency was eliminated. Thirdly, there was a significant strengthening of the executive branch of government – Prime Minister Vladimir Putin became a leader who had the support of the majority of the population (as, before him, had Yevgeniy Primakov and Sergei Stepashin). This was in significant contrast to 1996, when Boris Yeltsin managed to achieve a very difficult victory at the presidential election, only to witness his approval rating collapsing once again to a critically low level. Moreover, at that time official announcements concerning the President's grave illness<sup>3</sup> had given rise to a constant feeling of instability. In May 1999, there was an attempt to impeach the

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<sup>1</sup> This article has been specially written for the present collection..

<sup>2</sup> In the 1999 elections, the Communists managed to obtain even more votes than they did in 1995 (24.2 % vs. 23.2 %), but received fifty party-list seats fewer. This came about because the narrow gap between the CPRF and the pro-presidential *Unity* bloc, coupled with the high percentage of votes received by the parties that entered State Duma, had minimized their gains from the redistribution of the ballots given to the parties and blocs that had failed to enter State Duma. By contrast, in 1995 the LDPR – which finished second to the CPRF, the winner in the general election – received twice fewer votes than the latter, while the parties that failed to enter State Duma collected nearly 50 percent of the vote, and so, as a result, the CPRF's gains from ballot redistribution were substantial. This time, the Communists won fewer seats in single-member districts as well.

<sup>3</sup> Rumors about Yeltsin's poor health were already circulating during his first term in office. In the latter half of 1996, he underwent heart by-pass surgery. By the end of Yeltsin's presidency, his health problems had become apparent: he was absent from public view for extended periods of time, he frequently did not take part in important government and political events, he became very short-winded, and – worst of all – began to lose the thread of what he was saying in his public speeches.

President. It failed at the first of the three stages of this procedure<sup>4</sup> – at the point where the State Duma had to decide whether to bring charges against Yeltsin. Even so, one of the charges against Yeltsin (responsibility for the Chechen War of 1994 – 1996) was approved by 296 votes, four votes short of the necessary 300 and so impeachment could well have come about.

Under the RF Constitution and following a number of fundamental laws adopted in 1994 – 1995<sup>5</sup>, the state system of Russia was constructed as follows:

The President of the Russian Federation was to be elected every four years by universal suffrage. He was vested with considerable powers. In fact, he unilaterally appointed the Government the Russian Federation. The lower chamber of the Federal Assembly - the State Duma, had (and still has) only the power to approve or disapprove the nomination of a Prime Minister, who could, nevertheless, be removed from office without the Duma's consent). The President had the right to veto legislation and this veto could only be annulled by at least two-thirds of the votes cast in both the lower (State Duma) and upper (Federation Council) chambers of the Federal Assembly. The President had the power to appoint and remove from office the head of the General Procuracy (with the consent of the Federation Council), and to appoint and remove from office the head of the Central Bank of the Russian Federation (with the consent of the State Duma). He also submitted to the Federation Council nominations of judges of the Constitutional Court, the Supreme Court and the Supreme Arbitration Court of the Russian Federation. The President also had the right to dissolve the State Duma if his candidate for the post of Prime Minister rejected three times (so far, this right has never been used).

The lower chamber of the Federal Assembly (the State Duma), comprised 450 deputies, was formed under a mixed electoral system, whereby half of the deputies were elected in single-member districts in single-round elections and the other half by proportional representation on party lists with a 5-percent threshold. An electoral

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<sup>4</sup> According to the RF Constitution, a decision to impeach the President had to be adopted by two-thirds of the votes in each of the chambers of the Federal Assembly. The Supreme Court must then confirm that there are grounds for the accusations that have been made.

<sup>5</sup> These included “On the Election of Deputies of the State Duma of the Russian Federation”; “On the Procedure for Forming the Council of the Federation of the Russian Federation”; “On the Judicial System of the Russian Federation”, “On the General Principles of Organization of the Legislative (Representative) and Executive Bodies of State Power of Subjects of the Russian Federation”; “On the General Principles of Organization of Local Self-Government”.

list could be submitted for registration by either a political party (In 2001, when the new law “On Political Parties” entered into force, there were 61 political parties) or by a political bloc comprising several public organizations. For an electoral list to be registered, it had to be supported by 200,000 valid voter signatures (or, from 1999 onwards, to pay an electoral deposit). There were no refusals of registration throughout the 1990s. In 1993, 13 electoral groupings contested the elections; in 1995 the number increased to 43 and the 1996 elections were contested by 26 electoral groupings. There was only one instance of politically-motivated refusal of registration when, in 1999, the *Spas* [Savior] bloc, one of whose principal figures was Alexander Barkashov, leader of the ultra-nationalist *Russian National Unity*<sup>6</sup>, sought to participate in the elections. The Ministry of Justice cancelled the registration of one of the participant organizations of the *Spas* bloc on the grounds that it was fictitious. Doubtless this was a valid reason for refusal of registration in this instance, though the authorities turned a blind eye to such infringements in case of other parties. As it happens, it is unlikely that this bloc would have posed any kind of threat, bearing in mind that the *Movement in Support of the Army*, headed by Vladimir Iliukhin and Albert Makashov, which was of a similar ideological orientation, was allowed to take part in the elections and obtained less than 1 % of the vote.

As of January 1996, the members of the upper chamber of the Federal Assembly– the Federation Council – were elected by the Legislatures and the Executives of the subjects (regions) of the Federation (Only 1 from 2, the Governor appointed 2). Governors were directly elected by the population. The major cycle of gubernatorial elections took place in 1995 – 1996, although some Governors were elected later. Especially important was the fact that members of the Federation Council, like members of the State Duma, had immunity from criminal prosecution. This gave the Governors, especially the Governors of large and rich regions that did not depend upon subsidies from the center, considerable freedom in their decision-making. They were not afraid to oppose the center: for example, in the autumn of

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<sup>6</sup> Alexander Barkashov was the head of a group of militants which took part in the armed uprising of 3 – 4 October 1993. He was declared a wanted person, but soon was amnestied. In 1995 and 1999, his organization nominated a number of candidacies for elections to the State Duma in single-member districts, but failed to win a single seat because none of its candidates had managed to obtain more than 5 percent of the votes. The ideology of *Russian National Unity* was aggressive xenophobia aimed against the developed countries, primarily the USA, and the ethnic minorities of Russia, primarily the Jewish population. The organization repeatedly declared its intention to establish an authoritarian regime. The symbol of the RNU was a stylized swastika. In 2000, the organization disintegrated, and its leaders vanished from politics.

1998, almost twenty Governors signed a petition for Yeltsin's resignation. Over twenty Governors were members of the CPRF, the main opposition party during the 1990s, or were elected with its help. The powers of the Governors were strengthened by provisions of a number of Federal laws that made it mandatory for the President to liaise with them over the appointment and dismissal of the heads of regional agencies of the Ministry of Internal Affairs, regional prosecutors, and the heads of regional property management committees and of regional state television and radio broadcasting companies.

This very liberal legislation notwithstanding, the Russian Federation had no more than ten real political parties or electoral associations. The largest of them was the CPRF, which obtained 12.4 % of the vote in 1993 and obtained the highest share of the vote in the second elections to the State Duma of 1995, when it obtained 23.2 % . The CPRF was also strongly represented in most of the regional legislatures. In some years the membership of the CPRF reached half a million and its meetings in Moscow and St. Petersburg were frequently attended by tens of thousands of sympathizers. In the second half of the 1990s, the principal of statism became predominant in the ideology of the CPRF – a hotchpotch of nostalgia for the Soviet past and Marxist, socialist, authoritarian, statist and xenophobic ideas –, as the Party adopted the tactic of ‘grafting itself onto the ruling régime’, as Ziuganov put it. Another very influential party was the Liberal Democratic Party of Russia (LDPR), also known as the “Party of Vladimir Zhirinovsky”, a reflection of the importance of the leadership principle in this party. In the elections of 1993 the LDPR, surprisingly, came first with 24.3 % of the vote, but managed to win in only 4 single-member districts, a reflection of the weakness of its regional organization, a weakness that was partially remedied later. In 1995, the electoral result of the LDPR was a more modest 11% and in 1999 it slipped down almost to the qualifying threshold (5%), managing to capture only 5.9 % of the vote. In its statism, xenophobia and imperialistic rhetoric, the ideology of Zhirinovsky resembled that of the CPRF, without Marxist component. Over time, the LDPR began to resort to anti-Communist rhetoric, especially when it needed to justify its cooperation with the government. The closest ally of the CPRF in 1993-1996, the LDPR subsequently changed sides and began to cooperate with the authorities in the State Duma of the second convocation. For example, an absolute majority of members of the LDPR faction refused to vote for the impeachment of

Boris Yeltsin in the State Duma in May 1999; otherwise, the impeachment motion would have obtained the 300 votes needed for the charges to be put before the State Duma (after which it would have needed two thirds of the votes in Federation Council). Whereas the CPRF tried to influence the political course of the authorities with the help of its members and sympathizers in the government (at different times these were Valentin Kovalev, Aman Tuleev, Yurii. Masliukov, and Gennadiy Kulik) and in regional administrations, the LDPR adopted simpler tactics: for example, following the refusal to support the impeachment of Yeltsin, a member of the LDPR was appointed Minister for Labor and Social Development and an individual who, according to the press, was affiliated to the LDPR, was appointed head of the Customs Control Committee.

