



Office for Democratic Institutions and Human Rights

REPUBLIC OF CROATIA

LOCAL GOVERNMENT ELECTIONS

20 May 2001

FINAL REPORT



Warsaw
11 July 2001

TABLE OF CONTENT

| | |
|------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| I. EXECUTIVE SUMMARY | 1 |
| II. INTRODUCTION AND ACKNOWLEDGEMENTS..... | 2 |
| III. POLITICAL BACKGROUND | 2 |
| IV. LEGAL FRAMEWORK | 3 |
| A. GENERAL OUTLINE | 3 |
| B. ELECTORAL SYSTEM..... | 3 |
| C. LAW ON THE ELECTION OF MEMBERS OF THE REPRESENTATIVE BODIES OF LOCAL AND REGIONAL SELF-GOVERNMENT UNITS AND RELEVANT LEGISLATION..... | 4 |
| 1. <i>General Administrative Deadlines</i> | 4 |
| 2. <i>Penalties for Violations of Law</i> | 5 |
| 3. <i>Termination of Mandate of Representative Bodies</i> | 5 |
| D. MINORITY REPRESENTATION | 5 |
| V. PRE-ELECTION PHASE..... | 7 |
| A. ELECTION ADMINISTRATION..... | 7 |
| B. REGISTRATION OF CANDIDATE LISTS..... | 9 |
| C. COMPLAINTS AND APPEALS | 9 |
| D. VOTER REGISTRATION | 10 |
| E. MEDIA..... | 10 |
| F. ELECTION CAMPAIGN | 12 |
| VI. ELECTION DAY | 13 |
| VII. FINAL RESULTS | 15 |
| 1. <i>Annulment of Results in Three Areas and for Three Individual Polling Stations</i> | 16 |
| 2. <i>Announcement of Official Results</i> | 16 |
| 3. <i>Representation of Minorities on Lists of Candidates / Elected Members</i> | 17 |
| 4. <i>Gender Balance on Lists of Candidates / Elected Members</i> | 18 |
| VIII. RECOMMENDATIONS | 18 |
| A. LEGAL FRAMEWORK..... | 18 |
| C. ELECTION ADMINISTRATION..... | 19 |
| D. VOTER REGISTRATION | 19 |
| E. CANDIDATE REGISTRATION | 20 |
| F. MEDIA..... | 20 |
| G. VOTING AND COUNTING PROCEDURES | 20 |

REPUBLIC OF CROATIA
LOCAL GOVERNMENT ELECTIONS
20 May 2001

FINAL REPORT

I. EXECUTIVE SUMMARY

The 20 May 2001 Local Government elections in Croatia were conducted generally **in accordance** with OSCE commitments for democratic elections, confirming the improvements noted during the 2000 parliamentary and presidential elections.

A number of **concerns** do remain, however, particularly with regard to the legislative framework for the elections. Many of these concerns have been highlighted during past elections by OSCE/ODIHR.

The **new Law on the Election of Members of the Representative Bodies of Local and Regional Self-Government Units** provides for democratic elections, but its late adoption resulted in some confusion and uncertainty among parties and election commissions. The main strengths of the legislative framework include: the provision for political parties to be represented on election commissions; the encouragement of political parties to take account of proportionate minority representation and gender balance in the composition of their candidate lists; the adoption of regulations by state-owned media to provide parties with equal access; and liberal provisions for non-partisan domestic observers.

The **most significant concern** in this election relates to the provisions in the new Law on the Election of Members of the Representative Bodies of Local and Regional Self-Government Units for minority representation, where procedures for implementation are inadequate. Further, the reliance on data from the 2001 national census to establish the level of minority representation is problematic, in terms of both principle and practice. There are clear problems in how aggregated data was used to determine proportional minority representation, as well as how to account for refugees and displaced persons. Moreover, two other problems relating to minorities highlighted in previous elections remain: that the voter registers continue to identify the ethnicity of voters and that the 1991 Law on Citizenship disadvantages persons who are not ethnic Croats.

Other concerns regarding the new Law on the Election of Members of the Representative Bodies of Local and Regional Self-Government Units include: the lack of provisions for the posting of results at the polling station and the publication of results at intermediate and national levels by polling station; no provision for ineligible candidates on a list to be replaced; no provision for a permanent State Election Commission; no articulated penalties for violations; and no regulations regarding party accountability for campaign financing and expenditure. Further, the short period provided between the calling and holding of the election resulted in inadequate administrative deadlines and a very short campaign period.

The **campaign** was generally well conducted, and media coverage was mostly balanced, though the governing coalition parties received greater visibility. The State-owned Croatian radio-television continued to improve, providing a generally balanced coverage.

On **election day**, polling was conducted in a calm atmosphere and in accordance with the law and regulations, thus continuing a trend noted last year. The only exception was “family” voting, and the poor quality of materials, such as voting booths, in some polling stations. The vote count was conducted accurately and election commissions were professional in their duties.

The OSCE/ODIHR stands ready to continue the dialogue with the authorities and civil society of Croatia with a view to addressing the remaining concerns contained in this report.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

The Organisation for Security and Co-operation in Europe’s (OSCE) Office for Democratic Institutions and Human Rights (ODIHR) established an Election Observation Mission (EOM) on 18 April 2001. Mr. Mark Stevens (UK) was appointed as Head of the OSCE/ODIHR EOM.

This report consolidates the findings of 12 international experts and long-term observers and 136 short-term observers. The short-term observers included a six-person delegation from the Congress of Local and Regional Authorities of the Council of Europe (CLRAE) and representatives of Zagreb-based diplomatic missions and international organisations.

On election day, observers visited some 830 of the 6,483 polling stations in 19 of the 21 regional administrative units. On 21 May, the OSCE/ODIHR EOM and the CLRAE delegation, constituted as an International Election Observation Mission, issued a joint statement of preliminary findings and conclusions.

