

Electoral Legislation in Russian Regions

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RUSSIAN ELECTORAL LEGISLATION IS BASED ON a Federal Law ‘On the Basic Guarantees of Electoral Rights and the Right of Russian Federation Citizens to Participate in a Referendum’,¹ which provides a framework for all elections across the country (hereafter, the Federal Law ‘On the Basic Guarantees of Electoral Rights’, or the ‘framework law’). This law takes priority over regional electoral legislation. Therefore, ever since this framework legislation was first enacted in 1995, the development dynamics of regional electoral legislation have been shaped by the changes to this law. However, while in the past this framework law had only been amended once or twice over a four-year election cycle, since 2004 it has been continually amended (Lyubarev 2009a). Thus, for example, over the four years of its mandate, the fourth State *Duma* of 2003–2007 amended the ‘Law on the Basic Guarantees’ 17 times, whilst the fifth *Duma* amended it 14 times in its first two years (2007–2009).

What impact have these amendments to the framework legislation had on regional electoral legislation? Theoretically, regional assemblies are supposed to bring their respective electoral laws into line with the framework law as soon as the latter changes. In practice however, different regions do so in their own ways: whereas some regions constantly keep their laws updated, others only review their regional electoral laws before regional elections. It should be noted also that the structure of regional electoral legislation is rather diverse. In some regions all regional and municipal elections (and often regional and local referenda) within the territory of a region are regulated by codified acts while in others there are separate pieces of legislation on electing regional deputies, municipal deputies and officials, as well as on the electoral commission of the region (plus laws on regional and local referenda). There are yet other regions where some kinds of elections are regulated together as a group by one law (for example, all municipal elections). Thus, currently there are several hundred regional laws on elections and referenda.

Bringing regional electoral legislation into accord with the federal law is achieved in various ways. One way is to introduce amendments into existing laws. However, after

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¹For example, see the 2002 edition of the Law: Federal Law No. 67, 12 June 2002, ‘Ob osnovnykh garantiyakh izbiratel’nykh prav i prava na uchastie v referendume grazhdan Rossiiskoi Federatsii’, *Sobranie Zakonodatel’stva Rossiiskoi Federatsii*, 24, 2002, article 2253.

major changes of the framework law it is often easier to enact a revised version of the relevant regional law or to adopt a new law altogether, and many regions follow this path. For example, among the regions where electoral laws were amended most often in 2005–2009 are the Republic of Kabardino-Balkariya, and Saratov, Samara and Vladimir *oblasti*. Thus, the Kabardino-Balkariya Republic Law ‘On Electing Kabardino-Balkariya Republic Parliament Deputies’,² was changed 12 times, including the enactment of a new law. In Saratov *Oblast’* in the period between two regional election campaigns (2003 and 2007) a new law ‘On Electing Saratov *Oblast’ Duma* Deputies’ was adopted twice, first in May 2006 and then in June 2007, whilst other laws were reviewed and amended a total of 12 times over these five years. During the same period, the Samara *Oblast’* law, ‘On Electing Samara *Duma*’, was changed 14 times. A record number of changes to the Election Code, however, were observed in Vladimir *Oblast’*, where it was reviewed and amended 20 times.

As far as the content of regional electoral legislation is concerned, two points need to be considered. On the one hand, the Federal Law ‘On the Basic Guarantee of Electoral Rights’ provides a detailed description of most electoral procedures, and most regional laws largely duplicate federal norms (Astafichev 1999, pp. 137–38; Lyubarev 2004). On the other hand, the framework law leaves some major issues to regional legislatures’ discretion. Among those are the limit on maximum spending from the Electoral Fund (and the size of the election deposit, which before 2009 was linked to it) and the structure of the electoral system. This study discusses how these issues are dealt with in Russian regions.

Electoral deposits

Until it was abolished by the federal law at the beginning of 2009, there was a requirement for an election deposit.³ Prior to that however, although it was in place for a long time, regulations concerning the deposit underwent a range of different changes.

In 2002, the Federal Law ‘On the Basic Guarantees of Electoral Rights’ linked the size of the election deposit to the maximum limit on spending from the Electoral Fund (henceforth referred to as the ‘electoral fund ceiling’)—the election deposit was set at 15% of the electoral fund ceiling. From 2005, it could vary within a narrow range of between 10% and 15% of the ‘ceiling’. Thus, a rising ceiling would automatically lead to a larger deposit. One would have thought that setting a higher ceiling was aimed at achieving the noble objective of allowing candidates and parties to legally fund election campaigns. According to our analysis, however, in many regions electoral fund ceilings were too high so that hardly any party had an electoral fund that was large enough, and often all the parties’ funds combined were very much below the ceiling.