The *Yabloko* party of Grigory Yavlinsky was represented in the State Dumas of the first three convocations. *Yabloko* presented itself as a being “social-liberal”, opposed to the government and supportive of democratic principles. In the Duma elections of 1993 it obtained 7.8 % of the vote, but in 1995 and 1999 its share fell to 6.8 % and 5.9 % respectively. There was no unity amongst those who gave varying degrees of support to the policies of President Yeltsin. In 1993, the main liberal bloc was *Russia's Choice*, whose ranks included First Deputy Prime Minister, Yegor Gaidar, and many members of the government. *Russia's Choice* came second in the elections with 15.5 % of the vote, and managed to form the largest faction in the State Duma, thanks to their large proportion of deputies from single-member districts (30 as opposed to 40 from the party list). However, public opinion interpreted this as a defeat. The reformers in the government lost much of their influence and Yegor Gaidar resigned. In 1995, the successors of *Russia's Choice*, *Democratic Choice of Russia (Demokraticeskii vybor Rossii)*, having obtained only 3.5 % of the party list vote ; did not enter the State Duma. In 1999 the party bloc *Union of the Right (Soyuz Pravykh Sil)* with 8.5 % of the party list vote entered the State Duma and managed to retain some of its influence on the policy of the President and the Government, primarily through the efforts of Anatoly Chubais, who at different times held the posts of Deputy Prime Minister, Minister of Finance, Head of the Presidential Executive Office and head of the state company *RAO UES of Russia*. However, it was the *Our Home is Russia (Nash Dom Rossiya)* bloc headed by Prime Minister Viktor Chernomyrdin that became the first true “party of power”. In 1995 it obtained 10 %

of the party list vote. In spite of being relatively pro-reformist, it proved to be a staunch supporter of any actions of the government. In 1999, a similar part was played by the *Unity* bloc headed by Minister for Emergency Situations Sergei Shoigu. Prime Minister Vladimir Putin had actively contributed to Shoigu's electoral campaign. In 1999, *Unity* obtained 23.2 % of the vote.

Several other political forces are worth mentioning, including the Agrarian Party of Russia (*Agrarnaya Partiya Rossii - APR*) which performed well in the elections of 1993 (7.9% of votes cast for the party lists). Although the APR failed to enter the State Duma on the party lists in 1995 and 1999, it succeeded in forming a separate Duma faction with the help of many MPs from single-member districts and of the Communists. In 1995, the APR obtained 3.8 % of the vote; in 1999, it did not contest the 1999 elections under its own name but its candidates were included in the ballot lists of the CPRF and the *Fatherland – All Russia* movement. Although ideologically the APR was close to the CPRF, the Agrarians were more inclined to striking deals with the authorities in order to achieve the APR's ultimate goal of controlling the Ministry of Agriculture and the agrarian budget. In 1999 the *Fatherland – All Russia (Otechestvo – Vsyaya Rossiya - OVR)* bloc headed by former Prime Minister Yevgeniy Primakov and the Mayor of Moscow, Yuriy Luzhkov, contested the elections and obtained 13.1 % of the vote. Consisting for the most part of Moscow and provincial bureaucrats and of many Governors, OVR opposed President Yeltsin and the Federal government, at least rhetorically, and considered nominating either Primakov or Luzhkov as a candidate for the Presidency in 2000. This project had to be abandoned following the lackluster performance by the bloc in the elections and the OVR Duma faction soon merged with *Unity*. The State Duma of the second and third convocations had one faction composed of MPs from single-member districts – the Russian Regions faction (*Rossiiskie Regiony*) in the Second Duma and the People's Deputy faction (*Narodny Deputat*), led by Gennadiy Raikov, in the Third Duma. This faction was no more than a group of regional lobbyists and had no clear ideology.

### **Political institutions: Putin's reforms**

During the first term of Vladimir Putin as President, the political system of the country underwent significant changes but managed to retain both the continuity of its institutions and most of the attributes of democracy.

In 2000, having ensured support of the electorate and a relative loyalty of the newly elected State Duma, the President carried out a reform of the Federation Council. The essence of this reform consisted in a reducing the influence of Governors, de-politicizing the Council, and divesting the Governors of immunity from criminal persecution. According to the Constitution, members of the Federal Assembly had immunity from criminal prosecution; as of 2000 and to the present day such immunity has been granted only to members of the State Duma and to the representatives of Governors and legislatures that entered the reformed Federation Council in 2011. Additionally, the reform abolished all requirements of the Federal center to negotiate with regional authorities regarding the appointment and dismissal of the heads of territorial branches of Federal agencies (militia, tax inspectorates, tax police, regional prosecutor's offices etc). According to Article 85 of the RF Constitution, the RF President "shall have the right to suspend the operation" of any regional normative act until the latter has been considered by the respective court. Now, amendments to the Federal Law "On the General Principles of Organization of Legislative and Executive Bodies of State Power in the Russian Federation" granted the RF President the additional right to suspend the operation of any regional normative act and, in the event of failure to comply within three months with a ruling of the respective court, that the local normative act was anti-constitutional and should be repealed, to dissolve the legislature. The President was now also granted the right, on the basis of an order of the RF Prosecutor General, in an event of legal proceedings being instituted on suspicion that a serious crime had been committed, to suspend a Governor from office until the end of the investigation. Although the 'Fronde' of the Governors was considerably weakened by these measures, the ability of the President and of the regional élites to influence the outcome of many regional elections continued to be almost equally balanced and there remained regions where, despite all its efforts, the Presidential power did not succeed in replacing disloyal Governors. Making use of the new law, the President did nevertheless succeed in replacing several of the most vulnerable Governors, including the head of the Republic of Ingushetia, Ruslan. Aushev, long suspected of cooperation with the Chechen separatists, and the Governor of Primorskii Krai, Yevgeny Nazdratenko, who had

regularly failed to provide heating to his region. These regional leaders were prudent enough to agree to retire on Putin's insistence<sup>7</sup>.

The first step towards the creation of a new party system was the adoption, in 2001, of the Law "On Political Parties", which stipulated that a political party must have at least 10,000 members nationwide and regional branches in more than half of the subjects of the Federation. In 2002 – 2003, lawmakers adopted a number of amendments to legislation which envisaged that, from mid-2004 onwards, at least half of the mandates contested in regional elections should be distributed by party list. At Federal level, the electoral threshold for political parties was raised from 5 % to 7 % of the vote (to commence with the elections of 2007). The electoral authorities adopted the "GAS-Vybory" electronic system of ballot processing that was to acquire notoriety for its lack of transparency. The purpose of all these innovations was declared to be a strengthening of the role of political parties and the principal political parties approved them despite the risk posed by the raising the electoral threshold. Besides, the new legislation exempted parties contesting elections to the Federal Assembly from the requirement to collect a prescribed number of signatures or pay an electoral deposit and this amounted to a degree of liberalization when compared with the previous system.