The OSCE/ODIHR wishes to thank the Government of Croatia, the Office for International Co-operation, the State Election Commission and subordinate election commissions throughout the country for their co-operation and assistance during the course of the observation. The OSCE/ODIHR would also like to thank the OSCE Mission to Croatia and its Head Ambassador Bernard Poncet for valuable and generous support during the course of the observation.

III. POLITICAL BACKGROUND

Croatia underwent significant political change in 2000, with the election of a new Parliament and President, signalling the end of 10 years of rule by the Croatian Democratic Union (HDZ). However, most local government bodies continued to be governed by a HDZ majority, reflecting the results of the previous nation-wide local elections in April 1997.

As during the 2000 elections, the prime concern of voters and political parties remained socio-economic issues. In addition, despite the fact that these were local government elections, the national government was a major focus of attention, with opinions on the performance of the government dominating the media along with speculation that the Prime Minister might reshuffle the cabinet and even reduce the number of ministries, thereby opening the door to the departure of some of the smaller parties from the Government. Indeed, many analysts described the elections as an important test of strength for the constituent members of the governing coalition as well as an important opportunity for the HDZ to stem the flow of electoral reversals experienced during the 2000 parliamentary and presidential elections and

the recent extraordinary local government by-elections. Other campaign issues included, European integration and the arrest of individuals indicted for war crimes.

The new government has committed itself to addressing concerns relating to the return of Serb refugees, equal opportunity for citizenship rights regardless of ethnicity and the full restoration of property rights. However, problems in these areas clearly persist.

The local government elections were contested by tens of thousands of candidates for 566 Councils and Assemblies at the municipal, town, county and Zagreb City levels, representing a broad spectrum of political parties, coalitions and independent lists. A total of 3.8 million voters were registered for the election.

IV. LEGAL FRAMEWORK

A. GENERAL OUTLINE

A new Law on the Election of Members of the Representative Bodies of Local and Regional Self-Government Units was adopted by the Parliament and came into effect on 11 April 2001.

A number of other laws and regulations are relevant for the conduct of the election, including: Constitution of the Republic of Croatia (1991, amended); Law on Citizenship (1991); Law on Voter Lists (1992); Law on Political Parties (1993); Criminal Code; Statutes of Local Government Units; Law on Local Self-government and Administration (1999); Constitutional law on Minorities (2000); State Election Commission Reminder on the work of Voting Committees; State Election Commission Mandatory Instructions; and Croatian Radio and Television (HRT) Regulations on Media Coverage of the Election.

B. ELECTORAL SYSTEM

The 20 May elections were for municipal and town councils, county assemblies and Zagreb City assembly. The number of members of each body varies according to its population size, but ranges from seven members for the smallest municipal council to 51 members for the largest assembly. Voters in all areas, except Zagreb City, had two votes: one for their town or municipal council and one for their county assembly. In Zagreb City voters were only electing the city assembly.

Previously, representatives to the House of Counties, the upper house of parliament, were also elected during the local government elections. However, a Constitutional change of March 2001 abolished the House of Counties.

The electoral system is the same for all election types. The previous law used a mixed system, but the new one is a purely proportional one, with a 5% threshold to qualify for the allocation of seats. Parties, coalitions or independents¹ register a list of candidates equal to the number of seats available in the body being elected. Seats are distributed on a proportional basis using the d'Hondt method, with candidates chosen from the list according to their position on the list. The law also requires that the "lead" candidate on the list, that is the first one, must be ready to take up the mandate if elected.

¹ Independent candidates must also establish a list equal to the number of seats in the body.

Once the council has been constituted, a vote is taken to select the head of the body. Interlocutors, including Ministry of Justice and State Election Commission officials, indicated that the law may be changed in future to provide for the direct election of heads of local bodies, though this remains a matter of debate and decision by the Parliament.

C. LAW ON THE ELECTION OF MEMBERS OF THE REPRESENTATIVE BODIES OF LOCAL AND REGIONAL SELF-GOVERNMENT UNITS AND RELEVANT LEGISLATION

The law was adopted on 11 April 2001, and the elections were formally called on 19 April, allowing for the legally stipulated 30-day minimum period before the holding of the elections. However, this was in fact very late, and the time frame meant that the administrative deadlines were extremely short. As a result, election commissions and political parties were not always familiar with the procedures. The late passing of the election law and subsequent confusion has also been noted in past elections in Croatia.

The new law clearly provides for democratic elections, and the general strengths of the law and the regulatory framework include:

- Political parties have the right to be represented on election commissions (but not Voting Committees at the polling station level);
- “Leaders” of party lists must be ready to take up the mandate if elected;
- Elected representatives must be permanent residents in their constituency;
- Political parties are encouraged to take account of proportionate minority representation and gender balance in the composition of their candidate lists;
- State-owned media issued regulations providing parties with equal access and reduced advertising rates; and
- Liberal provisions exist for non-partisan domestic observers.

However, there are a number of concerns regarding the Law on Local Government Elections and other relevant legislation and procedures, particularly with regard to minority representation.

1. General Administrative Deadlines

Article 4 of the Law provides that, “Not less than 30 or more than 60 days may pass from the day of calling the elections until election day”. For this election, only the minimum time was allowed.

Such a minimum requirement does not provide adequate time, especially in the case of a new election law. The following points can be noted:

- Adopting a new law just 39 days prior to the holding of the election and 9 days before the election was called does not allow enough time for election commissions, political parties and the general public to be adequately familiar with new procedures and requirements.
- Providing election commissions with potentially just 2 days for consideration of lists of candidates, when, as during this election, there may be thousands of candidates, is not an adequate amount of time for careful scrutiny.

- This time frame provides for only a 14-day election campaign, given that there was a period of campaign silence from midnight 18 May. This is a very short campaign period.
- Parties are only able to nominate extended commission members after the confirmation of their lists of candidates. This precludes them from being involved in the scrutiny of candidate registration, which is one of their prime concerns, and essentially precludes them from being equal members of the commission.
- In the event of an unsuccessful appeal against the disqualification of a candidate, there is no possibility for parties to make their lists fulfil the legal requirement as the deadline will have passed, resulting in the disqualification of the entire list.
- If a party is successful in its appeal to the Constitutional Court against the disqualification of a candidate or its entire list, they may only have nine days in which to campaign.