At the October 2006 election to the Legislative Chamber of Tuva Republic’s parliament (the Great *Khural*), for example, the six competing parties combined failed,

²All laws of the regions are quoted as per the *Konsultant Plus* legislative database, available at: <http://www.consultant.ru/online/>.

³*Sobranie Zakonodatel’stva Rossiiskoi Federatsii*, 2009, 7, article 771.

or were unwilling, to have funds with more than half of the maximum size allowed by regional legislation (Monitoring 2006, pp. 65–67). Similarly, at the March 2007 election in St Petersburg and Leningrad *Oblast'* the combined electoral funds of all competing parties were significantly below the ceiling set for one regional fund alone, whilst in Vologda *Oblast'* the combined funds of the contesting parties were barely able to reach the permitted limit. Notably, the party with the largest fund in Vologda *Oblast'* raised just over half of the maximum allowed amount, whereas its counterpart in St Petersburg and Leningrad *Oblast'* raised barely a third (Monitoring 2007, pp. 72–74). This leads us to the conclusion that the real reason for raising the electoral fund 'ceiling' was to increase the size of the election deposit which was linked to it.

Table 1 shows the regions with the highest absolute or relative electoral fund ceilings and election deposits for political parties. St Petersburg has by far the highest (in both absolute and relative terms) election deposit, with a deposit that was 1.5 times larger than that required for elections to the State *Duma*. However, proportionate to the number of voters, deposits and 'ceilings' are also high in smaller regions such as Tuva Republic, Kamchatka *Krai* and Nenets Autonomous *Okrug*.⁴

Table 2 ranks the regions in terms of the size of their deposits (absolute and relative) for candidates standing in single-mandate constituencies. The record in absolute terms is held by Rostov *Oblast'* and in relative terms by Karachaevo-Cherkess Republic.

TABLE 1

MAXIMUM ABSOLUTE AND RELATIVE LIMITS ON SPENDING FROM ELECTORAL FUNDS AND THE SIZE OF THE ELECTION DEPOSIT FOR POLITICAL PARTIES

Region	Year and month of elections	Maximum limit of spending from the electoral fund		Election deposit	
		Size, millions of rubles	Proportionate to number of voters (rubles)	Size, millions of rubles	Proportionate to number of voters (rubles)
Tuva Republic	October 2006	25	146.3	3.75	21.9
Tomsk <i>Oblast'</i>	March 2007	60	79.4	9	11.9
St Petersburg City	March 2007	600	162.0	90	24.3
Krasnoyarsk <i>Krai</i>	April 2007	100	46.5	15	7.0
Krasnodar <i>Krai</i>	December 2007	200	52.9	30	7.9
Kamchatka <i>Krai</i>	December 2007	60	223.5	6	22.4
Penza <i>Oblast'</i>	December 2007	50	44.1	7.5	6.6
Rostov <i>Oblast'</i>	March 2008	150	45.5	22.5	6.8
Karachaevo-Cherkess Republic	March 2009	15	48.3	2.25	7.3
Vladimir <i>Oblast'</i>	March 2009	82	67.5	12.3	10.1
Nenets Autonomous <i>Okrug</i>	March 2009	5	157.8	0.75	23.7

⁴However, high 'ceilings' in scarcely populated but territorially vast northern and eastern parts of Russia could be explained by the higher transport costs for running election campaigns.

TABLE 2
 MAXIMUM ABSOLUTE AND RELATIVE LIMITS ON SPENDING FROM ELECTORAL FUNDS AND THE SIZE OF
 THE ELECTION DEPOSIT FOR CANDIDATES IN SINGLE-MANDATE CONSTITUENCIES

Region	Year and month of elections	Maximum limit of spending from the electoral fund		Election deposit	
		Size, millions of rubles	Proportionate to number of voters (rubles)	Size, millions of rubles	Proportionate to number of voters (rubles)
Tuva Republic	October 2006	1.5	140.5	0.225	21.1
Lipetsk <i>Oblast'</i>	October 2006	10	304.8	1.5	45.7
Tomsk <i>Oblast'</i>	March 2007	6	166.7	0.9	25.0
Komi Republic	March 2007	10	201.9	1.5	30.3
Krasnoyarsk <i>Krai</i>	April 2007	5	60.5	0.75	9.1
Kamchatka <i>Krai</i>	December 2007	3	257.1	0.3	25.7
Bashkortostan Republic	March 2008	3.5	71.9	0.525	10.8
Rostov <i>Oblast'</i>	March 2008	15	113.8	2.25	17.1
Karachaev-Cherkess Republic	March 2009	5	580.1	0.75	87.0
Vladimir <i>Oblast'</i>	March 2009	4.3	67.5	0.648	10.1