On the whole, the situation in the State Duma in 2000 – 2003 can be described as one of healthy competition between political parties and between Government and State Duma. In the autumn session of 2003, the CPRF faction had 83 deputies, *Unity – United Russia* – 61, the *Russian Regions* group of deputies – 47, the *Agro-Industrial* group of deputies and the *People's Deputy* group – 43 deputies each, the *Union of Right Forces* (SPS) – 31, *Yabloko* – 17, and the LDPR – 14, while 16 deputies did not belong to any faction. During the first two years of the existence of the State Duma of the third convocation, two majorities gradually emerged – a situation that was well known in the Russian (State Duma of the years 1907-1917). In addition to the official "factions of power" – *Unity* (as of 2003: *Unity–United Russia*) and *Unity-All Russia* (as of 2003: *Fatherland – United Russia*), the first majority comprised the *People's Deputy* group (a bloc of directly elected deputies which, despite its populist-leftist

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<sup>7</sup> It is indicative that subsequent elections produced contrasting results. For example, in Ingushetia, where Kh. Gutseriev, the principal opponent of the candidate of the "center", M. Ziazikov, was barred from standing and the locally stationed military personnel was required to participate *en masse* in the voting, the election was won by the candidate preferred by the "center", whereas in Primorskiy Krai, the candidate of the "centre", G. Apanasenko, lost the election.



rhetoric was strictly controlled by the Presidential Administration); the LDPR (a populist party whose political stance had become rather ill-defined in the interval between the two elections); and the CPRF with its affiliate, the Agro-Industrial group. The second majority consisted of the two “factions of power” plus the LDPR, the SPS, *Yabloko* and, partly, *Russian Regions* and *People’s Deputy*. It cannot be said that voting in the State Duma always followed this pattern, but this general trend was certainly discernable.<sup>8</sup>

The first majority (including the Communists but excluding the right) would usually coalesce during voting for draft-laws intended to extend the powers and the funding of state agencies, especially the “power agencies”; and in the passing of “patriotic” resolutions. The second majority came into play in the legislation of economic reforms (tax, labor, land, pension, etc). However, with the creation in 2002 of the *United Russia* party, on the basis of the *Unity* faction and the *Fatherland – All Russia* faction, a stable pro-presidential majority came into being that consisted of the so-called ‘centrist factions’ (*Unity - United Russia, Fatherland – United Russia, People’s Deputy* and *Russian Regions*). This coalition was joined on pragmatic grounds by the LDPR and the other factions had no alternative to accepting this state of affairs. It is indicative that after the centrist factions had considered a draft budget prepared by the RF Ministry of Finance in an “informal” reading in August 2002, it was adopted the State Duma in 2002 – 2003 practically without amendment.

Even so, the State Duma of that convocation was unable to make any amendment to the Constitution of the Russian Federation or significantly to redistribute authority. Not surprisingly, no such proposals were brought before it. The situation radically changed in this respect only after the elections of 2003, which increased the number of deputies of the *United Russia* faction to over 300 – more than the number required for introducing changes to the constitution. During the period 2000 – 2003, the Government was also unable to push certain tax reforms through the State Duma which was at the time strongly influenced by big business lobbyists.

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<sup>8</sup> For example, in the summer of 2003, when it was clear that a motion of no confidence lodged against the Government was doomed to fail, the LDPR voted ‘no confidence’; whereas in 2002 *People’s Deputy* and the LDPR voted in favor of reform of the electrical energy sector, but *Yabloko* voted against.

## **The electoral rights of the citizens and the political change of direction in 2004**

What is often forgotten in discussions of what the optimal political model for Russia should be is that the essential prerequisite of a legitimate political régime is not the “model” (whether a parliamentary or presidential republic, majority voting or proportional representation) but the existence of free and fair elections.

Furthermore, for elections to be free and fair, candidates must have free access to participation in the elections; and all candidates must have equal opportunities for campaigning. And the counting of ballots must be honest.

There were problems with the free and fair conduct of elections long before 2004. What have become known as ‘Bashkirian electoral procedures’ became increasingly widespread<sup>9</sup>, in other words a candidate disapproved of by the Federal or regional authorities would be barred from registration or struck from the voting list during of the electoral campaign. These methods were used, for example, in the gubernatorial elections in the Primorskii Krai, Kursk, Niznii Novgorod, and Rostov Oblasts, in Yakutia, North Osetia and Ingushetia. The abuse in Primorskii Krai was particularly blatant: in the early gubernatorial election held there in May 2001, the two candidates who entered the second round were former the Mayor of Vladivostok Valeriy Cherepkov (20 % of the vote) and businessman Sergei Darkin (23.9 %), while Moscow’s candidate, Konstantin Apanasenko, the Deputy Plenipotentiary Presidential Representative in the Far-Eastern District (*Okrug*), came only third. The Primorskii Krai Court then charged Cherepkov with electoral violations – he had allegedly not charged the cost of a radio interview on *Moscow Echo* to his campaign fund – and barred him from standing. In the meantime, Cherepkov’s rival who had been given the same amount of airtime –also free of charge –was not barred from standing. This blatantly illegal ruling was then upheld by the RF Supreme Court, which began ever more frequently to bar independent candidates from standing in elections.

The brazen application of ‘Bashkirian procedures’ became ever more frequent. In the State Duma elections of December 2003 there were scores of instances of

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<sup>9</sup> The opposition candidates for the 1998 election for the post of President of Bashkiria were not registered by the regional authorities even after the RF Supreme Court had passed a ruling obliging them to do so. By the standards of the 1990s, this case was outrageous and practically unprecedented. Only in Kalmykia was there a similar absence of opposition, except that the opposition there did not recognize the legitimacy of premature elections for the post of President of Kalmykia and took its own decision not to participate.

candidates being barred from registration or struck from the ballot list. For example, in Buriatia the authorities barred from registration the CPRF candidate and former Prosecutor General Yurii Skuratov (on the absurd pretext that he had “submitted false and incomplete data concerning the position he holds” – in other words, he had declared his position as head of a faculty at Moscow Social State University but had “concealed” from the electorate that fact that he was also a professor)<sup>10</sup>. Opposition Duma deputies standing for re-election were confronted with unusual demands, for example that their assistants should not take part in their electoral campaigns or that their own reception rooms should not be used for campaign purposes, whilst candidates from the party of power were not placed under such restrictions. The list of the *Liberal Russia* movement was barred from participating in the election. The movement was far from extreme but was headed by the political émigré, Boris Berezovsky.

The electoral campaign of 2003 took place in unusual circumstances. The news media (in their choice of topics and comments) in all Federal TV were openly supportive of *United Russia* and defamatory with regard to the CPRF, a party that according to the *Public Opinion Foundation* and the Institute for Public Opinion Research (VTsIOM), as late as January 2003 had had an almost 10-percent lead over *United Russia*. By contrast with 1999, all Federal TV channels were controlled by the State or by state-owned companies and the managers of the TV channels gave the impression of being controlled from a single center. The ballot list of *United Russia* included 29 Governors and many Federal ministers. In fact, the administrative apparatus, ignoring all protests, campaigned, at the expense of the taxpayer, for a single political party. This policy was facilitated by electoral legislation that placed many petty and bizarre restrictions upon the candidates (for instance, by imposing norms with regard to “places for [political] agitation” not provided for in legislation; applying the vague charge of “misleading the voter” very severely to candidates and the mass media but very leniently to officials, who received only very small fines for

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<sup>10</sup> In Tiumen, the authorities barred both of the leading opponents of Gennadiy Raikov from contesting the elections – the Communist Alexander Cherepanov and Vadim Bondar’ (*Union of Right Forces*); in Kursk Oblast and Kursk Electoral District No 97, former Vice-President of Russia Alexander Rutskey was struck from the list of candidates; in Kuban, the CPRF candidate from the CPRF and Deputy of the State Duma, N. Denisov, suffered the same fate which facilitated the victory of Aleksey Tkachev, the brother of the local Governor; as did, in Achinsk Okrug, the businessman Anatoly Bykov; in Nizhnii Novgorod the businessman Andrey Klimentiev; and, in Tatarstan, the critic of the head of the Republic and State Duma Deputy, Sergei Shaturin.

any violation). At the polling stations, observers from the blocs and parties were frequently unable to obtain copies of the electoral returns, whilst in this election of 2003 the number of electors increased mysteriously by 2 million over the total in the previous electoral cycle, notwithstanding a natural decline in the size of the population in the interval. According to the then head of the Central Electoral Commission, Alexander Veshniakov, Chechnya and Ingushetia, where the number of votes cast exceeded the number of registered electors by 11 percent, were particularly noteworthy in this respect. Similarly, in Moscow and Kaluga oblasts the number of votes cast exceeded the number of registered electors by 4.5 and 5 percent respectively.<sup>11</sup>

According to many experts, it was the arrest of Mikhail Khodarkovsky that sealed the fate of the parties of the right, in providing an impetus to existing public complaints about big business, which, up until then had been of marginal importance and had not been supported by the authorities. By contrast, the politicians of the right had been positioning themselves as defenders of big business. We agree with this in many respects. However, the electoral débacle of the right should be attributed, in the main, not to the actions of the authorities but to the incompetence of the right politicians themselves. They had failed to exploit the prevailing unpopularity of the bureaucracy and, above all, of the “power-structures (Ministry of Internal Affairs, Federal Security Service). Sociological data conclusively show that, whilst the citizenry were convinced of the unjustness of the privatization process and were of the opinion that it should be revised, they had no confidence that a revision would actually be of benefit to society and they did not trust the Russian justice system. As far as the alleged “popularity” of the police in society is concerned (its chief at the time, Boris Gryzlov, ran for a seat in the State Duma as leader of the party of power - United Russia), it is surprising that this topic was not current at the time.

