

Participation in public and political life

Theme: D7 Right to participation in public affairs and right to vote

1. Implementation of Recommendations 2013

UPR of Russia Federation (2nd Cycle – 16th session).

U140.193. *Implement the recommendations made by the Organization for Security and Co-operation in Europe (OSCE) Office for Democratic Institutions and Human Rights after the 2011 parliamentary and 2012 presidential elections (United Kingdom of Great Britain and Northern Ireland).*

Source of position: A/HRC/24/14/Add.1 — Para. 30.

Position: Noted.

During the 16th session of the Working Group on the UPR in April 2013, Russia took note of recommendation 140.193 “to implement the recommendations made by the Organization for Security and Co-operation in Europe (OSCE) Office for Democratic Institutions and Human Rights after the 2011 parliamentary and 2012 presidential elections (United Kingdom of Great Britain and Northern Ireland)”.

In 2018, Golos analysed OSCE/ODIHR recommendations.¹ A total of five final OSCE/ODIHR reports were analysed (from 2004 to 2016)², which contained 121 recommendations. Fifteen recommendations (12.4%) can be considered fully implemented, 41 (33.9%) partially implemented, and 65 (53.7%) not implemented.

In subsequent years, implementation of the OSCE/ODIHR recommendations has only worsened.

2. Implementation of Recommendations 2018

UPR of Russia Federation (3rd Cycle – 30th session).

147.152 Ensure the exercise of political competition through free and fair elections, including equitable access to the political process (Canada).

Source of position: A/HRC/39/13/Add.1 — Para. 19.

Position: Supported.

During the 30th session of the Working Group on the UPR in May 2018, according to the Position on the Recommendations Presented to the Russian Federation by Foreign Delegations during the Third Cycle of the Universal Periodic Review,³ Russia committed to implement Recommendation 147.152, “ensure the exercise of political competition through free and fair elections, including equitable access to the political process” (Canada).

However, between 2018 and 2022, the situation for the exercise of the electoral rights and freedoms and political competition has only worsened. Elections in Russia remain unfree, unequal and unfair, with restrictions on basic political rights and freedoms, including the right to be elected, for a substantial number of citizens. The deterioration has been particularly acute in 2022 against the backdrop of the military conflict in Ukraine.

2.1. Barriers limiting political competition

The legal inequality of opportunity between groups of candidates at all levels of elections endures in Russian electoral law.

The law establishes a privileged position for candidates nominated by parties represented in the State Duma vis-à-vis candidates of other parties and self-nominated candidates. For example, for presidential elections, while candidates from parliamentary parties are fully exempt from collecting signatures, candidates from non-parliamentary parties must collect 100,000 and self-nominated candidates 300,000 signatures. Such distinctions are legally flawed, disproportionate, and politically unjustifiable. In accordance with the position of the Constitutional Court of Russia and the provisions of Russian electoral law, the submission of voter signatures by a candidate is necessary to confirm sufficient voter support for the candidate. The signature requirement cannot be different for different candidates: sufficient support can only be uniform.

The electoral legislation requires that by the time of submission of the documents required for registration, the candidate must have closed accounts (deposits), stopped keeping cash and valuables in foreign banks located outside the territory of Russia, and/or divested foreign financial instruments. Failure to comply with these requirements is grounds for refusal of registration. In the global economy, the practice of holding foreign financial instruments is becoming widespread and this requirement discriminates against businesspersons and other citizens who hold such instruments. This requirement has the effect of reducing competition by encouraging those who cannot afford to forgo the use of foreign financial instruments to refuse to stand for

¹ Golos analyzed how Russia implements OSCE/ODIHR recommendations on elections / RU-EN <https://golosinfo.org/articles/142382>.

² Elections in Russia / <https://osce.org/odihr/elections/russia>.

³ A_HRC_39_13_Add.1_ in English.

election without the certainty of being elected.

In the elections of regional leaders, a key obstacle to political competition is the so-called “municipal filter” – the need to collect signatures of municipal deputies and leaders in support of the registration of gubernatorial candidates. The “municipal filter” is a tool for manipulatively sifting out unauthorised candidates and eliminating competition. It does not achieve any of the goals declared when it was introduced (elimination of weak candidates, enhancement of the status of local government deputies, or encouragement of parties to be active at the local level). On the contrary, the characteristic feature of the “municipal filter” is the administrative pressure on municipal deputies in order to organise a mass collection of their signatures in favor of the incumbent head of the region and his “technical” rivals, and to prevent the collection of signatures in favor of independent and undesirable candidates. The collection of an excessive number of signatures in favor of certain candidates and the territorial quota of 3/4 of the top-level municipalities create insurmountable obstacles in passing the filter for unauthorised candidates.