After the election deposit was abolished, the tendency to raise the 'ceiling' of electoral funds was also weakened, which also proves that high ceilings had been caused by a desire to set larger deposits. In those parts of the Russian Federation where regional elections took place in October 2009 there is evidence of some inertia: the 'ceiling' in the Mari-El Republic was set at R50 million (R92 per voter) for parties and R1 million (R47.8 per voter) for candidates; in Moscow City the figures were R300 million (R42.8 per voter) and R20 million (R48.5 per voter), respectively. Where regional elections were held in March 2010 the highest 'ceiling' for parties was set in Yamalo-Nenets Autonomous *Okrug* (R50 million, or R143.5 per voter). A high relative 'ceiling' was also adopted in Altay Republic (R113.7 per voter), whereas in the other six regions the 'ceiling' did not exceed R40 per elector. These two regions also had high relative 'ceilings' for candidates (R157.8 and R113.7 per voter, respectively), whereas in the other regions the 'ceiling' hardly reached R55 per elector.

Proportional electoral system

Special attention should be given to changes in the electoral system with regard to those laws which regulate the election of deputies to regional assemblies. This is due to the special importance of these electoral norms, as well as the fact that federal legislators have provided the regions with considerable leeway over the specifics of such legislation. Thus, any changes to the electoral system (unlike most other changes) in this area have not been dictated by the requirement to bring regional laws into line with federal legislation, but rather are the result of the free choice of regional assemblies.

The most important norms (or groups of norms) regulating the electoral systems of elections to regional assemblies concern a choice between a mixed and a fully proportional system; the size of the electoral threshold; the type of party list (open, closed divided into groups, or simple closed without division into groups); and the method of distributing seats between lists. All of these norms have recently been amended, and such changes usually have taken place just before regional assembly elections.

Since 2003 the Federal Law 'On the Basic Guarantees of Electoral Rights' has required that the share of proportionally elected deputies should be at least half of the total number of legislators. Until 2005, most regions had an equal number of majority and party-list deputies, or there was one extra party-list deputy in assemblies with an uneven number of seats. The proportion was different in only five regions, but even there the largest share of party-list deputies was 58%. Sverdlovsk *Oblast'* was an exception, where a two-chamber regional assembly was established as early as 1996, and a proportional system was adopted for one of the chambers. In this region one chamber is still fully elected on a proportional principle, while the other chamber is formed by majority vote.

The first region to move over to a fully proportional electoral system for its regional legislature was St Petersburg, where a law to that effect was passed in 2005. By March 2010, 11 regions had held elections based on a fully proportional representation party list electoral system.

As shown in Table 3, it was only in St Petersburg that the law on adopting the proportional system was passed in good time before the elections in this region. In the Republic of Kabardino-Balkariya and in Kaluga and Tula *Oblasti* such laws were enacted from four to eight months before the start of election campaigns. The remaining seven regions adopted such laws immediately before campaigning.

The switchover to a fully proportional system of elections to regional assemblies took place in the wake of the adoption of a full proportional representation party list system by the State *Duma* in 2007. The major disadvantage of the fully proportional party list electoral system is the denial of the right of self-nomination to non-party citizens, which means that candidates are prevented from competing for a seat as an

TABLE 3
INTRODUCTION OF FULLY PROPORTIONAL ELECTORAL SYSTEMS IN RUSSIAN REGIONS

<i>Region</i>	<i>Year and month of elections</i>	<i>Year and month of adopting legislation</i>
St Petersburg City	March 2007	June 2005
Moscow <i>Oblast'</i>	March 2007	October 2006
Dagestan Republic	March 2007	November 2006
Ingush Republic	March 2008	November 2007
Kalmyk Republic	March 2008	December 2007
Amur <i>Oblast'</i>	March 2008	December 2007
Chechen Republic	October 2008	June 2008
Kabardino-Balkar Republic	March 2009	August 2008
Nenets Autonomous <i>Okrug</i>	March 2009	November 2008
Tula <i>Oblast'</i>	October 2009	December 2008
Kaluga <i>Oblast'</i>	March 2010	April 2009

individual and not as a representative of one of the few political parties that currently exist. Moreover, since independents were able to play a more significant role at the regional level than at the federal level, due to the smaller size of the regional assemblies and the more localised scale of the issues which are covered by the legislatures, abandoning single mandate elections was a significant limitation of electoral rights.