The results of the elections of 2003 were as follows. The number of electors who voted for the parties represented in the State Duma fell from 81.3 % in 1999 to 70.5 % . Participation in the 2003 elections was 55.7 %, or almost 8 % lower than in 1999. The parties that entered the State Duma were *United Russia* (37.57 %), the CPRF, which dropped back to its results of 1993 (12.61 %), the LDPR (11.45 %), and the leftist-populist bloc *Rodina* (9.02 %).

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<sup>11</sup> <http://www.polit.ru/event/2003/12/26/veshnyakov.html>

Closest to the electoral threshold were *Yabloko*, which scored 4.4 % of the vote; the SPS – 3.97 %, the Agrarians – 3.64 %; and the Party of Pensioners – 3 %. Having gained a substantial lead over its rivals, *United Russia* obtained slightly under half of the seats in the State Duma that were awarded to party lists (120), followed by the CPRF (40), the LDPR (36) and *Rodina* (29). In the single-member constituencies, *United Russia* was also successful and acquired a further 104 (plus 19 seats that had been conceded, by agreement, to the People’s Party of Russia (*Narodnaya Partiya Rossii*)). Independent deputies elected in single-member districts and candidates of political parties that had not passed the electoral threshold then joined *United Russia* “en masse” and the number of seats controlled by the *United Russia* faction thereby increased to 308 MPs. Thus, the party of power obtained a constitutional majority in the State Duma and retained it for the next four years.

In many respects, the 2004 Presidential election displayed the same voting pattern as the 2003 elections to the State Duma. Vladimir Putin won 71.3 % of the vote, almost 20 % more than in 2000. The CPRF’s candidate N. Kharitonov finished second (13.6 %), with Sergei Glaziev (4.1 %) and Irina Khakamada (3.8 %) trailing well behind, 3.4 % of voters cast a protest vote “none of the above”, the LDPR’s candidate Oleg Malyshkin collected 2.2 % of the vote, and the pro-Putin Chairman of the Federation Council, Sergei Mironov – less than one percent. In March, Ivan Rybkin had withdrawn his candidacy, but this gesture had passed unnoticed outside the narrow circle of political analysts and he did not wage an electoral campaign.

The work of the 2003 – 2007 State Duma opened with a statement of its new chairman, and head of the ruling party - *United Russia* Boris Gryzlov to the effect that “Parliament is not a place for political discussions”. The chances of adopting any law not submitted by *United Russia* were reduced practically to zero, but this did not reflect any increase in the influence of the deputies of *United Russia* on the legislative process. According to an already established practice, the lower chamber proceeded to consider and adopt laws that were submitted by the President and the Government; the number of draft laws adopted on the initiative of the deputies themselves was less than 10 percent of the total<sup>12</sup>. In fact, the State Duma lost its law-creating function and became an appendage of executive authority. On 1 September 2004, began the tragic chain of events in the North Ossetian town of Beslan, where a school was seized by a

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<sup>12</sup> <http://www.council.gov.ru/print/lawmaking/report/2006/24/index.html>

group of terrorists and hundreds of lives were lost. On the pretext of a struggle against terrorism and to deter a number of unspecified countries that were “interested in the weakening of Russia”, it was announced that a number of draft laws, the effect of which would be to change the procedure for the appointment of Governors would be brought before the Duma. The draft laws envisaged that, instead of being elected by popular vote, Governors would be appointed by regional legislatures on the basis of nominations by the President. Furthermore, it was envisaged that, in the event of a regional legislature twice failing to confirm the President’s nomination, the President would have the right to dissolve the legislature and appoint an acting Governor. The draft laws also provided that the President would be empowered to dismiss Governors, whether appointed or elected, for a variety of reasons, including “loss of the trust of the President”. One important feature of these changes, which were duly adopted, is that they violate the principle of separation of powers, in so far as Governors or their nominated representatives constitute half of the upper chamber of the Federal Assembly.

Simultaneously, the authorities decided that the State Duma should be elected exclusively on the basis of party lists, that electoral blocs would be prohibited and that the minimum membership required of a political party should be increased to fifty thousand. The electoral deposit was set at above the rouble equivalent of 2 million USD, whilst the permissible share of invalid signatures on party registration lists was reduced from 25 to 5 percent. The right to appoint Federal election observers was retained only by participants in the elections, whereas public associations were deprived of this right. This meant that the inability of the opposition to register its own candidate automatically implied the impossibility of citizen control over elections. It was decided that votes would be counted by means of electronic scanners and that the observers would have no right to a manual recount.

The draft laws of autumn 2004, together with the decision taken earlier to increase from 5 % to 7 % the share of the vote required for representation in the Duma, marked an abrupt shift by Vladimir Putin towards authoritarianism. The electoral deposit in Russia became the highest in the world and the share of the vote required for representation the highest in Europe. One could add that no European country has banned electoral blocs in the legislature. In 2009, on the initiative of Dmitrii Medvedev, the option of registration by financial deposit was abolished (the

overwhelming majority of oppositionists had been registering by submitting financial deposits). This made it even more difficult for opposition candidates to register since when they attempted to register by submitting signature lists these were regularly being declared invalid.<sup>13</sup> Also on the initiative of Medvedev, public organizations were banned from participating in elections held under the system of proportional representation at the municipal level, whereas previously they had possessed this right.

The purpose of these amendments is clear. During the four years in which the new system has been in existence, not one (!) new political party has been registered.<sup>14</sup> Since the new system was adopted, the number of political parties has dropped from sixty to thirty four by early 2007, to fifteen by the beginning of the last elections to the State Duma and to seven by 2009. It cannot be excluded that the process of liquidation of political parties will continue.

Only a few Governors at present do not belong to the ruling party, *United Russia*, whereas as recently as 2003 fewer than half of Governors belonged to *United Russia* (it is worth noting that almost half of the candidates of *United Russia* were defeated in the last open gubernatorial elections held in 2004). In 2007, the *Union of Right Forces* (SPS), the only political party openly opposed to the policies of Vladimir Putin, was subjected to denigration in the mass media and all of its political agitation materials were confiscated by personnel from the Ministry of Internal Affairs. During the Presidential election campaign of March 2008, the authorities went even further and refused to register an opposition candidate, former Prime Minister Mikhail Kasianov, on grounds of alleged irregularities in the collection of signatures of support.

Furthermore, the existing electoral campaign rules make any criticism of the President, the Prime Minister and the ruling party practically impossible. Firstly, such criticism in the course of the campaign is illegal – election participants do not have the right to finance from their electoral funds the distribution of information that can

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<sup>13</sup> The most scandalous occurrence was in St. Petersburg in 2006. A number of the signatures submitted by the regional organization of the *Yabloko* party were declared by the city electoral commission to be invalid, and the party list was barred from registration. In response, *Yabloko* went to law and submitted notarially certified statements by the voters whose signatures had been judged to be invalid. However, the court upheld the decision of the electoral commission.

