

**INTERIM REPORT  
8 – 17 December 2009**

**18 December 2009**

**I. EXECUTIVE SUMMARY**

- On 30 October, the government called the presidential election for 27 December, providing additional preparation time for this election. The incumbent president has served two five-year terms and is constitutionally precluded from running in this election.
- This election is being contested by 12 candidates. The official campaign period started on 19 November and most candidates have been campaigning vigorously.
- The presidential election law has remained essentially unchanged since 1992. The law is general and lacks detail. The State Election Commission (SEC) has attempted to address this by issuing instructions on various aspects of the election process.
- The SEC operates openly and transparently and is well on track with election preparations, despite a lack of permanent secretariat staff.
- Most OSCE/ODIHR LEOM interlocutors are concerned about the accuracy of the voter lists. Voters could request corrections to their entries on voter lists until 12 December. As of 11 December, voter lists for in-country voting included 4,089,643 voters. Out-of-country voter lists included 405,915 voters as of 11 December.
- The number and distribution of out-of-country polling stations have been disputed by some interlocutors. The quantity has changed only slightly compared to the 2007 parliamentary elections; for this election, 124 of some 270 out-of-country polling stations will be in Bosnia and Herzegovina.
- Presidential candidates are required to disclose their campaign income before election day and to report upon their campaign expenditures after the election. Gaps, however, remain in the legal framework regarding how donations from political parties are to be disclosed. Campaign finance regulations do not provide for audit, sanction and enforcement.
- The media scene is diverse, enabling freedom of expression and presenting voters with a wide range of political views. There is, however, controversy over the application of legal provisions for equal coverage of all candidates, as well as over alleged censorship and political bias within the public broadcaster.
- Election-related complaints can be lodged with the SEC. Its decisions can be appealed to the Constitutional Court.
- Election day observation will be mainly domestic, conducted by observers from the non-governmental organization “GONG”, as well as by presidential candidates and political parties.

- The OSCE/ODIHR Limited Election Observation Mission (LEOM) officially opened in Zagreb on 8 December. It includes a 10-member core team, based in Zagreb, and 12 Long-Term Observers (LTOs) deployed in the regions. The OSCE/ODIHR LEOM began its media monitoring on 4 December.

## II. INTRODUCTION

Following an invitation from the Permanent Mission of the Republic of Croatia to the OSCE and based on the recommendation of the Needs Assessment Mission conducted in early November,<sup>1</sup> the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) officially opened a Limited Election Observation Mission (LEOM) on 8 December. The OSCE/ODIHR LEOM, led by Ambassador Daan Everts, consists of a 10-member core team, based in Zagreb, and 12 long-term observers (LTOs), deployed on 10 December throughout the country. The mission is drawn from 17 OSCE participating States. While the OSCE/ODIHR LEOM will visit a limited number of polling stations on election day, it will not conduct a comprehensive and systematic observation of election day proceedings. On 4 December, the OSCE/ODIHR LEOM started its media monitoring, including of four TV stations and five daily newspapers.<sup>2</sup>

## III. POLITICAL CONTEXT

On 30 October, the government called the presidential election for 27 December. This provided 58 days for election preparations, 28 days over the required minimum.<sup>3</sup> By law, the presidential election is conducted between 30 and 60 days before the expiry of the incumbent's mandate; in this case, on 18 February 2010. President Stjepan Mesić has served two five-year terms and is constitutionally precluded from standing for re-election. Croatia is an EU candidate country since 2004. The latest EU progress report noted that issues of the professionalization of the civil service and embedding anti-corruption principles in the public administration need to be addressed by the government.<sup>4</sup> The fight against corruption appears to be more vigorously pursued since Prime Minister Jadranka Kosor of the Croatian Democratic Union (HDZ) took office in July 2009. This followed the resignation of the previous Prime Minister Ivo Sanader, also from the HDZ. The border dispute between Slovenia and Croatia was addressed by a bilateral arbitration agreement, ratified by the Croatian parliament on 20 November.

## IV. LEGAL FRAMEWORK AND THE ELECTORAL SYSTEM

The legal framework for this election is based on democratic principles articulated in the constitution, which was substantially amended in 2000, transforming the country from a semi-presidential to a parliamentary republic. The primary legislation for this election is the Law on the Election of the President of the Republic of Croatia (presidential election law). This law had remained essentially unchanged since 1992. It is general and lacks detail, particularly in relation

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<sup>1</sup> The OSCE/ODIHR Needs Assessment Mission report is available at:  
[http://www.osce.org/documents/odihr/2009/11/41411\\_en.pdf](http://www.osce.org/documents/odihr/2009/11/41411_en.pdf).

<sup>2</sup> Two channels of the public service broadcaster HRT (HTV1 and HTV2); the privately owned TV Nova and RTL; daily newspapers *Jutarnji List*, *Večernji List*, *24 Sata*, *Slobodna Dalmacija* and *Vjesnik*.