Electoral thresholds

As far as the electoral threshold is concerned, in most of the original regional laws which introduced the proportional system, the majority of which were passed in 2003, the electoral barrier was set at the level of 5%, whilst in others it was 4% or even 3%. In a small number of regions it was higher, at 7%. Only five regions decided to put in place a barrier above 7% (and three of those set a 10% threshold) (Kynev & Lyubarev 2003; Lugovskaya 2003). In 2005 a federal law mandated a maximum limit of 7%, but this novelty, officially aimed at curbing high regional barriers, in practice led to a universal increase of the threshold to its maximum permitted level of 7%.

Table 4 shows the rising dynamics of the electoral threshold. In 2006 it was raised in 22 regions, in 2007 in 13, in 2008 in eight, and in 2009 in three more, totalling 46 regions, which is more than half of Russia's current 83 regions. The threshold was predictably raised on the eve of election campaigns in these regions.

To date, out of 62 regional campaigns that have taken place since October 2006, only seven have employed a barrier below 7%, and three of these were newly created merged regions where elections were held in accordance with the norms set by Presidential Decrees. However, as frequently noted by scholars of elections, a 7% threshold is considered excessive, depriving a large section of the electorate of proper representation (Ivanchenko & Lyubarev 2005, pp. 53–55, 245–63).

There is enough reason to believe that the universal increase of the threshold to 7% in so many regions was hardly by chance. For example, a new Law 'On Electing People's Deputies in the Republic of Sakha (Yakutiya)', which was adopted on 18 October 2007, among other things, set a 4% barrier. However, just three weeks later, on 8 November, another law was passed with the sole purpose of bringing the barrier up to 7%. What prompted the legislators to amend a recently enacted piece of

TABLE 4
DYNAMICS OF RAISING THE ELECTORAL BARRIER TO 7%

<i>Year</i>	<i>Regions</i>
2006	Ingush, Kareliya, Komi, Northern Osetiya-Alaniya, Tuva, Chuvash Republics; Primorsk <i>Krai</i> ; Astrakhan, Kurgan, Lipetsk, Moscow, Murmansk, Novgorod, Orlov, Pskov, Samara, Sverdlovsk, Tver, Tomsk, Tyumen, Chita <i>Oblasti</i> ; Jewish Autonomous <i>Oblast'</i>
2007	Buryat, Mordova, Sakha (Yakutiya), and Udmurt Republics; Krasnodar <i>Krai</i> ; Amur, Irkutsk, Kemerovo, Penza, Rostov, Saratov, Smolensk, Ulyanovsk <i>Oblasti</i>
2008	Kabardino-Balkar, Marii-El, Khakasiya, Chechen Republics; Khabarovsk <i>Krai</i> ; Arkhangel'sk, Bryansk, Tula <i>Oblasti</i>
2009	Voronezh, Kaluga <i>Oblasti</i> , Yamalo-Nenets Autonomous <i>Okrug</i>

legislation? It should be noted that electoral thresholds were raised in a similar fashion in many other regions.

Further evidence in favour of the assertion that the raising of the barrier did not take place sporadically can be found from Kostroma *Oblast'* where a 4% barrier had been set in the region's law. As mentioned above, there were quite a few regions where the barrier was originally set below 5%, but only in three regions, including Kostroma *Oblast'*, did it remain unchanged. According to a former Kostroma *Oblast'* *Duma* deputy and Chair of the State *Duma's* Legislation Committee, Svetlana Shakelina, this was despite pressure from the Presidential Administration. Svetlana Shakelina confessed: 'We were literally being terrorised by representatives of the Presidential Administration; I myself received four calls' (Ivanchenko & Lyubarev 2005, pp. 191–93). Undoubtedly, the Presidential Administration acted in a similar fashion and put pressure on other regions and it is this that explains the universal rise of the barrier.