<sup>14</sup> Among those denied registration were the Republican Party (Vladimir Ryzhkov), *People for Democracy and Justice* (Mikhail Kasianov), and *Great Russia* (Andrey Saveliev.)

create a negative public image of their rivals. However, the ruling party circumvents this by making use of the state-owned TV channels. Even if the other parties found some means of avoiding these restrictions, they would risk having their political campaign materials illegally confiscated – and returned only after the elections, as happened to the *Union of Right Forces* (SPS). This means that parties participating “in the system” can serve only as sparring partners of the ruling party: they are able only to put forward minor proposals that do not imply any criticism of the government, let alone question its legitimacy. It was inherent in the logic of this “semi-party system” that in late 2008 all of the parties represented in the State Duma, with the exception of the Communist Party, approved the extension of the Presidential term of office to six years. Increasingly, the “system-parties” in Russia resemble the “fellow-traveling” parties of Communist Eastern Europe; and the Presidential elections, though they are contested by more than one candidate are coming to resemble the Presidential “elections” of Turkmenistan, Tajikistan, and Uzbekistan.

The official results of the “party of power” oscillate around two-thirds of the vote. According to official data, voter turnout in the elections of 2007 was 63.78 % (higher than in the previous elections, but lower than in the 2004 Presidential election). Four parties entered the State Duma: *United Russia* won 64.3% of the vote, the *Communist Party* (CPRF) - 11.57 %, the *Liberal Democratic Party* (LDPR) - 8.14 % and *Just Russia* (*Spravedlivaya Rossiya*) - 7.74 %. The other parties performed very poorly: the *Agrarian Party* obtained 3.3% of the vote, *Yabloko* 1.59 %, *Civic Power* – 1.05 %, SPS – 0.96 %, and the spoiler *Democratic Party of Russia* (DPR) gained only 0.13%. In the Presidential election of 2008, Putin’s “successor”, Dmitrii Medvedev, obtain 70.21 % of the vote on a 69.61% voter turnout.

What is one to make of these results? Supporters of the Kremlin describe them as a vote of confidence in Putin and in his policies and to a certain extent they are right. At the same time, falsification in 2007 was more widespread and blatant than in the previous electoral cycle. For instance, in Chechnya and Ingushetia, where voter turnout was officially registered at 99 % and 98 % respectively, the party of power won 99 % and 98 % respectively<sup>15</sup>. In Khabez raion of Karachaevo-Cherkessia, the results were even more impressive – a 100 % voter turnout and 100% support for the

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<sup>15</sup> In Ingushetia, activists of the protest action under the slogan ‘I Have Not Voted’ collected written statements, with full personal details, from more than 50 percent of registered voters, confirming their non-participation in the elections.



party of power. In Kabardino-Balkaria, Mordovia, Karachaevo-Cherkessia, Dagestan and Tyva the results were simply fantastic. The following – very crude – method of altering the ballot returns was widespread: observers at district electoral commissions would receive one set of returns, but the staff of electoral commissions at territorial level would then produce a new set of returns and load the considerably doctored figures into the *GAS Vybory* electronic ballot processing system. As a rule, to save time, the numerical results of other parties were not changed at all, or changed only slightly; rather the figures for voter turnout were increased and all of the ‘virtual’ votes were allocated to the party of power. The discrepancies revealed and published by observers for the *Communist Party*, the *Union of Right Forces* and *Just Russia* indicate that, means of this simple method alone, the party of power acquired an additional ten to fifteen percent of the vote. Geographically, this method was quite widely used, even around Moscow. In the big cities, where the mass media are a significant factor, the methods of election rigging were more sophisticated and involved the so-called ‘electoral merry-go-rounds with absentee votes’<sup>16</sup>, ‘ballot stuffing’, and exclusion of observers from polling stations. Voter lists remain absolutely secret. Thus, it turned out that during the Presidential election elections of March 2008 the number of eligible registered voters fell by over two million by comparison with the elections of December 2007. According to preliminary data for the Presidential election posted to the web-site of the Central Electoral Commission, ‘the number of voters included in electoral lists’ was under 107 million. This compares with a figure of over 109 million announced by the commission after the State Duma election.

The results of the elections of 2007 and 2008 can be summarized as follows: *United Russia* managed to hold on to its constitutional majority in the State Duma; and a “referendum of confidence in “Putin-Medvedev” was achieved and produced a positive result. However, the manner in which the referendum was conducted raises questions as to its legitimacy.

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<sup>16</sup> After issuing a transferable ballot (*otkrepitel'ny talon*) to a voter (this voucher permits voting in a place other than the place of residence), an official of the electoral commission, contrary to the law, omits to retrieve this certificate, thereby enabling participants in the “carousel” to vote in a number of voting stations.

It should be noted that the Russian authorities have established this régime for an indefinite period of time – it is never spoken of as something temporary or transitional.

### **The legal system**

The legal system inherited from the Communist period was designed to be a decorative appendage to the party-state apparatus. By the nature of its organization and the composition of the judiciary, it is unfit either to protect citizens' rights in law or to separate rights and conflicting interests.

The judicial reform of the early 1990s significantly increased the judges' independence from executive and legislative authority by giving them security of tenure and by creating for them a powerful corporate structure that had the authority to deal with all matters relating to the removal of judges from office. The second half of the 1990s saw the beginning of a sharp rise in the salaries of judges. Judges, especially in the provinces, became part of the social élite.

However, the reform failed to deal with left many other problems of the judicial system. Very little was done to renew the corps of judges and increase the stringency of selection of candidates, employing criteria that would determine the ability of a candidate to protect the rights of individuals. Judges who tried to use their increased independence and powers to protect citizens' rights were frequently ostracized by the judicial community and removed from office, all the more readily in that the judicial community itself now possessed this power. During the 1990s, the removal of a judge was the responsibility of a credentials commission consisting of eight to ten members of the next most senior court. Instances of judges being removed were rather rare, and a removed judge could appeal to the Supreme Court. For example, the credentials commission refused to remove a judge of the Solnechnogorsk district court, Yurii Slobodkin, one of the leaders of the radical opposition Russian Communist Workers' Party who was then standing as its candidate in the 1995 Duma elections. He was simply cautioned<sup>17</sup>. One of the authors of the Russian Constitution, Sergei Pashin, managed to retain his position as a judge by appealing to a higher supervisory body.

At the very beginning of the 1990s, when the new judicial system was formed, the entire membership of 13 members of the Constitutional Court of the RSFSR (two

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<sup>17</sup> In 1990-1993, it was legal for a practicing judge to be a People's Deputy. Since 1994 this has been illegal.

appointments as judges were left vacant) was appointed by the Congress of People's Deputies (that existed from 1990-1993) and was, therefore, rather heavily politicized. The judges of the Constitutional Court elected Valeriy Zorkin as their chairman. The powers granted to the Constitutional Court in the initial stage of its development had to do with cases concerning the constitutionality of laws and other legal acts of the Russian Federation and subjects of the Federation, the implementation of laws and the constitutionality of political parties and public organizations. The Constitutional Court was empowered to resolve disputes relating to the competencies of agencies of state authority. Its powers included the right to deliver opinions on the removal from office of certain top officials of the Russian Federation and of subjects of the Federation, the right to initiate legislation and annually to submit to the Federal Assembly a report on compliance with the Constitution in Russia (which report was to be considered by the Federal Assembly as a matter of priority)<sup>18</sup>. In the years 1992 – 1993, the Constitutional Court considered 30 cases, 22 of which were initiated following submissions by state bodies or groups of parliamentarians and only 8 following complaints of individuals. Increasingly, the Constitutional Court became involved in politics. In the so-called “Case of the Communist Party of the Soviet Union” there was a challenge as to the constitutionality of a ban placed by the President of the Russian Federation on the Communist Party of the Soviet Union and on the Communist Party of the Russian Federation on the grounds that these were criminal structures of a totalitarian state, that had been involved in organizing mass violations of citizens' rights. The evidence presented by the Government side included a number of unique documents, for example decisions of departments of the CPSU confirming – in advance (!) – the results of elections to the Supreme Soviet of the USSR and instructions issued to state agencies concerning the allocation of funds. The Constitutional Court could hardly rule that the Communists' decades-long monopoly of power had been legitimate, but it refrained from condemning the Bolshevik régime as totalitarian and from describing the CPSU as a criminal organization. Instead the Constitutional Court ruled that the dissolution of the governing bodies of the Communist Party of the Soviet Union (CPSU) had been constitutional whereas the dissolution of the grassroots organizations of the Communist Party of the Russian Socialist Federal Republic (RSFR) to have been unconstitutional.