2. Penalties for Violations of Law

No penalties or fines are defined in the law. The Criminal Law stipulates penalties and / or fines for various offences relating to interference with the voting right (see Articles 116 – 121), but there are no articulated penalties for violations of the Election Law in terms of, for example, illegal actions by election commissions or violations of the campaign or media regulations. This represents a virtual vacuum of authority and somewhat undermines the role of the competent electoral authorities.

3. Termination of Mandate of Representative Bodies

Article 3 of the Election Law regulates the termination of the mandate of a representative body, but does not regulate for a caretaker body from the time elections are called until a newly-elected body is constituted. This period could be as long as 90 days, as elections can be called 60 days prior to the election being held, and a newly-elected body then has 30 days to hold its constituent meeting. This is a very long period to be without a representative body or, such as in the case of Zagreb City, without any check on the activities of the office of the Mayor.

D. MINORITY REPRESENTATION

Article 9 of the Election Law provides for minorities to be represented in proportion to their size of the population in each local government unit. Article 61 of the Election Law states that, “proponents of slates shall, while compiling the lists, acknowledge the principle of the adequate representation of the minority population, taking into account the local circumstances”. Article 61 also states that in case the proportional representation of a minority is not achieved at the elections, additional elections shall be conducted within 90 days after the results of the 2001 census are published. Proportionality in local units will ultimately be determined by the 2001 census results.

The principle for minority representation is therefore articulated in the Election Law, but the procedures for the implementation of the principle are not fully addressed. In short, the Election Law provides for a minority “quota” in each unit but does not prescribe a mechanism to ensure the election of the “proper” number of candidates. As this is such a sensitive issue

and because it can potentially change the ruling composition of the body, it is of concern that this was not addressed prior to the holding of the election. It is also of concern that minority representation levels will ultimately be determined by the results of the 2001 census, which for a variety of reasons, may lead to particular minorities being under-represented.²

A number of concerns in this regard can be noted:

- There are no procedures for the holding of any by-elections. Prior to the holding of these elections, how the by-elections would be held has not been determined, i.e., is any party able to put up a candidate or just parties from the minority concerned? Will all voters in the unit be able to vote or just those from the minority concerned?
- Such a by-election would be held under very different circumstances than the original elections, and could, in a closely divided body, change the political balance.
- The Law does not stipulate whether the elected body will be increased in size to allow for the inclusion of any additionally elected minority representative, or whether previously elected members would be replaced by the newly-elected minority representative.
- If it is decided that the size of the representative body will increase, which was the most often heard opinion in discussions on the issue, then this raises some serious problems. For example, the size of the body is determined by local statutes, requiring a change in such statutes, or a change to state law in the case of Zagreb City Assembly. However Article 6 of the Election Law states that “the provisions of the Statute shall be applied, regardless of whether the statute conforms with the provisions of [the Election] Law”.³
- Local representative bodies are supposed to have an odd number of members, and thus an increase by, for example, just one member will cause problems in this regard.
- How many minority members are to be added / elected if the census results indicate that minority membership should increase by, for example, 1.5 members?
- Further, it is of some concern that the results of the 2001 census regarding ethnic self-identity are to be used to determine minority population levels and thus determine their level of proportional representation in the local government unit. There are concerns about providing minority rights based on census data where the Census Law does not regulate for the manner in which refugees, displaced persons or Croatians living abroad will be included into the population figures for particular electoral units. Further, it is not clear how data on Croatian citizens who have never lived in Croatia will be incorporated into the figures.
- It is anticipated that the results of the census in regard to minority populations are likely to be problematic, partly for the reasons outlined above and partly due to the fact that many

² According to media reports, initial census data indicates that the total population has decreased by some 400,000 since 1991, with the Serb population now constituting some 5% of the population as opposed to 12.6% in 1991. Milorad Pupovac, Head of Serb Civic Council still maintains that the census will show Serbs to be some 6-8% of the population.

³ The Ministry of Justice and State Election Commission indicated that local statutes will be brought into line with such requirements.

minorities within the country choose to identify themselves as Croat to avoid discrimination or intimidation. This is noticeable among the Serb and Roma populations. In addition, the question on ethnicity was a voluntary question and thus minorities may have chosen not to answer it, given that there appeared to be a lack of confidence in some areas as to the confidentiality of the information and the use to which it may be put.

These concerns are in addition to existing concern regarding minority rights and representation in Croatia, including:

- The 1991 Law on Citizenship, which disadvantages those who are not ethnic Croats, has still not been amended. As OSCE/ODIHR has commented in previous reports, this law should be brought into line with international standards and should create equal citizenship conditions for all regardless of ethnicity.

On a positive note, in October 2000, the Constitutional Law on Human Rights and Freedoms and the Rights of Ethnic and National Communities or Minorities in the Republic of Croatia were amended to refer to Roma for the first time as a national minority. However, Roma participation in the electoral process remained low.

V. PRE-ELECTION PHASE

A. ELECTION ADMINISTRATION

Croatia is divided into 21 regional units, comprising 20 Counties plus Zagreb City. Each of the 20 Counties contains a number of towns and municipalities. There are approximately 440 municipalities in Croatia and 120 towns. Each county (and Zagreb City), town and municipality has its own regional election commission. Polling stations are established in municipalities, towns and Zagreb City.

The State Election Commission (SEC), County Election Commissions (CEC), Zagreb City Election Commission (ZEC), Municipal Election Commissions (MEC) and Town Election Commissions (TEC) all have permanent and extended membership. Permanent members, including a Chairman and four members for SEC and two members for other commissions, all have a law background. In the case of the SEC, the Chairman must be the President of the Supreme Court and the four members are to be appointed by the Constitutional Court from among judges of the Supreme Court and other distinguished lawyers. All commissions also have an extended membership, representing political parties with equal numbers being appointed from the ruling parties and the opposition parties.