The trend to adopting higher thresholds did not change even after the Russian President, in his November 2008 Address to the Federal Assembly, expressed the view that it was unfair to deny representation to those who voted for parties which received over 5% of the ballot but did not meet the minimum threshold of 7%.⁵ Immediately afterwards the electoral barrier was raised in the Republic of Khakassiya, in Yamalo-Nenets Autonomous *Okrug*, and in Arkhangelsk, Voronezh, Kaluga and Tula *Oblasti*. However, in November 2009 in his annual Address to the Federal Assembly, the president was more specific: 'Parties which win over 5% of the vote in regional elections must receive guarantees of representation in the regional legislature of the region',⁶ and this did change the tide slightly. Plans to raise the electoral barrier in Altai Republic and Ryazan *Oblast'* were abandoned, and in a similar way to the law on electing State *Duma* deputies, a norm was introduced in Voronezh *Oblast'* which stated that those parties which secured between 5% and 7% of the vote should receive one seat in the regional assembly.⁷ At the same time however, the remaining five regions where elections were scheduled to take place in March 2010 did not reduce their thresholds. In Kaluga and Sverdlovsk *Oblasti*, opposition parties suggested lowering the barrier but failed to gain the support of a majority of deputies.⁸

⁵See the official site of the President of the Russian Federation, available at: <http://www.kremlin.ru/text/appears/2008/11/208749.shtml>, accessed 18 February 2010.

⁶See the official site of the President of the Russian Federation, available at: <http://www.kremlin.ru/text/appears/2008/11/208749.shtml>; <http://www.kremlin.ru/transcripts/5979>, accessed 18 February 2010.

⁷The Federal Law of 12 May 2009 (*Sobranie Zakonodatel'stva Rossiiskoi Federatsii*, 2009, 20, article 2391) stipulates that a party which captures between 5% and 6% of the vote in State *Duma* elections receives one seat, and two seats if it wins between 6% and 7%. Thus, such parties secure representation in the State *Duma*, but not proportionally to the votes they receive. (Proportionally, they should receive approximately 30 seats.) Adopting such a norm for elections to smaller regional assemblies will often differ little from bringing the electoral barrier down to 5%, since regional parties with 5%–7% of the vote will usually win one or two seats.

⁸*Nezavisimaya Gazeta*, 1 December 2009, p. 11.

The type of party list

As far as types of party lists are concerned, the Central Electoral Commission of the Russian Federation issued a set of guidelines in 2002 in which it recommended that regions should either set up open lists or divide closed lists into geographical groups.⁹ Few regions followed these guidelines, however. Whereas 10 regions initially introduced open lists, only four actually conducted elections (in the period 2003–2005) using this system: the Kalmyk Republic, Tver *Oblast'*, and Koryak and Yamalo-Nenets Autonomous *Okrugi* (Ivanchenko *et al.* 2005, pp. 253–62; Butaev & Titov 2006; Kynev 2009, pp. 47–50). Subsequently, this system was dropped by all the regions which had adopted it.¹⁰ There is strong reason to believe that such decisions were also made in response to pressure from the federal centre. Thus, the system which allowed voters to influence the choice of deputies elected on party lists was abolished.

Dividing party lists into geographical groups is practised in State *Duma* elections. At the election of the first *Duma* in 1993 such a breakdown was optional for the party, but from the second *Duma* (1995) it became compulsory. Unlike most other countries using the proportional system, national elections in Russia are held within a single constituency covering the whole territory of the country. The geographical breakdown of party lists is designed to compensate for the lack of a single list and to bring candidates and elected deputies closer to the electorate.

At the elections to regional legislatures that were held before 2003, dividing party lists into geographical groups was never practised. During 2003–2005, this practice was adopted in a small minority of regions. However, from 2006 it has been practised more widely (Kynev 2009, pp. 44–47).

As seen in Table 5, as far as dividing lists into groups is concerned both tendencies have been evident. More instances of a transition from simple lists to divided lists than the opposite have been observed. It should be added that in 2008–2009 there were no

TABLE 5
CHANGES IN REGIONAL LEGISLATION IN 2006–2009 AS REGARDS DIVIDING PARTY LISTS INTO
GEOGRAPHICAL GROUPS

<i>Nature of change</i>	<i>Regions</i>
From simple lists to lists divided into groups	Bashkir, Udmurt Republics; Khabarovsk <i>Krai</i> ; Astrakhan, Volgograd, Vologda, Voronezh, Kaluga, Penza, Pskov, Ryazan, Sverdlovsk and Tulska <i>Oblasti</i>
From open lists to lists divided into groups	Tuva Republic; Lipetsk, Orel and Smolensk <i>Oblasti</i>
From lists divided into groups to simple lists	Komi, Sakha (Yakutiya) Republics; Krasnodar <i>Krai</i> ; Moscow and Saratov <i>Oblasti</i>

⁹*Vestnik Tsentral'noi Izbiratel'noi Komissii Rossiiskoi Federatsii*, 2002, 11, pp. 159–92.