Another common barrier to citizens’ participation in gubernatorial elections is the ban on non-partisan self-nominated candidates remaining in most Russian regions, which creates unequal conditions for the exercise of the right to stand for elections throughout the country.

Golos recommendations:

- **Introduce uniform rules for the registration of candidates in electoral legislation, regardless of their status and methods of nomination in elections; establish a uniform, sufficiently low level of voter support for all candidates (no more than 0.5% of the constituency); abolish the requirement for them to divest foreign financial instruments during the nomination and registration stage.**
- **Abolish the “municipal filter” in the gubernatorial elections and grant the right to run to self-nominated candidates in all Russian regions.**

2.2. Expanding restrictions on the right to stand for elections

One of the most important criteria for free and competitive elections is to ensure that the largest possible number of adult, legally capable citizens of the country who are not imprisoned under a court sentence can run and be registered for the election, which is enshrined in Article 32 of the Russian Constitution. Additional formal restrictions on the right to stand for elections, which the legislator is entitled to impose, must not be discriminatory or politically motivated, i.e. imposed on certain politicians with the aim of restricting competition.

Over the past 16 years, Russia’s electoral laws have repeatedly introduced extra-constitutional restrictions on the right to stand for elections, while international experience is moving towards the gradual removal of such restrictions. The Golos movement estimates the total number of persons deprived of their passive suffrage by these innovations at 10-11 million, or approximately up to 10% of the number of Russian voters.⁴

Two large groups of persons deprived of the right to stand for elections can be identified:

- persons whose behavior is considered delinquent by the authorities in power: those convicted of 417 criminal and 2 administrative offenses, and those involved in extremist and terrorist organisations;
- persons with a legal and/or economic connection to another state: additional citizenship, residence permit or foreign financial instruments, and foreign bank accounts.

Regarding those with previous convictions, it should be noted that in recent years there has been a significant and often unjustified increase in the number of criminal offenses (for example, crimes of medium gravity), which restrict the exercise of passive suffrage, as well as an extension of the terms of its restriction. Moreover, this group also includes persons with suspended sentences, which is obviously an undifferentiated norm, which does not reflect the real degree of their public danger and, in practice, leads to a significant reduction of electoral competition.

Separately, attention should be paid to those at risk of being found to be involved in the activities of “extremist” or “terrorist” organisations. The authorities use “extremist” articles to target their political opponents, such as supporters of Alexey Navalny. The term “involved in the activities” used in the law is as vague and stretching as possible. Although only citizens mentioned in court decisions are considered by law to be disqualified, law enforcement practice suggests that citizens who have only participated in public rallies organised by banned organisations are often considered to be involved on the basis of law enforcement notices. Potentially, any participant in unauthorised protests could be deprived of passive suffrage for affiliation with banned organisations if they support these protests.

It is clearly disproportionate to deny eligibility to run for elected office to those convicted of administrative offenses with only one year of administrative convictions, losing the possibility of becoming a deputy for the next five years.

⁴ “New disenfranchised”: why do Russian citizens massively become ineligible to be elected in the elections in 2021 / RU: <https://golosinfo.org/articles/145272>; EN: <https://golosinfo.org/articles/145329>. Response to attempts by the Russian CEC to underestimate the number of the Russian citizens deprived of passive suffrage / RU: <https://golosinfo.org/articles/145784>.

Equally questionable and disproportionate is depriving Russian citizens of their right to run for public positions merely because of possessing residency permits in other countries.

Stigmatising is the requirement for candidates included in the list of foreign agents to refer to their foreign agent status in all their campaign and information materials and statements, allocating a significant amount of print space to it, which violates the principle of equality of candidates. The group of “candidates affiliated with foreign agents” is completely vague in its composition. The list of such persons is non-public, and the criteria for inclusion in this group are vague; the consequences of not indicating this status can be very serious, up to de-registration of a candidate.

The additional restrictions on passive suffrage provided for in the electoral legislation, which is related to a Russian citizen’s residence permit, administrative penalties, and criminal record, are excessive, unfair, and undemocratic. In the absence of an independent judiciary and amidst political repression, these restrictions act as a de facto electoral filter.

Golos recommendations:

- **Reconsider approaches to the restriction of passive suffrage for those with a criminal record, with a view to reducing the number of articles and the duration of these restrictions, as well as considering the type of sentence being served.**
- **Abolish any restrictions on participation in elections for opposition political organisations and their members introduced under the pretext of combating extremism, for those convicted of administrative offenses, for those with dual citizenship (in local elections), and for persons with residence permits (in local, regional and national elections).**

2.3. Restrictions on the Right to vote

Throughout the country, the direct election of heads of local self-government has been replaced by a bid-based election, in fact, masking a procedure of their appointment with the approval of regional governors. Given the unconditional political priority of municipal administrations over elected deputies, the heads of local governments become totally unaccountable to the voters and dependent on the governors.