Voting Committees (VC) have a Chairman and two members (with deputies), appointed by respective MEC or TEC. The Chair and members are, if possible, from the legal profession. There is no formal party membership on VCs, but at the same time no prohibition either.

The extended membership reflected the political balance as stipulated in the law. However, as outlined in the section on administrative deadlines above, extended membership of election commissions is only determined after the lists of candidates have been announced (Article 27). The same article also states that, "All members of an electoral commission shall have equal rights and obligations".

As extended members are appointed only after lists have been confirmed, they will, by definition, not be present within the commission at the time of scrutinising and confirming the lists, which is one of the prime concerns of political parties.

In Zadar County, the SDP filed a formal complaint regarding the slow appointment process for the extended membership, requesting that all acts of the commission be abolished due to the absence of the extended members. The Constitutional Court ruled (11 May) that the Law does not prescribe a deadline for the appointment of the extended membership and so there were no legal grounds on which to abolish the acts of the commission.

Election commissions at all levels carried out their work in a professional manner. The SEC performed competently and professionally during these elections. However, it could be further strengthened by the establishment of a permanent staff to support its work and the provision of a permanent office space.

State Election Commission Mandatory Instruction VII (30/4/01) states that, "Town and municipality election commissions will determine precincts (polling stations) for the displaced and expelled persons from their area taking into consideration where the larger groups of expelled and displaced persons are".

The instruction also provides that such persons will be able to vote "for the members of the representative bodies of the local and regional self-government units in the area where they have their permanent residence, but not for the members of the bodies where the location of the precinct where they actually vote is". In short, they vote as absentee voters.

There are approximately 10,600 persons in this category - 1,600 ethnic Serbs (provided with three special polling stations) and 9,000 ethnic Croats (Provided with 58 special polling stations). Ethnic Serbs are mostly in Eastern Slavonia and ethnic Croats in Zagreb and along the Dalmatian Coast. During this election, a number of questions regarding this provision were raised, including:

- To what extent do the ethnic Croat displaced persons still require such a provision when they are arguably no longer restricted from returning to their place of permanent residence?
- To what extent should any such provision exist when freedom of movement is not an issue in Croatia anymore – Although for some persons their actual place of residence may not be vacant or in adequate condition?
- Were ethnic Serbs in this category adequately informed of the provision for voting at these elections, and particularly were persons who have lost their "displaced person" status fully informed of the consequences of this loss in terms of their voting rights, i.e. that they must return to their place of permanent residence to vote.
- Such a provision is not regulated by law, but is only provided for through SEC Instructions.

The Serb Civic Council (SNV) complained to the State Election Commission that ethnic Serb voters in three counties were not provided with an adequate number of polling stations. Following the complaint, additional polling stations were provided in two of the counties, but Sisak County only offered transportation to the ethnic Serb voters to distant polling stations.

The SNV considered this inadequate as ethnic Serb voters were apprehensive to travel to ethnic Croat villages to exercise their right to vote.

B. REGISTRATION OF CANDIDATE LISTS

According to Article 11, lists of candidates are to be proposed by political parties, coalitions or voters. When voters propose a list it must be accompanied by 100 signatures for a municipal election, 150 for a town election and 500 for a county or Zagreb City election.

A positive development of the new law is that the first candidate on the list is the “list leader” and must be prepared to take up the mandate if elected. Further, candidates must be from the locality, which increases the connection and accountability between voters and their elected representatives. A negative feature of the process is that the lists of candidates were published in some newspapers with the ethnicity of the individual candidates specified.

Article 15 of the Election Law obliges parties submitting lists of candidates to include the same number of candidates on their list as seats available in the body to be elected. Except in the case of the death of a candidate, no replacement mechanism is foreseen in the law in the event of a candidate being disqualified. Thus, if a complaint is lodged against a candidate on a list, as occurred during this election, and the candidate ends up disqualified, then the entire party list was also disqualified on the basis that it was not legally constituted as it did not have sufficient numbers. This position was confirmed in five Constitutional Court rulings, which upheld that the disqualification of a candidate makes an entire list ineligible.

Further, Article 12 of the draft Election Law prohibited the inclusion of a candidate on more than one list for the election of the same electoral body. This article was deleted in the final version of the law. The Constitutional Court has decided against such double candidacy. In Vojnic in Karlovac County, a candidate appeared on the lists of both the Independent Serb Democratic Party (SDSS) and the Croatian Peasants Party (HSS). The Karlovac CEC ruled that the candidate should make up his mind which list he wanted to be on and the party list he leaves can be allowed to find a replacement. This seems reasonable but would appear to contradict the rationale of the above rulings.

C. COMPLAINTS AND APPEALS

The Constitutional Court is ultimately responsible for the legality and constitutionality of the election and for resolving disputes. Appeals against the decisions or conduct of MECs and TECs are in the first instance to the relevant CEC and in the second instance to the Constitutional Court. Appeals against the CEC are in the first instance to the SEC and in the second instance to the Constitutional Court.

The EOM has a record of the 33 complaints filed, 20 of which came before the Constitutional Court, and is satisfied that the appeals process was properly conducted and that complainants had adequate recourse to an appeal and that the appeals were duly considered. Complaints were lodged by 12 different parties / independent lists, and concerned the eligibility of candidates, the provision of polling stations, the timing of the constituting of an election commission, the similarity of the coats of arms of two political parties, media regulations, actions by VC members on election day, voting rights of displaced persons, alleged changes to the results in Karlovac and the ordering of political parties on the ballot paper.

D. VOTER REGISTRATION

The right to vote is given to Croatian citizens who have turned 18 years of age and with permanent residence in the unit. The official number of voters for the 20 May Local Government Elections was 3,886,720.

Voter Registration is carried out according to the 1992 Law on Voter Registers. Electoral Registers are public documents, with citizens listed according to their place of permanent residence. Members of armed forces are also registered according to their place of permanent residence. Persons with temporary residence abroad are registered according to their residence in the country prior to their departure. Each municipal/town body has a committee responsible for the register. Citizens can examine list from three days of the call for elections. Requests for registration can be submitted up to 14 days prior to election. The electoral register must be finalised at the latest eight days prior to the election

Article 9 of the Law on Voter Registers requires voters to be identified by ethnicity. Such a requirement may present risks for minority communities. Further, given the new voting system, whereby there are not separate elections for minorities, there is no election-related reason for such an identification by ethnicity.