¹⁰In 2006 the open party list system was abandoned by Tuva Republic, Primorsk *Krai*, Lipetsk, Orel and Tver *Oblasti*; in 2007 by the Buryat and Kalmyk Republics, as well as Smolensk *Oblast'*; and in 2009 by Yamalo-Nenets Autonomous *Okrug*.

instances of abandoning divided lists. Whilst dividing lists into geographical groups should be practised in those regions which either cover a large territory, have a large population or heterogeneous electorate, in practice, the opposite has often been the case. For example, party lists in Moscow *Oblast'* (the second largest region in terms of the population) were not divided, neither were those in such large and diverse regions as Krasnodar *Krai*, Rostov *Oblast'* and the Komi Republic with its vast territory and heterogeneous electorate. At the same time, geographical divisions were adopted in smaller regions such as Kurgan, Orlov and Pskov *Oblasti*.

When dividing lists into geographical groups, account is taken of the following norms concerning the core of the list (those candidates who would have priority in seat allocation) and the maximum number of candidates; the rules of dividing the territory of the region into segments assigned to groups (clearly stipulated by the law and uniform for all parties, or a possibility for parties to choose their own divisions); the highest and lowest limit to the number of geographical groups; the highest and lowest limit to the number of candidates in a group; and the methodology for working out the distribution of seats between geographical groups.

In this connection, two interesting cases are worth considering. In Kurgan *Oblast'* the party lists were originally broken down into groups, but subsequently the parties were told to include 10 core candidates. Since no party won, nor was able to capture, more than 10 seats at the November 2004 regional election, the grouping was a pointless exercise (Ivanchenko *et al.* 2005, pp. 248–50). Orlov *Oblast'* legislators, having introduced the compulsory division of lists, 'forgot' to include the seat distribution methodology in the law. Hence, the seats at the March 2007 regional legislature election were distributed irrespective of the votes for the groups (Monitoring 2007, p. 154). These two incidents can be regarded as attempts by regional legislators to outwit the federal centre that had been putting pressure on them.

Norms regulating how lists are divided into geographical groups are often used to restrict citizens' electoral rights and to create advantages for the 'party of power', United Russia. Thus, in some regions—the Republic of Mordoviya, in 2003 and 2008, Kaliningrad *Oblast'* in 2006, the Republic of Bashkortostan in 2008, and Kurgan *Oblast'* in 2010—party lists did not identify the core candidates, and as a result most voters were not presented with the names of the regional party leaders on their ballot papers.

Unlike the case for State *Duma* elections, in most of the regions which use geographically divided lists, the territorial partitioning is the same for all parties and is rigidly prescribed by law. It usually sets a very high minimum number of groups, often equal to the number of single-mandate constituencies formed for the second half of the legislature (which is either equal or nearly equal to the number of seats allocated proportionally). Such legal requirements lead to a situation whereby a significant number of groups from all parties, except that of United Russia (and occasionally including United Russia) end up with no chance of winning seats, thus discouraging candidates from campaigning for votes. In a number of regions, the elections result in some territories having no representation in the party list seats in the legislature (or in the legislature as a whole, if all seats are allocated by proportional representation) (Lyubarev 2007).

Yet another superfluous and burdensome requirement for parties in such positions is the prescribed minimum number of candidates in a group. This norm forces parties to put more candidates on lists (occasionally several times over) than the number of

proportionally allocated seats while most parties can realistically expect to win very few seats. Such excessive requirements have been put in place in the Republic of Mordoviya, and in Vologda, Leningrad, Orel and Smolensk *Oblasti* (Kynev 2009, p. 52).

There is also a legislative norm, in a number of regions, which states that parties may be denied registration of their lists if, following candidate withdrawals, the number of groups on the list is fewer than that set in the law. Such a requirement was used to deny registration of party lists submitted for the March 2007 elections by the Union of Right Forces (*Soyuz Pravykh Sil*) in the Dagestan Republic, and in Pskov and Vologda *Oblasti* where, in the latter *Oblast'*, only two candidates had dropped out. In Dagestan Republic a Communist Party list was initially rejected but later reinstated following a court decision that two candidates had withdrawn because of administrative pressure and had not personally submitted their letters of withdrawal to the electoral commission (Monitoring 2007, pp. 53–59). Subsequently, on 11 March 2008, the Russian Constitutional Court upheld an appeal by the Union of Right Forces as concerned the registration of its candidates in Vologda *Oblast'*.¹¹

The methodology of seat distribution

As far as the methodology of seat distribution between lists is concerned, until November 2006 the same methodology was applied for State *Duma* and regional legislature elections—the Hare–Neimeyer method. The only exception to the rule was in the Kalmyk Republic where the D'Hondt method was used.