The exercise of active suffrage, apart from the act of voting itself, involves the possibility for voters to participate actively and freely in the election campaign as supporters of candidates and parties (canvassers, donators, observers, or activists). Over the past few years, a whole group of voters has emerged who have been totally deprived of this part of their electoral rights. These are the so-called “foreign agents”. During elections, foreign agents are forbidden to carry out any activities that contribute to or hinder the nomination and election of candidates and parties; in fact, they are forbidden to participate in any form in elections and referenda, except voting and being a candidate themselves. Foreign agents may not participate in the nomination of candidates and party lists, may not make donations to their election funds, and may not be members of election commissions. Outside the election period, foreign agents are also not allowed to make donations to political parties or to conclude any deals with them

Golos recommendations:

- **Abolish any means of holding elected office other than direct elections, as well as any restrictions and discrimination on the electoral rights of citizens found to be foreign agents.**

2.4. Violation of the principles of free political competition

A massive negative phenomenon that destroys the competition in Russian elections is the practice of state and municipal media, primarily TV channels, to give obvious preference to an administrative candidate or incumbent (incumbent president, governor or acting governor, or deputy) and produce numerous campaign materials under the guise of free stories about their professional and other activities. The aggregate time of such broadcasts and newspaper space exceeds the amount of information about other candidates by several times. Such cases were particularly frequent in presidential and gubernatorial elections.

The year 2022 saw a major attack on the remnants of freedom of expression, press freedom, and freedom of assembly and association, making it impossible for independent media to report freely and safely on the election campaign, for opposition candidates, parties, and their supporters to campaign freely and effectively, and for voters to freely express their will. The Russian Prosecutor General's Office has been granted the right to ban dissemination of any information and block websites extrajudicially and immediately, including for disseminating "untrue" information, to issue demands to suspend or liquidate media outlets, to demand that websites be blocked forever, etc. As a result, thousands of independent media outlets have been blocked. Many of the independent media and human rights organisations have been labeled as foreign agents and undesirable organisations, interaction with which carries risks up to and including criminal liability, both for candidates and ordinary voters. Major social media were blocked.

This has resulted in a dramatic reduction of the information space outside the control of the incumbent authorities and limited opportunities for opposition candidates to campaign. The information space has been almost entirely monopolised by state-owned and pro-government media. Almost all media outlets capable of broadcasting a point of view that differs from the official one and the major social media outlets that are not under the control of the authorities have now been blocked in Russia. This situation prevents both equal competition and the free expression of the will of the electorate in elections. Citizens are deprived of the opportunity to receive alternative information on crucial public issues, and to freely develop and express their opinions.

In light of the approaching presidential election in 2024, the widespread use of penalties for "defamation" and "fake news" is a serious concern, making any criticism of the head of state and his foreign policy dangerous.

Repressions against opponents of the authorities, new restrictions on voting rights, the mass forced emigration of political opponents of the authorities, activists, and citizens dissenting from domestic and foreign policies, and the non-admission of candidates to elections have resulted in a spectrum of political actors represented in the ballots between 2018 and 2022 that were significantly different from the real political spectrum of Russian society itself.

Golos recommendations:

- **End policies of harassment and restriction of independent media, and policies restricting freedom of speech, assembly, and expression.**

2.5. Violation of the principle of openness and transparency of elections

Over a number of years, traditional and mobile election observation at polling stations has been artificially hindered at the legislative level.

The abolition of the procedure for appointing non-voting election commission members to territorial, district, and precinct election commissions, which had been in place since 1993, dealt a serious blow to the ability to supervise election commissions. Non-voting members of higher-level election commissions were also deprived of the opportunity to participate in meetings of lower-level commissions and to read their documents. The possibility for candidates and parties to appoint observers to higher-level commissions did not compensate for this loss, as observers have more limited powers and can only attend these commissions on election and tabulation days. They do not have the right to participate in discussions at commission meetings. As a result, the inequality is reinforced between the parties represented by the voting members delegated on their behalf and all other contestants.

There was a significant restriction on access to online video broadcasts and archives of footage from polling stations for candidates, parties, observers, and ordinary voters.

The requirements for the appointment of observers have been tightened: the list of observers must be submitted to the higher commission three days before the start of voting, there is a ban on the appointment of

one observer to several polling stations, and a ban on observation in a polling station if the observer is not a voter in that election; opportunities for journalists to be present in polling stations have also been limited.

On election and tabulation days, the Central Electoral Commission blocks free access to electoral statistics on its resources.

Golos recommendations:

- **Restore the institution of non-voting members on all levels of election commissions and the right for civil society organisations, in line with their statutory activities, to independently deploy observers to polling stations, as well as abandon artificial restrictions on the appointment of observers.**
- **Restore free access to electoral statistics as well as to video broadcasts and recordings from polling stations.**