E. MEDIA

Croatia has a diverse and active media, with the State-owned HRT broadcasting on three national TV channels and three radio channels and private broadcasters providing a further 13 TV channels and 126 radio channels.⁴ There are some 10 significant daily newspapers on the national and regional levels and five significant weekly papers.

The Election Law provides only a few general provisions regarding media coverage (Articles 18-20). The main point articulated in the law is: local public information outlets shall be obliged to enable parties and representatives of candidate lists to present and explain their electoral programmes and carry out their electoral campaign without obstacles, under equal conditions (Article 19).

The Election Law does not provide any particular provisions concerning private media, which is obligated to abide by conditions of their license and other relevant laws, such as the Law on Telecommunications and the Law on Public Information, as well as the Constitution.

The ODIHR Election Observation Mission (EOM) monitored from 24 April to May 18 the following TV channels: HTV, *TV Nova*, OTV, *Gradska Televizija Zadar*, *Vinkovacka TV*, *STV-Osijek*, *Ri-TV* and *ATV Split*; the following daily newspapers: *Vecernji List*, *Jutarnji List*, *Slobodna Dalmacija*, *Glas Slavonije*, *Novi List*, and *Republika*; and the following weeklies: *Feral Tribune*, *Globus* and *Nacional*.

The main broadcasters, such as HRT TV, and the largest circulation daily newspapers, *Jutarnji List* and *Vecernji List*, covered the election in a fairly balanced manner. The main notable

⁴ Only TV Nova and three private radio channels have national frequencies.

feature was that coverage tended to focus on the activities of Government and the main personalities,⁵ such as Prime minister and President and Mayor of Zagreb.

Media monitoring results showed that *HRT* TV news programming (*Dnevnik* and *Odjeci Dana*) generally covered the campaign in a neutral manner, providing voters with unbiased information on political contestants. This continued the positive trend noted during the previous elections in 2000. Regulations, adopted by *HRT* to supplement the limited regulations in the election law provided fair opportunity for parties, including the provision of reduced advertising rates.

HRT's "*Zagrebacka Panorama*", which reports on events in Zagreb, dedicated a significant amount of space to the incumbent Mayor of Zagreb and the SDP candidate.⁶ However, it is important to note that the presentation of the mayor was more noticeable prior to the start of the campaign, whereas once the campaign was underway coverage between the parties and candidates was more equal.⁷

The *Croatian Commercial Network (CCN)* news programme was rebroadcast by seven regional TV stations. *CCN* news also dedicated the majority of all political-related news to governmental activities.⁸ At the same time, it also provided a truly balanced portrayal of the government as well as of the full spectrum of political parties. Monitoring of six regional TV stations showed the main source of information at this level were party advertisement spots and presentations of the party platforms in special programs. There was a lack of coverage of regional or municipal issues and no real discussion between candidates.

Vecernji List and *Jutarnji List*, the largest circulation daily newspapers,⁹ provided generally balanced coverage of parties and personalities. Both newspapers also published regional supplements for the election. Out of all covered political subjects, the government was given the largest amount of space.¹⁰ The largest extent of coverage of individual candidates was given to the incumbent Social Democratic Party (SDP) Mayoral candidate for Zagreb.¹¹

Shortly before the campaign commenced, the government replaced the state-owned *Slobodna Dalmacija*'s management and editorial staff, which resulted in a substantive change in the nature of coverage by the newspaper. Previous editorial policy favored HDZ and nationalist / right-wing parties. The government and the ruling coalition parties were portrayed in a negative manner. After the replacement of the Editor-in-Chief, the newspaper provided more

⁵ Though given the number of parties in the government this is not totally unexpected. However, the two main *HRT* TV news programmes, *Dnevnik* and *Odjeci Dana* devoted an unbalanced 63% of coverage to government activities.

⁶ Mayor Bandic received 30% more time than other personalities in the 'Panorama' programme.

⁷ EOM monitoring began on 24 April, whereas the campaign only officially started on 5 May.

⁸ Some 66% of the news reporting of *CCN* was of government-related activities.

⁹ Each newspaper sells approximately 200,000 copies a day.

¹⁰ The government, governing coalition parties and individuals from the government, received some 67% of space in *Vecernji List* and 59% in *Jutarnji List*.

¹¹ In *Vecernji List* Mayor Bandic received more space than all other candidate list leaders added together. In *Jutarnji List* Mayor Bandic received twice the amount of space compared to his main rival, Vesna Pusic (HNS).

neutral information on the government, but its coverage of HDZ in particular assumed a more negative tone.¹²

There is a lack of a mechanism for enforcing penalties or to ensure media compliance with regulations, with election commissions only able to issue warnings and make public any misbehavior or misdemeanor. There were 12 official complaints in relation to media coverage. This is more than during the previous election. Zagreb City Election Commission received two particular complaints which highlighted weaknesses in the legislation and some problems with media coverage:

- Croatian Popular Party (HPS) complained that *Jutarnji List*, *Vecernji List* and HRT Radio were not covering the party's electoral activities. The Chairman of the election commission could only warn media, and encourage them to provide equal conditions to all candidates.
- Democratic Party (HD) complained that published opinion polls only mentioned the larger parties and did not report on levels of support for smaller parties.

Some other problems and complaints relating to media coverage included:

- HDZ filed a complaint against HRT, which refused to broadcast two video clips, claiming they insulted other candidates. The relevant TEC ruled that HRT had no grounds for refusing to show the videos. HRT did belatedly show the videos.
- Many State and local officials were active in their "official capacities" during the campaign, and received coverage. Of particular note was the incumbent Mayor of Zagreb, the SDP candidate, who received extensive coverage, particularly in *Jutarnji List*, which covered, for example, the Mayor's visit to the doctor, the Mayor planting trees, the Mayor buying strawberries and the Mayor announcing the opening of a town coffee shop. Whenever a complaint in this regard was raised, the TECs stressed the principle that media is allowed to inform on the regular activities of officials but should not mention their candidacy in such reports. But such coverage continued throughout the campaign.