Our analysis shows that not only is the Hare–Neimeyer method the simplest, it is also best suited for distributing seats under proportional representation. The D'Hondt method favours a large party and using this method will usually give it one extra seat over that of the Hare–Neimeyer method. The most favourable formula for the leading party is the Imperiali divisor method which has hardly ever been adopted (the only example was in Belgian municipal elections). This method always allocates one or two extra seats to the dominant party (Taagepera & Shugart 1989; Ivanchenko *et al.* 2005, pp. 178–82).

With these factors in mind, United Russia launched a review of the methodology used to distribute seats in the regions. The first step towards revising the system was taken in St Petersburg in 2006. First, there was a call for the Hare–Neimeyer method to be used in favour of the D'Hondt formula, but subsequently a more radical decision was made: to introduce the Imperiali divisor method in the city's electoral legislation. Following St Petersburg, the Imperiali method was adopted in Moscow and Samara *Oblasti*. Similarly, Tyumen *Oblast'* tried to introduce the Imperiali divisor method, but the formula was later modified in a way that in essence it was turned into the D'Hondt method since it has a slight deviation from the classic D'Hondt formula, but this is not visible under a system with a high electoral barrier (Shalaev 2009). We therefore call it the 'Tyumen method', or the modified D'Hondt method (Lyubarev 2009b).

The introduction of these new 'divisor systems' came under fierce criticism,¹² and for about a year and a half they (predominantly the modified D'Hondt method) were

¹¹*Sobranie Zakondatel'stva Rossiiskoi Federatsii*, 2008, 11, article 1073.

¹²*Argumenty Nedeli*, 2006, 20, 33, p. 4; *Politicheskii Zhurnal*, 2007, pp. 13–14; *Nezavisimaya Gazeta*, 28 June 2007, p. 9.

used in only a handful of regions. At the end of 2008, however, this tendency changed as there were fears over United Russia's election prospects and they were used in nine out of 12 regions at the March and October 2009 elections (see Table 6). Once again, the Imperiali formula was used even though there are questions about how fair it is in distributing seats (Lyubarev & Shalaev 2009).

Changing laws before the beginning of election campaigns

Let us return to the dynamics of regional legislation. In 2002 the European Commission for Democracy through Law (the Venice Commission) recommended that any modifications to electoral systems which entered into force less than a year before an election should be prohibited.¹³ Russian legislators, however, continue to introduce amendments to electoral laws as close to the start of election campaigns as possible.

Thus, out of the 65 regions which held elections over the period October 2006–March 2010, only six made no changes to their electoral legislation less than a year before campaigning started. Consequently, changing electoral legislation on the eve of elections is not an exception but a rule. Moreover, 27 regions reviewed their electoral laws less than a month before the beginning of campaigning. It should be emphasised that these changes were not prompted by the requirement to comply with federal laws; they were clearly the result of the creative spirit of regional legislators (see Table 7).

Moscow, Tyumen and Rostov *Oblasti* are especially noteworthy, as electoral changes were enacted literally on the eve of campaigning, thus flouting a federal law that stipulates that any law or regulation by a region on protecting civil and human rights and liberties must be published at least 10 days before it comes into force.¹⁴

TABLE 6
DYNAMICS OF INTRODUCING DIVISOR METHODS IN RUSSIAN REGIONS

<i>Year and month of elections</i>	<i>Imperiali divisor method</i>	<i>Modified D'Hondt method</i>
March 2007	St Petersburg City, Moscow and Samara <i>Oblasti</i>	Tyumen <i>Oblast'</i>
December 2007	Saratov <i>Oblast'</i>	Krasnodar <i>Krai</i>
March 2008	–	Sverdlovsk <i>Oblast'</i>
October 2008	–	Sakhalin <i>Oblast'</i>
March 2009	Nenets Autonomous <i>Okrug</i> , Arkhangelsk and Bryansk <i>Oblasti</i>	Karachaevo-Cherkess Republic; Vladimir and Volgograd <i>Oblasti</i>
October 2009	–	Moscow City, Marii-El Republic, Tula <i>Oblast'</i>
March 2010	Kurgan <i>Oblast'</i>	Voronezh and Ryazan <i>Oblasti</i>

¹³*Code of Good Practice in Electoral Matters: Guidelines and Explanatory Report*, 2002, available at: <http://www.venice.coe.int/docs/2002/CDL-AD%282002%29023rev-e.pdf>, accessed 18 February 2010.