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<sup>18</sup> <http://ks.rfnet.ru/>

In December 1992, during the crisis within the Supreme Soviet of the Russian Federation over confirmation of the nomination Yegor Gaidar as Prime Minister, the Chairman of the Constitutional Court, Valeriy Zorkin, acted in a political capacity: he signed an agreement with the heads of the executive and legislative branches of the government, whereby Boris Yeltsin would withdraw his nomination of Gaidar in exchange for support by the Supreme Soviet of his proposal for a referendum of confidence in the President and in the Seventh Congress of People's Deputies of the Russian Federation, then in session. Despite being a signatory to this agreement, Zorkin then approved its violation by the Eighth Congress of People's Deputies of the Russian Federation, which annulled the decision on the referendum that had been adopted by the Seventh Congress. The grounds that he adduced were hardly legal: "This will be better for Russia". Some decisions of the Constitutional Court clearly made a mockery of the law. They included the ruling that, for any curtailment of the powers of a Congress of People's Deputies that has been elected by a *relative* majority of voters, an *absolute* majority of registered voters must take part in the vote; and judging to be constitutional the decision of the Supreme Soviet of Mordovia immediately to abolish the office of President of the Republic of Mordovia, following an election of a candidate to that office by popular vote. On 21 September 1993, the President of the Russian Federation, Boris Yeltsin, signed Decree No 1400 "On the Phased Reform of the Constitution of the Russian Federation". In this document it was proposed that the Constitutional Court should not convene. The Decree disbanded the Congress of Peoples' Deputies of the Russian Federation and the Supreme Soviet of the Russian Federation, and introduced temporary statutes for Federal agencies of state power, elections to a State Duma and a referendum on the adoption of a new Constitution for the Russian Federation. In the decree, the President gave his reasons for taking these steps: that the leaders of the Supreme Soviet had brought the process of constitutional reform to a halt, had been resisting socio-economic reforms, had been trampling on the will of the people as expressed in the elections and in the referendum of 25 April 1993, and had been undermining the very foundations of the Constitution of the Russian Federation - popular sovereignty, the separation of powers and the principle of federalism.

The new Constitution of the Russian Federation, was adopted by a referendum on 12 December 1993, on which day elections were also held for a new bi-cameral

Federal Assembly, comprising State Duma and Federation Council. The Federal Constitutional Law “On the Constitutional Court of the Russian Federation” was a distinct improvement on the previous one. The number of judges was increased to nineteen, which ended the technical anti-Presidential majority of judges that had come into existence during 1992 – 1993. The Federal Constitutional Law stipulated (Article 72) that decisions involving interpretation of the Constitution should be adopted by at least a two-thirds majority. According to a report of the Constitutional Court<sup>19</sup>, the number of cases accepted for consideration considerably increased and over 70 percent of cases related to the protection of constitutional rights and freedoms<sup>20</sup>. It is also worthy of note that in an overwhelming majority of cases, the complaints of private persons and the inquiries of state bodies were upheld: the legal statutes and provisions of other normative acts that were challenged were indeed, not in compliance with the Constitution.

Of course, after 1993 the Constitutional Court in general refrained from interfering in decisions of the supreme authorities, whether Governmental or Presidential; the only relatively important decision worth mentioning at that level was its ruling that the restitution of German cultural valuables was unconstitutional. Even so, the decisions of the Constitutional Court did put a brake on the adoption of laws and norms that would have extend the powers of state institutions and limited the rights of citizens and entrepreneurs. For example, the Court declared unconstitutional many provisions of the old Code of Criminal Procedure (for instance, the right of a supervisory agency to review and rescind a verdict of acquittal, the right of courts to send back inadequately investigated cases for further investigation (a power that condemned many accused to lengthy periods of precautionary custody owing to mistakes by investigators), the right of an investigating agency to detain a suspect for longer than 48 hours, and, as a preventative measure, to hold this person in detention without charge). These rulings undoubtedly made a positive contribution to the development and adoption of a new Code of Criminal Procedure: as the repressive norms of the old Code were discredited, the power agencies lost the motivation to struggle for the retention of the Code. The Constitutional Court repeatedly resisted attempts by the fiscal authorities to introduce retrospective taxation or to introduce

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<sup>19</sup> <http://ks.rfnet.ru/>

<sup>20</sup> For statistics, see *ibid.*

taxation without due regard to established procedure, protected the right of citizens to local self-government (the so-called Udmurtian case),<sup>21</sup> their right to the freedom of choice of place of residence. On the whole, the work of the Constitutional Court in 1994 – 2003 can be described as progressive.

Between 2004 and 2008, the approach of the Constitutional Court changed significantly. Its response to the laws put forward by Vladimir Putin in September 2004. was a turning point. These laws were designed to abolish the direct election of Governors while preserving the practice whereby half of the members of the Federation Council were nominated by Governors. This meant that half of the members of the Federation Council would now be nominated by the executive branch of government. It is indicative that the Constitutional Court, with two votes against, dismissed a challenge by Vladimir Grishkevitch of the constitutionality of the nomination of Governors, on the grounds that “the Constitution does not regard election as the only permissible means of forming all institutions of government”. In so doing, the Court disregarded its own rulings of 1996, which declared unconstitutional even the indirect election of a Governor by legislators and paragraph 2 of Article 55 of the Constitution which guarantees the citizen against any diminution of his or her rights.<sup>22</sup> Furthermore, given that the Constitution did not give the President the power to nominate Governors and that Governors, now nominated, continued to be able to nominate their representatives on the Federation Council (in accordance with a law of 2000) the principle of separation of powers was violated.

It was indicative of the new trend that in 2003 Judge Zorkin, who had ten years before adamantly opposed adoption of the present Constitution, was once again elected as Chairman of the Constitutional Court, and that in 2009, President Dmitrii Medvedev went so far as to suggest that the President should submit a nomination for the post of head of the Constitutional Court to the Federation Council for its approval.

The situation also radically changed with regard to the possibility for the courts of general jurisdiction to make decisions that ran counter to the interests of the executive. For instance, in 1994, the Supreme Court acquitted General Valentin

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<sup>21</sup> The Constitutional Court ruled that an attempt of the Udmurtial authorities to abolish, without a referendum, the position of elected mayor of Izhevsk, was unconstitutional.

<sup>22</sup> “Laws abolishing or diminishing the rights and freedoms of man and the citizen must not be issued in the Russian Federation”.

Varennikov<sup>23</sup>, who had been a member of the State Committee on the State of Emergency (GKChP), of the charge of high treason (that is, participation in the attempted coup d'état of August 1991), concluding that he had acted 'under extreme duress and with concern for the welfare of the state'. The Supreme Court acquitted the ecologist Alexander Nikitin who had been accused by the FSB of disclosure of a state secret. In an absolute majority of cases, the Supreme Court reinstated the registration of candidates in elections at various levels who had been debarred from standing by regional authorities. By contrast, between 2000 and 2003, the Supreme Court upheld many such decisions by regional authorities (for example in the gubernatorial elections in Rostov Oblast, Primorskii Krai and the Republic of Chechnya). As of the 2003 electoral campaign for the State Duma, the Supreme Court has been rubberstamping the decisions of lower courts to bar candidates who are uncongenial to the authorities.

In socially significant cases, not guilty verdicts are no longer given; there are cancellations on a massive scale of the verdicts of juries; the dissolution of juries has become common practice<sup>24</sup>. Once again, Russia has many political prisoners, including the managers and employees of *Yukos*, "scientists-spies" and various party political activists, especially from the provinces. Many judges, for example, Olga Kudeshkina and Alexander Melikov, attribute their dismissal and that of many other members of the judiciary to not-guilty verdicts they have passed, although such verdicts account for only a few percent of the total.

All of this leads to the conclusion that that in present-day Russia there is no independent judiciary.

## **The mass media**

The emergence of Kremlin propaganda as a social phenomenon, and even as a social institution – can be confidently dated to Vladimir Putin's first term in office when the Kremlin established its control over NTV and ORT, and the first elements of state censorship were introduced on central television channels.

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<sup>23</sup> All the other members of the GKChP had accepted an amnesty offered by the RF State Duma, but Varennikov insisted on standing trial.

<sup>24</sup> The Supreme Court overturned the non-guilty verdicts handed down by juries in the cases of ecologists V. Danilov, military serviceman S. Arakcheev, politician I. Kvachkov, and disbanded a jury in the case of the YUKOS employee A. Pichugin.