F. ELECTION CAMPAIGN

The official election campaign ran for only two weeks, from 5 May to midnight on 18 May. However, some campaigning took place prior to this official date, but it was not serious, involving a few posters put up around towns. Local commentators were often critical of the campaign, claiming that the parties were not addressing any real local issues, rather focusing on slogans and national politics. The election campaign was well conducted, with no significant incidents reported. It was also notably low-key, particularly in comparison to the 2000 parliamentary and presidential elections.

Isolated incidents that received some media attention were:

¹² Prior to the change in policy, the government was receiving 39% of coverage, mostly negative, and HDZ 20%, mostly positive. After the change, the government received some 66% of coverage, fairly balanced, and HDZ just 6%, mostly critical.

- In Petrinja, in Sisak County, an SDSS campaign meeting was called off, after protesters, allegedly from the Croatian Party of Rights (HSP), harassed the SDSS supporters. The protest was prompted by the publication of names of local Serb, including some persons on the SDSS candidate list, accused of war crimes in Petrinja during the war.
- In Pula, in Istria County, a series of provocative posters were displayed by unknown persons, attempting to associate the Istrian Democratic Assembly (IDS) with Italian fascists. Prior to the start of the campaign, the Ministry of Justice had suspended 13 Articles of the newly-adopted Istrian statute which included the raising of Italian to the status of an official language in the region. This sparked a war of words between the IDS leadership and various fellow-government members, culminating in the General Secretary of the Croatian Social Liberal Party (HSL) calling the IDS “fascists” and the IDS leader responding by calling the HSL “xenophobic and chauvinistic”.
- A series of incidents in Split heightened political tensions in the area prior to and during the election campaign. In February there was a rally of up to 100,000 people in Split against the arrest of General Norac, accused of war crimes against Serb civilians in Gospić in 1991. On 5 May the President was involved in a harsh exchange of words with war veterans in Split. On 6 May, a rally involving over 10,000 persons was held in Split in support of the former management of *Slobodna Dalmacija*.

Article 21 of the law states that parties and leaders of independent lists who gain a minimum of one member in a representative body, shall be entitled to compensation of campaign expenses. The amount of the compensation shall be determined by the government 20 days before the elections. The compensation amount was duly determined.

However, a number of concerns in this regard should be noted:

- There are no regulations regarding the use of these funds nor is there a requirement to submit a report on expenditure for auditing

The Law on Political Parties includes some regulations on party financing. However, in terms of the election and the campaign there are some clear regulatory gaps:

- There are no regulations in the election law, or elsewhere, requiring parties and leaders of lists to divulge the source of campaign funds
- There are no limits on the contribution to such funds by any individual or entity;
- There are no explicit prohibitions on the use of State resources by any party in its campaign; and
- There are no audit requirements for any aspect of a party’s campaign finances.

VI. ELECTION DAY

Observation of the voting and counting procedures confirmed the positive trend noted during the 2000 presidential elections, with polling conducted generally in accordance with the law and regulations. As an overview, observers reported in 93% of cases that the process was

either “good” or “OK”. Observers also commented that the general environment was vastly improved compared to the 1997 local elections, particularly in Eastern Slavonia.

- *Opening Procedures*

Observers did not report any problems with the opening procedures, though commented that the quality of the seals was not always of the highest standard.

- *General Environment*

There were no serious reports of any undue police presence, nor was there any active campaigning in or around polling stations. There were only sporadic reports of “pressure on voters” (2.1% of reports), these included a local Mayor in Gracac hassling the VC and groups of youths in Knin positioned outside of the polling station. They were believed to be Croats from BiH recently settled in Croatia. The SEC reported that police had to intervene in 19 minor incidents through the day. In two isolated incidents, ballot boxes were stolen from polling stations.

A positive attribute of the process was that political party observers were present in 75.1% of polling stations visited and NGO observers in 36.3%.

- *The Polling Station*

Voting Committees were properly constituted, and 51.3% of VC the Chairs were women. There were no reports of any vital election materials being absent, though in some instances adequate screens were not provided or used.

- *Voting Procedures*

The requirement for voters to present ID was largely adhered to, with only minor exceptions (6.3% of cases), mostly in rural areas. The most serious concern of observers related to the failure to ensure the secrecy of the vote in many cases (some 15% of places observed). This can be attributed to a number of factors:

- Family / group voting was permitted in many areas, with 10.3% of reports noting at least one occurrence, and a further 10% of forms noting it happened between 2-20 times. It is clear that this practice is common in many areas and VCs made little or no attempt to address it.
- The poor quality of polling materials, such as booths / screens, or even their complete absence in some areas (parts of Zadar), also contributed to the lack of secrecy. Observers felt strongly that the poor quality of materials at polling stations and the sometimes poor quality of the premises of the polling station impacted on the lack of secrecy in the voting procedures.
- The provision for a single polling station to be responsible for up to 3,000 voters can result in overcrowding. Whilst most polling stations administered far less voters, it was noticeable that at times the overcrowding of polling stations also impacted negatively on the secrecy of the vote.

There was some concern as to the accuracy of the voter registers, as observers reported that in 21.1% of cases people were not found on the voter register, though this was often a limited number of persons in each instance. This may have been partly explained by a number of people presenting themselves at the wrong polling station, but then finding themselves on the register at a neighbouring polling station.

This concern regarding the accuracy of the voter registers has particular resonance for displaced and refugee voters. Some 6% of the polling stations visited by observers had returning refugees from abroad. In such polling stations, problems were noted with the voter register in 52.1% of cases compared to the national average of 21.1%.