¹⁴Paragraph 5, article 8 of the Federal Law of 6 October 1999, No. 184, 'On the General Principles of Organising Legislative (Representative) and Executive Bodies of State Power in the Subjects of the Russian Federation' (*Sobranie Zakonatel'stva Rossiiskoi Federatsii*, 1999, 42, article 5005).

TABLE 7

LAWS OF RUSSIAN REGIONS ENACTED LESS THAN A MONTH BEFORE THE START OF AN ELECTION CAMPAIGN

<i>Region</i>	<i>Change</i>	<i>Year adopted</i>	<i>Days^a</i>
Astrakhan <i>Oblast'</i>	Raised the barrier from 5% to 7% and divided party lists into groups	2006	29
Samara <i>Oblast'</i>	Divided lists into groups and changed the methodology of seat allocation	2006	28
St. Petersburg City	Changed the methodology of seat allocation	2006	24
Moscow City	Changed the methodology of seat allocation	2009	24
Ryazan <i>Oblast'</i>	Changed the methodology of seat allocation	2009	23
Kareliya Republic	Raised the barrier from 5% to 7%	2006	23
Krasnodar <i>Krai</i>	Raised the barrier from 5% to 7%, cancelled the division of party lists into groups, changed the methodology of seat allocation	2007	22
Sakha (Yakutiya) Republic	Raised the barrier from 4% to 7%	2007	22
Vladimir <i>Oblast'</i>	Changed the methodology of seat allocation	2008	22
Bryansk <i>Oblast'</i>	Changed the methodology of seat allocation	2008	20
Nenets Autonomous <i>Okrug</i>	Adopted a fully proportional system and changed the methodology of seat allocation	2008	19
Sakhalin <i>Oblast'</i>	Changed the methodology of seat allocation	2008	18
Arkhangel'sk <i>Oblast'</i>	Raised the barrier to 7% and changed the methodology of seat allocation	2008	18
Ingush Republic	Adopted a fully proportional system	2007	17
Kurgan <i>Oblast'</i>	Changed the methodology of dividing party list into groups	2009	15
Murmansk <i>Oblast'</i>	Raised the barrier from 5% to 7%	2006	15
Tuva Republic	Raised the barrier from 5% to 7% and moved from open to closed lists	2006	14
Orel <i>Oblast'</i>	Raised the barrier from 5% to 7%	2006	14
Bashkir Republic	Divided lists into groups	2007	14
Sverdlovsk <i>Oblast'</i>	Changed the methodology of seat allocation	2007	14
Sverdlovsk <i>Oblast'</i>	Divided lists into groups	2009	14
Kalmyk Republic	Adopted a fully proportional system, abandoned open lists	2007	13
Amur <i>Oblast'</i>	Adopted a fully proportional system, raised the barrier from 5% to 7%	2007	13
Karachaevo-Cherkess Republic	Changed the methodology of seat allocation	2008	13
Tyumen <i>Oblast'</i>	Changed the methodology of seat allocation	2006	5
Rostov <i>Oblast'</i>	Raised the barrier from 5% to 7%	2007	5
Moscow <i>Oblast'</i>	Changed the methodology of seat allocation	2006	3

Note: ^aNumber of days from enacting the law until the start of an election campaign.

In one instance, however, such an amendment did not bring about the intended outcome. In 2008, the leader of the Khakasiya Republic Alexey Lebed refused to ratify a law which raised the electoral threshold to 7% and this led to a situation whereby the law did not come into effect before the start of the election campaign and therefore was not implemented. This, however, is an exception.

Conclusion

Over the last few years Russian regional electoral legislation has been consistently mimicking the tendencies of the federal electoral laws aimed at restricting electoral

rights of citizens and creating advantages for the ‘party of power’, United Russia. As a whole therefore, the present state of Russian electoral legislation and legislation on political parties appears utterly unsatisfactory. A group of experts, independent of the authorities, has recently started work on drafting a comprehensive package of proposed reforms to this part of the legislation.¹⁵ This work presupposes abolishing the anti-democratic novelties enacted in recent years and codifying electoral legislation, and aims, ultimately, at the drafting of an Electoral Code of the Russian Federation, new laws on political parties and on an all-Russia referendum, as well as amendments to a number of other federal laws.

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¹⁵Association of Non-profit Organizations ‘In Defence of Voters’ Rights “GOLOS”, available at: <http://www.golos.org/r84.html>, accessed 18 February 2010.