In the 1990s, there were three TV channels in the Russian Federation whose signals could be steadily received throughout almost the entire territory – ORT, RTR and NTV and a number of channels with large areas of reliable coverage – primarily TV-6 and TVTs. RTR was 100 % state-owned; the state had held a controlling block of shares in ORT since 1995, whilst 49 % of shares and the company management were controlled by Boris Berezovsky; NTV belonged to Vladimir Gusinsky; TV-6 – to Evgenii Sagalaev and Boris Berezovsky; and TVTs to the Government of Moscow. The TV channels differed widely in their attitudes towards individuals in the political and commercial spheres and frequently revised their attitudes. In the 1990s all Russian TV channels were loss-making and could survive only with the support of their shareholders or with loan finance (for instance, *Gazprom* repeatedly advanced substantial loans to NTV). Those loans were by no means charitable: the information policy of the TV channels became an important political resource. For example, in 1996, the television channels supported Boris Yeltsin, whose standing in public opinion had plummeted, against the Communists' leader, Gennadiy Ziuganov. The TV channels played a significant role in Yeltsin's electoral campaign, for example by broadcasting critical remarks about Ziuganov and disseminating the dubious thesis that Yeltsin was the only candidate capable of defeating him. In 1997 some of the television channels, primarily ORT and NTV, sharply criticized the then Government, whereas RTR defended its policies. During the electoral cycle of 1999 – 2000, ORT and RTR supported the *Unity* bloc, whilst NTV backed the bloc *Fatherland-All Russia*. Notwithstanding this kind of partisanship, all TV channels adhered to the well-known principles of news broadcasting – they gave coverage to conflicting points of view and staged live television debates in which representatives of different points of view confronted each other. For example, the leaders of the four Duma factions were regularly invited to take part in NTV's weekly analytical program *Itogi*.

Although the print media did not engage in this kind of internal pluralism, they covered a wider political spectrum than did television – for example, newspapers such as *Zavtra*, *Soviet Russia* and *Pravda* adopted a pro-Communist line.

During the 1990s Kremlin propaganda was practically non-existent. The propaganda functions of the Presidency consisted merely in ensuring that pro-Kremlin politicians obtained more broadcasting time than the opposition and to poking fun at



the opposition (frequently with good reason). There was no embargo whatsoever on criticism of the authorities, even of Boris Yeltsin.

A purge of the television channels was one of the first actions of the new President. Economic methods were used against NTV: the semi-state-owned company *Gazprom* was instructed urgently to recover the company's debts of over 600 million USD. This process of debt recovery began in the summer of 2000 and culminated in the spring of 2001 in the bankruptcy of *Media-Most*, the company of Vladimir Gusinsky. Gusinsky emigrated and control of the NTV channel passed to *Gazprom*. The response of the public to the fate of NTV was mixed, given the dubious reputation of its owners and the magnitude of their debts. Alfred Kokh, the newly-appointed head of the company, promised to sell it to a strategic foreign investor, but it soon became clear that the authorities had something quite different in mind. In the summer of 2001, a number of legislative amendments were introduced that made it illegal for foreign investors to hold a controlling block of shares in electronic media companies. Boris Berezovsky sold his shares in ORT to Roman Abramovich, a Kremlin loyalist. In January 2002 the TV-6 television channel was wound up at the behest of its minority shareholder, LUKOIL, in accordance with a 'dormant' article of the law on joint-stock companies which stipulated that an enterprise unprofitable for several years could be liquidated (notwithstanding the fact that the majority shareholder was ready to continue supporting the channel and that the channel itself had become profitable in 2001).

It is true that in 2003 – 2003 a group of influential businessmen from the Russian Union of Industrialists and Entrepreneurs tried to re-launch the private Federal television channel TVS, but many others, prompted, apparently, by the Kremlin, turned down the offer of partnership — and so the channel closed down.

The TV channels that came under Kremlin control underwent a number of changes. Most importantly, 'media assassins' (*telekillery*) from the opposition soon disappeared, whilst 'assassins' for the political establishment continued in operate. The practice of live TV debate and interviews was abruptly discontinued. The authorities established control over the greater part of the print media and of internet publications. They also began to use film, literature and even counter-culture for propaganda purposes.

The term ‘official mass media’ (by analogy with Soviet times) is often applied exclusively to the state-owned mass media and there would seem to be some justification for this, given that RTR is state-owned, and the state holds a controlling block of shares in Channel One. However, “official” status is more widespread, as propagandist media outlets do not hesitate to proclaim. The official website of the television company NTV proudly describes itself as “the only private Russian television channel with Federal status”. This “private” channel is, in fact, part of the *Gazprom* corporation, a company in which the State has a controlling interest. *Gazprom* also owns the newspaper *Izvestia*, whilst *Komsomolskaya Pravda* belongs to the *Baltic Media Group* chaired by Oleg. Rudnov<sup>25</sup>. *Arguments and Facts* belongs to the brothers Ananiev<sup>26</sup>, *Moskovskii Komsomolets* is associated with the name of Pavel Gusev, a member of the Social Chamber (*Obshchestvennaya palata*), and above all with the one time Mayor of Moscow, Yuriy Luzhkov. The mass media are clearly part of the ongoing transformation of private property into feudal conditional property.. Even if the state has no shareholding, a newspaper or television company can nevertheless be totally controlled by the authorities.

In 2001, Konstantin Yanovskiy, one of the authors of this article, suggested that a mass media outlet could be considered to be “censored” if it refrained from accusations of incompetence, law breaking and immoral behavior against top officials. Whatever its political orientation, an independent media outlet would do its best to bring to light issues of corruption and incompetence on the part of the authorities. One only has to recall the scathing criticisms of individuals on both personal and general grounds that were so typical of *Izvestia* during the 1990s, despite the paper’s formal support for Boris Yeltsin.<sup>27</sup>

Tendentious material is now published not only in the official news media, but also in relatively independent outlets, either on a commercial basis or simply in order to give an airing to opposing views. In the summer of 2006, Igor Kliamkin and Tatiana Kutkovets coined the term ‘Kremlin propagandists’ to describe individuals

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<sup>25</sup> A St. Petersburg businessman said to be a friend of Vladimir Putin.

<sup>26</sup> The Brothers Dmitrii and Aleksey Ananiev are St. Petersburg entrepreneurs reputed to be close to Vladimir Putin.

<sup>27</sup> For instance, in 1994 the newspaper published a series of articles sharply critical of Vice-Premier Oleg Lobov; in 1995 of Alexander Korzhakov, the head of the Presidential Security Service; and in 1996 of Anatolii Chubais, the head of the Presidential Administration.

‘who are granted the right to comment on political events taking place at home and abroad. They pretend to be experts, but a degree of bias that is out of place in analytical journalism reveals their true role as propagandists. We can describe this as propaganda dressed up as expert opinion’. Gleb Pavlovsky and Sergei Markov are amongst those who deliver such “expertise”. Their commentaries are always favorable to the head of state. The abuse of power at local level is permitted but is diminishing in frequency. The absolute exemption from criticism of Vladimir Putin (which was characteristic of the early 2000s) has now been extended to the Government of the Russian Federation and to the *United Russia* party.

If we are to believe the TV channels, those in authority never err. If shortcomings are admitted, they are always presented as being either the expression of an objective and natural state of affairs, or as errors that were committed in the past and that are now being corrected or will soon be corrected. Let us take, for example, a typical example of what happens when an official is criticized. The dismissal of such an official will always be presented as “timely” by a propagandist. But if the same official retains his or her post or is promoted this can be explained with no less ingenuity. For example, in 2006 and early 2007, one of the whipping boys of the official press was the Mayor of Moscow, Yuriy Luzhkov. Television was inundated with criticism of the many abuses in the Moscow construction sector, the blatant violation of residents’ rights, the harshness of living conditions and the personal fortune of Luzhkov’s wife. In Russian political circles rumors concerning Luzhkov’s future were rife; his early retirement was thought to be likely. However, the outcome was completely different. Luzhkov was reappointed by Vladimir Putin for yet another term of office. All negative comment on the state of affairs in Moscow now came to an end and was replaced by reports on the many achievements of the Mayor, on the unanimous support that he enjoyed amongst Muscovites and on the heartwarming prospect of an end to the kind of “skyscraper development” that had spiraled out of control under the very same city boss.