Observers reported that some of the more serious incidents reported during the day related to polling stations for displaced persons, in Vukovar and Zagreb, with hundreds of voters finding that they were not on the register. The official explanation for this is that these people had lost their displaced person status in recent months and so could not vote as displaced voters, but should have returned to their place of permanent residence. To what extent this accounts for all such persons presenting themselves is impossible for the EOM to verify, particularly as local Serb organisations in Vukovar would not give the EOM any sample names for verification.

Observers were also reporting on the location of polling stations, and the extent to which they were conveniently located for the population. Problems were only reported in 2.2% of reports (18 cases in 10 counties). Four of the problematic reports were from Sisak County, where problems had been reported prior to the election.

Counting and Tabulation Procedures

Observers reported positively on the counting procedures, with over 88% of reports being “good” or “ok”. Forty-five of the STO teams followed the delivery of election materials to the municipal and town election commissions, and followed the tabulation process. All of their reports indicated an orderly and well conducted process.

There is no provision in the law for results to be published at the polling station after the count, or for higher-level commissions to provide a breakdown of the results by polling station. Such a practice provides for greater confidence and transparency.

VII. FINAL RESULTS

From an analysis of the County-level results, the following can be noted:

- It is likely that the parties in coalition at the national level will form the governing coalitions in the majority of county assemblies. Reports indicate that in four counties - Vukovar, Lika-Senj, Karlovac and Sisak - there may be an all-party coalition, including HDZ.
- The vote share for the Coalition of Six dropped by a small amount compared to the 2000 parliamentary elections, from 57% down to 53%. This was not the drop forecast by many

analysts, particularly given the low voter-turnout figure, which many analysts stress benefits the HDZ.

- Following the acrimonious campaign in Split, HDZ (7 seats) managed to form the governing coalition in the town council with HSLs (4 seats). SDP won 9 seats. HDZ are the largest party in the county assembly.
- Following the 1997 Local Government Elections, HDZ controlled 16 of the 20 Counties. Following these elections HDZ was the largest party / coalition in 16 of the 20 counties, but was only able secure a majority in four of these. During the 2000 parliamentary elections HDZ got some 24.5% of the vote, during these elections their vote share was 26.5%.
- The HDZ vote was fairly strong throughout the country but particularly in or close to the war-affected areas, such as Slavonky-Brod, Zadar, Osijek, Vukovar and Split-Dalmatia. In Zagreb, HDZ secured 14 of the 51 seats, compared to 24 of the 51 in 1997 and just 5 out of 51 during the extraordinary local elections in the capital in 2000.
- SDP was the largest party in 4 counties, HSS in 2 and IDS in 1.
- Serb parties competed in 36 municipalities and towns and in five counties, and won a total of 208 seats. According to the leader of the SDSS, this makes his party the fifth strongest, winning just 12 seats less than HSLs.
- The average voter turnout nationally was just 46.85%. The lowest turnout figure was in Zagreb City, with just 39.79%.

1. Annulment of Results in Three Areas and for Three Individual Polling Stations

The Constitutional Court accepted an appeal lodged by the HSLs and annulled the results in the Zadar and Biograd town council elections and the Pakostane municipal council elections. This was due to parties being ordered on the ballot in a different order to that determined by Article 36 of the law, which states that parties must be listed in alphabetical order. The Zadar County Election Commission had apparently ordered them according to their acronym rather than full name, resulting in a change in order.

The results were annulled in three polling stations, due to more votes being cast than persons indicated in the register as having voted. The places in question were in Zagreb County and two in Primorsko-Goranska (Rijeka) County. It is likely that this was due to a VC forgetting to mark the register at the time someone voted. Due to the strict stipulations in the law there is no leeway, regardless of the size of the discrepancy, and the results must be annulled for that polling station.

2. Announcement of Official Results

There was some confusion later over the announcement of the official, nation-wide results. The SEC announced that it would not issue the official national results until all the re-run elections had been completed, up to one-month after 20 May, but that individual commissions could, as per Articles 29-31 of the Law issue their own official results. It is not clear why the

SEC exhibited such hesitance, particularly as the law requires results to be announced immediately (Article 49), with no one result being dependent upon the announcement of the results from another unit, and the fact that the law does not foresee any role for the SEC in this regard.

3. Representation of Minorities on Lists of Candidates / Elected Members

Based on an analysis of candidate lists and results from eight of the 20 counties and four major towns.

| | Zagreb | Sisak | Karlovac | Varazdin | Sibenik | Osijek | Vukovar | Liko | Vukovar Town | Osijek City | Split City | Zagreb City |
|-----------------------|--------|-------|----------|----------|---------|--------|---------|------|--------------|-------------|------------|-------------|
| Minority Candidates | 16 | 118 | 87 | 2 | 46 | 173 | 151 | 52 | 115 | 43 | 8 | 57 |
| % Minority Candidates | 3.9% | 18% | 15.2% | 0.7% | 18.7% | 21.2% | 24.5% | 23% | 38.3% | 7.5% | 1.8 % | 3.8% |
| Minorities Elected | 2 | 5 | 1 | 0 | 4 | 8 | 7 | 6 | 11 | 2 | 0 | 2 |
| Total Seats Available | 45 | 49 | 41 | 41 | 41 | 51 | 41 | 45 | 25 | 25 | 25 | 51 |
| % Minority Rep. | 4.4% | 10.2% | 2.4% | 0% | 9.76% | 15.7% | 17.1% | 13% | 44% | 8% | 0% | 4% |

The figures are drawn from candidate lists of all parties standing in the areas mentioned.

- Minorities represented some 12.6% of the total number of candidates standing in the areas analysed. The vast majority of these were Serbs, and most were on Serb party lists - SDSS and Serb People's Party (SNS). If one takes the two Serb parties out of the equation, minority candidates represented some 6.7% of the total candidates. Of the non-Serb parties SDP candidate lists contained most minority candidates.
- However, it is important to stress that minorities even when present on lists were not always in a place with a realistic chance of being elected, as evidenced by the percentage minority representation indicated above. Again, if one discounts the SDSS and SNS from this analysis, only 3.75% (18) of elected candidates were from ethnic minorities, and 15 of these were on SDP lists.
- In conclusion, with the notable exception of the SDP, ethnic Croat political parties largely did not include ethnic minorities on the candidate lists, and certainly not in a position likely to be elected.

