

## **Konstantin Katanyan (Moscow)**

### **The Silence of the Press Sharks**

The “Vremya MN” newspaper, June 19, 2003

#### **The press is gagged for the duration of an election campaign**

Press coverage of an election campaign has become a dangerous business. A media outlet can be temporarily closed for violating laws that operate during an election campaign.

The so-called President’s amendments, which in reality have been prepared by the Central Election Commission, were yesterday voted in by 358 members of the Duma. By that, the Duma, by the vast majority, has completed the process of barring both the citizens and the mass media from participation in the election process. There can be no talk now of free and democratic elections in Russia, because the lawmaker have shamelessly violated our constitutional right to comment on programs of parties and independent candidates, to forecast election results, to warn the voter about the consequences of victory of a particular political party. Any publication containing comments and forecasts of that kind will be considered election campaigning and therefore prohibited by law to any but the officially registered candidates, parties, and party blocks. Both the “press sharks” and the ordinary citizens are denied the possibility to publicly state their views on the candidates. Moreover, now any magazine or newspaper, TV or radio broadcaster could be sanctioned for statements “intended to encourage or encouraging the voter to vote for or against a candidate, or a list of candidates”.<sup>1</sup>

The law, therefore, not just forbids election campaigning by mass media, but intrudes upon the freedom of thought and expression, and lets the bureaucrats and the judges pass questionable

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<sup>1</sup> It should be made clear that restriction on mass media described in this paragraph had been put in the books a year earlier, by the June 12, 2002 law “On basic guarantees of voting rights...”. The amendments the author refers to had introduced sanctions for violations of this law.

A few months after publication of this article, the author, Konstantin Katanyan, and others won a partial victory in the Constitutional Court. On October 30, 2003, the Court stroke down the clause concerning statements “intended to encourage or encouraging the voter to vote for or against a candidate, or a list of candidates”. Other restrictions, however, have been left intact.

The 2005 revision of the law “On basic guarantees of voting rights...” reflected the Court decision and has softened somewhat other restrictions by providing that only repeated publications of certain kinds constitute election campaigning.

judgments as to whether a journalist or an author of a letter to the editor have had the intention to influence the readers to make them change their voting preferences on the eve of elections. And if, after reading the author's mind, it is decided that the author did have this intention, the media outlet will be punished. A media outlet that committed two or more violations during an election campaign (or a referendum campaign) can be suspended until the end of the campaign. This is the essence of the amendments that yesterday were passed by the Duma, in the third and final hearing. And since we are permanently having one election campaign or another, regional or federal, the media outlets that the authorities disfavor can be constantly kept in the state of fear by closing them for a month or two several times a year.

As to the heads of the state owned media, they risk to become outcasts in the journalistic community: for repeated violation of election campaigning rules they could be disqualified for the period from 2 to 3 years. But violations of election campaigning laws can be easily discovered in any publication, whether or not it has anything to do with the elections. If it tells about plentiful harvest, then it is campaigning for the Agrarian Party. An article that calls attention to low wages agitates for the Communists. An article that mentions delay in pension payments campaigns against the United Russia, which has promised to deal with the issue. And apple juice advertising certainly qualifies as covert support for Yabloko (*Apple*).

The amendments package includes amendments to the law "On charitable activities and charitable organizations" that prohibit charitable activities for the duration of an election campaign.<sup>2</sup> The Criminal Code is amended with new articles that provide sanctions for "falsification of elections results", and the Code of Administrative Violations – with sanctions for abusing privileges of a government office to promote a candidate or a referendum issue during an election campaign. Also, they establish criminal liability for abuses in campaign financing and for fabrication of election documents.

At the same time the Duma unwittingly decided to toughen criminal and administrative sanctions for "dangerous deeds infringing on voting rights of citizens". Unwittingly, because the "dangerous deeds" describe, first and foremost, the very lawmaking by the deputies, who have turned our voting rights into fiction. So, now, should the amendments pass the Federation Council<sup>3</sup>, citizens would either have to fight in courts against the lawmakers drunk with administrative ecstasy or, as a minimum, vote against them in the forthcoming December elections.

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<sup>2</sup> Actually, the amendment reads "It is prohibited to combine charitable activities and election campaigning, or campaigning on issues of a referendum".

<sup>3</sup> They had passed and were signed by the President into law on July 4, 2003.

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