The relentlessly positive tone of all comment that has to do with government authorities is a defining characteristic of the “official” mass media.

Another feature of the Russian censorship system is “media assassination” (*killerstvo*) – a stream of tendentious allegations regularly transmitted by TV channels in order to smear the reputation of individuals who are uncongenial to the authorities.

This is probably the only type of propaganda that was common under Boris Yeltsin, who was justly criticized for this unsavory practice. On the other hand, it is clear not only that the methods of Sergei Dorenko and the newspaper *God Forbid! (Ne dai Bog!)* have been refined but that they have been freed from the kinds of checks and balances that, under Yeltsin, were provided by live debates between politicians.

Access to the main channels covering the whole of Russia (Channel 1, Channel 2 and NTV) is vigilantly controlled by the authorities. The principal forms of censorship and propaganda resemble those that were practiced in the USSR. To begin with, there is a “black list” of Russian politicians who are completely denied access to television (for instance, former Prime Minister, Mikhail Kasianov, former World Chess Champion Garry Kasparov, and former State-Duma Deputy Vladimir Ryzhkov). As early as the 2003 electoral campaign, monitoring of the mass media revealed that over 95 % of mentions of *United Russia* on state television channels were positive. Since then, this practice has reached grotesque proportions and 100 % of all mentions of *United Russia* and Vladimir Putin are positive. The activities of *United Russia* receive comprehensive coverage in practically every news bulletin, whilst coverage of other parties is sporadic. A disproportionate amount of air time is given to Vladimir Zhirinovskiy in order openly to legitimize the idea of dictatorship whilst at the same time contrasting his radicalism with the supposed moderateness of the authorities. The authorities are fond of repeating that it is natural to give more coverage to the party that holds a majority of seats in the State Duma). But in this connection we should remember that in 2003 *United Russia* won 37 % of the vote, and the party of Zhirinovskiy 10 %, which means that these two parties together had the support of under half of the voters who had taken the trouble to come to the polling stations. It is strange indeed that one half of the electorate receives positive coverage, whilst the other half is either ignored or disparaged.

Approximately the same situation has developed in the case of print media. There are only a few print media with Federal circulation and they do not have a large print-runs. For example, *Kommersant*, *Vedomosti* and *Novaya Gazeta* (with print-runs between tens of thousands to one hundred thousand). By contrast, censored print media have print-runs between hundreds of thousands and one million. It should be noted that, whilst formally these newspapers are private, each of them, even including the various tabloids, complies with the same censorship principles as state television

(‘black lists’, one hundred percent positive information on Putin and *United Russia*). Most regional news media are under the influence of Governors appointed by the President, and so cannot be said to be independent, either.

The Ukrainian elections of 2004, which disproved the idea that television could determine the outcome,<sup>28</sup> had repercussions amongst which an additional police purge of the political class was merely a first step. Since 2005, vast resources have been allocated to creating a multi-vector propaganda machine controlled by highly paid managers. In addition to the Federal television channels (which are the major component of this system), there are a number of other projects. They include:

a) The creation of a number of pro-Putin youth organizations that include “Our People” (*Nashi*), the “Young Guard of United Russia” and the “Eurasians”;

b) The bribing of politicians and activists of the opposition and semi-opposition parties and organizations, with a view to redirecting their activity in a direction that will be ultimately ruinous for them;

c) The maintenance of scores of propaganda internet sites – some disguised as entertainment sites, others disguised as business sites. There is even a website that specializes in caricatures of opposition and liberal politicians;

d) Control over the leading print media;

e) The creation of the Social Chamber (*Obshchestvennaya palata*), designed as platform for pro-Kremlin “patriotic and public spirited persons” and used to provide them with state funding.

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Whatever the theoreticians of “Russia’s special path” might say, in our times a democracy based on law must be constructed around three fundamental institutions. These are: free elections – with predictable rules and an unpredictable result; a judiciary that is independent of the executive and able to pass judgments that are inconvenient for the executive; and an independent mass media that functions both as an auditor of government and as a mechanism of feedback between government and society. In Russia, the authorities have decided to dispense with these institutions; and Russian society has proved itself incapable of defending them.

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<sup>28</sup> The thesis (sometimes attributed to Berezovsky) that control over television guarantees electoral victory was very popular among Russian politicians. In Ukraine, the government controlled television but was defeated at the polls.

The difficulties that have arisen in relation to investment climate and that are linked to the degree of trust in government cannot be ignored on the assumption that favourable conditions in world markets will persist. Experience has shown that such conditions do not last indefinitely. Nor can the existence of a non-democratic “legal state” be justified by reference to the distant past or to analogues in the present day. The mechanisms of arbitrary and unconstrained decision-making that are necessary to the survival of an authoritarian régime are inappropriate in the economic sphere, for example in an arbitrary distribution of property.

Let us hope that the Russian political élite and/or the Russian population – following so many experiments – will come to understand this.

### *Post script*

In December 2011, while this article was being prepared for publication, a number of significant political changes took place which, as often happens, had not been predicted. In the elections to the State Duma of 2011, according to official statistics, United Russia obtained 49.32% of the vote, the Communist Party (KPRF) 19.19%, Just Russia (*Spravedlivaya Rossiya*) 13.2%, the Liberal Democratic Party (LDPR) 11.67%, *Yabloko* 3.43%, Patriots of Russia 0.97% and the Right Cause (*Pravoe delo*) 0.6%. Accordingly, four parties entered the State Duma: United Russia (238 mandates), the KPRF (92), Just Russia (64) and the LDPR (56). Compared with the elections of 2007, United Russia had lost 15% of the vote and the true magnitude of its loss of support was far greater, since in the “zone of falsification of results” where millions of voters reside (North Caucasus, Tatarstan, Mordovia) it had allegedly obtained over 80% (and in Chechnya, 95%). But one of the most scandalous of results declared was that for the city of Moscow. In fact, electoral geography was here rendered quite meaningless: in neighbouring electoral districts, located on different floors of a single school, electoral results differed by a factor of two or more. The outcome was that the support for United Russia in Moscow was officially declared at 46%, much higher than in Moscow Region (*Oblast'*) where support for the authorities had always been high and where the vote for the United Russia, even according to official statistics, did not exceed 33%. This discrepancy can only be attributed to falsification of returns. Indeed, in December 2011 little effort was made to conceal such falsification.

Dissatisfaction with the government and exasperation at the falsification of the election led, in December 2011 to mass demonstrations the largest of which, on 24 December, involved no fewer than 100,000 participants according to the most conservative estimates. By comparison, in previous years oppositionists would have considered a turn out of 5,000 as a success. The number of people on the streets had revolutionary implications. Accordingly, on the eve of the meeting of 24 December the authorities announced a return to the practice of election of regional governors and significantly lowered the threshold for the registration of political parties - from 45,000 signatories to 500. In a further concession, web-cameras would be installed in electoral districts.

The opposition was not able to repeat its success during the Presidential election of March 2012, mainly because, as the protest movement was gathering momentum, the Presidential electoral campaign, which required a candidate to obtain 2 million signatures of support, had already begun. The radical opposition was therefore unable to put up a candidate. As it turned out, Vladimir Putin enjoyed greater popularity than United Russia. Obtaining 63% of the vote in March 2012, Putin became President for the third time, clearly defeating his opponents. The only doubts related to whether he had prevailed in the first round or whether a second round should have followed. The authorities now backtracked on the promised reforms: according to the new law on the election of regional Governors that came into force on 1 June 2012 Governors who had been nominated by the President under the old law retained their mandate until the expiry of their term of office. Furthermore, in the previous six months nominations had been made for a third of the total number of Governors who would have been threatened by elections in the coming years. In 2012 elections of Governors will take place in only one or two regions. The law on the registration of parties, by contrast, was enacted as had been promised. Moreover, Vladimir Putin resigned as leader of the unpopular United Russia and the authorities began actively to promote a new narrative according to which United Russia was only one party amongst many. Putin was given the profile of a leader “above party”. Even so, the outcome has been positive as far as civil society is concerned: by securing electoral success for United Russia by fair means or foul the authorities had been depriving the citizens of their rights.

The events of the winter of 2011-2012 may be seen as a watershed in the movement for institutional change. This impulse for change has come “from below” and, unexpectedly, has been driven by a politicized general public.