4. Gender Balance on Lists of Candidates / Elected Members

| | Zagreb | Sisak | Karlovac | Varazdin | Sibenik | Osijek | Vukovar | Liko | Vukovar Town | Osijek City | Split City | Zagreb City |
|-----------------------|--------|-------|----------|----------|---------|--------|---------|------|--------------|-------------|------------|-------------|
| Women Candidates | 120 | 142 | 122 | 52 | 47 | 172 | 102 | 30 | 55 | 169 | 97 | 435 |
| % Women Candidates | 16.7% | 22.3% | 21.2% | 18.1% | 19.1% | 21.1% | 16.6% | 13% | 18.3% | 29.4% | 22.3% | 29.4% |
| Women Elected | 10 | 8 | 4 | 4 | 4 | 6 | 7 | 1 | 6 | 5 | 3 | 10 |
| Total Seats Available | 45 | 49 | 41 | 41 | 41 | 51 | 41 | 45 | 25 | 25 | 25 | 51 |
| % Female Rep. | 22.2% | 16.3% | 9.8% | 9.8% | 9.8% | 11.8% | 17.1% | 2.2% | 24% | 20% | 12% | 19.6% |

- Based on the analysis of the above areas, some 22.1% of all candidates standing were women, with the highest proportion being in Zagreb City (29.41%).
- The SDP candidate lists contained the highest number of women compared to any other party, with 27.97%. The HDZ had just 12.41% female representation.
- Of the elected representatives, only some 14% were women, with the SDP again the party with the highest representation, 5.59%. Vukovar City Assembly will include 24% female representation (6 out of 25 seats).

VIII. RECOMMENDATIONS

A. LEGAL FRAMEWORK

- The Election Law should not be adopted at such a late stage and the administrative deadlines should be longer than the 30-day minimum provided during the 2001 Local Government Elections. It might be advisable to legislate for a 45-day minimum period, ensuring adequate time for the identification of election commission members, the registration of candidates and a reasonable period for the election campaign.
- The Laws on the election of the Parliament, President and local government should be brought into line, to avoid inconsistencies.
- Penalties for violations should be clearly articulated, with the body responsible for dealing with violations and fines identified. Such violations might include: campaign irregularities, illegal acts by election commissions, infringement of media regulations.
- Provisions for minority representation should to be further clarified. If the current system for electing minority representatives is retained, then it should be ensured that adequate provisions are in place to ensure that representation levels are achieved, the procedures and modalities for the proposed by-elections are established and the mechanism for incorporating elected representatives into the body are clearly articulated.

- The methodology for incorporating census information into specific municipality population figures should take full and appropriate account of refugees, displaced persons and Croatians living outside of the country in terms of their places of permanent residence.
- The 1991 Law on Citizenship should be brought into line with international standards, ending the discrimination against persons who are not ethnic Croats.
- Regulations on the financing of a party's election campaign, disclosure of campaign sources and transparent accounting for campaign expenditure should be established.
- The maximum period between the end of the mandate of the out-going body and the start of the mandate of the newly-elected body should be reduced from the current 90 days.

C. ELECTION ADMINISTRATION

- The extended (political party) members of election commissions should be appointed at the same time or within a few days of the permanent members, ensuring they are full and equal members on all important aspects of the administration of the election.
- A permanent body should be established to support the work of the State Election Commission. This will further increase the professional capacity of the SEC, as well as providing a great resource to voters and political parties in periods between elections. Further, the SEC should be given powers to issue binding instructions to subordinate election commissions, to ensure best and consistent practice is applied in all cases.
- Article 27 of the law should include clear incompatibilities for Chairs of election commissions, including a prohibition on them being officials or members of a party.
- Unlike the Parliamentary Election Law, the Local Election Law does not provide for political party representation on Voting Committees. If it is decided to maintain this formula, then consideration must be given as to how members will be chosen for future elections, as the informal reliance this time on existing members from parties, based on the composition of out-going bodies, will no longer be relevant or acceptable.
- Consideration should be given as to whether special voting provisions should still be given to displaced persons. If it is decided to maintain this provision, then it should be ensured that all such voters are adequately informed of the procedures, and also that persons having lost their displaced person status are fully informed, and in a timely manner, that they must vote at their place of permanent residence.
- The SEC should define criteria for the provision of polling stations, with consideration given to the needs of returning Serb refugees and rural communities generally.

D. VOTER REGISTRATION

- There is a need to update the voter registers, with particular regard given to refugees. This would be facilitated by the provision of a central computerised system.

- The practice of identifying voters on electoral registers by ethnicity should cease.

E. CANDIDATE REGISTRATION

- Lists of candidates should be allowed to contain more names than there are seats available, providing for the replacement of a candidate in the event of their disqualification. This will prevent the entire list from being disqualified in the event that one candidate is ineligible. The extension of the administrative deadlines will also facilitate the provision of a time period between the scrutiny of the lists by election commissions and the final deadline for submission of lists.
- If there is an intention to prohibit candidates appearing on more than one list, this should be made explicit in the law.

F. MEDIA

- There should be clear and explicit guidelines for media coverage of the election campaign, outlining particularly the responsibilities of the state-owned media, as well as the modalities for the provision of any free and paid time.

G. VOTING AND COUNTING PROCEDURES

- The prohibition on family voting should be enforced by Voting Committees. The State Election Commission should work with subordinate election commissions to ensure this is understood and implemented.
- Polling stations should be given adequate materials, such as voting booths or screens, to ensure the secrecy of the vote. Voting Committees should be properly trained to ensure they fully understand this concept and implement the necessary procedures.
- The maximum of 3,000 voters at a polling station should be reduced. The generally high number of voters at many stations (1,500-2,000) should be avoided wherever possible.
- Results should be posted at polling stations and higher level election commissions should make the results publicly available with a breakdown by polling station.