<sup>3</sup> The 30 October decision of the government to call election entered into force on 4 November by its publication in the official gazette.

<sup>4</sup> Croatia 2009 Progress Report, 14 October 2009, available at:  
[http://ec.europa.eu/enlargement/pdf/key\\_documents/2009/hr\\_rapport\\_2009\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2009/hr_rapport_2009_en.pdf).

to electoral complaints, voting procedures and election observation.<sup>5</sup> The SEC has attempted to compensate for this by issuing mandatory instructions, decisions, reminders and manuals.

The constitution establishes that a president is to be elected every five years by a majority of voters in a single, nationwide constituency. If no candidate receives a majority, a second round is held fourteen days later between the first and second placed candidates. Citizens who are at least 18 years of age can vote, including citizens abroad and the incarcerated.

The presidential election law foresees a rather short timeline for the preparation of the election. After the election is called, political parties, individual voters and groups of voters may submit nomination documents to the SEC within 12 days, including a court-attested declaration of nominees' acceptance of nomination and 10,000 voter support signatures. A voter can sign for only one nominee. Then, within a 48-hour deadline, the SEC has to publish the list of candidates in all daily newspapers and ensure that it is broadcast on public radio and television, and sent to diplomatic consular missions and foreign offices. The SEC is also to verify the 10,000 support signatures within this time.

The presidential election law only identifies political parties who have nominated presidential candidates as election observers. However, the SEC issued a mandatory instruction to accredit observers from NGOs and independent candidates, as well as international observers.<sup>6</sup>

## V. REGISTRATION OF CANDIDATES

Any Croatian citizen who has reached 18 years of age and has not been declared incapacitated by a final court decision can run for president. The deadline for submission of nomination documents to the SEC was 16 November. The SEC received 22 nominations, of which seven were rejected for lacking the required number of signatures, two withdrew before the SEC rendered its decision, and one candidacy was rejected for filing late.<sup>7</sup>

Twelve candidates are contesting the presidential election. Of these, five are nominated by political parties: Mr. Andrija Hebrang (Croatian Democratic Union), Mr. Ivo Josipović (Social Democratic Party of Croatia), Mr. Damir Kajin (Istrian Democratic Assembly), Ms. Vesna Pusić (Croatian People's Party), and Mr. Slavko Vukšić (Democratic Party of the Slavonian Planes). Seven candidates are running as independents: Mr. Milan Bandić, Mr. Josip Jurčević, Mr. Boris Mikšić, Mr. Dragan Primorac, Ms. Vesna Škare-Ožbolt, Mr. Miroslav Tuđman, and Mr. Nadan Vidošević. Among these, Mr. Bandić, the mayor of Zagreb, was excluded from his party (SDP) after he decided to run for the presidency. The HDZ membership records of Mr. Primorac and Mr. Vidošević, chairperson of the Croatian Chamber of Commerce, were deleted after they announced their intention to run.

## VI. ELECTION ADMINISTRATION

This election is administered by a three-tiered election administration that includes the SEC, 556 Municipal and City Election Commissions (MEC/CiEC) and some 6,800 Voting Committees (VC). Following recent amendments in the Law on the State Election Commission, the SEC is a

<sup>5</sup> Other relevant laws are: Law on the State Electoral Commission, amended in 2007; Law on Voter Lists, passed in 2007; Law on Campaign Financing for Presidential Elections, passed in 2004; Law on the Financing of Political Parties, Independent Lists and candidates, passed in 2006; Law on Croatian Radio and TV, passed in 2000; Law on Electronic Media, passed in 2003; Law on Political Parties, amended in 2001.

<sup>6</sup> SEC mandatory instruction No. 5070901, 9 November 2009.

<sup>7</sup> The SEC decisions, 17 and 20 November 2009.

permanent, independent and professional body responsible for oversight and administration of all elections and referenda.<sup>8</sup> The SEC is composed of nine members. The President of the Supreme Court is, by law, also the President of the SEC. The SEC has two vice-presidents, who are judges of the Supreme Court. Two other vice-presidents and four members are elected by parliament, upon proposals from government and opposition parties, each appointed for an eight-year term. Those members must be experienced lawyers, and must not be members of a political party. Sessions of the SEC are open to the public and to observers; the SEC publishes daily updates on its website, but does not have a consistent system for posting its decisions.

By law, the SEC is entitled to have a secretariat and expert support staff, but the number of staff is not specified. The SEC informed the OSCE/ODIHR LEOM that they are lacking some fifteen employees. This is being partly compensated by temporary staff from the parliament and courts.

MECs/CiECs are temporary bodies, established by the SEC for each specific election. These commissions are composed of a president, two members and three deputies, all chosen among lawyers and judges. They cannot be members of political parties. On 9 December, the SEC held a training session for CiEC chairpersons and their deputies from all 21 county capitals. The 42 trained members are then to pass information to the MECs and to other CiECs in their counties.

VCs are appointed by the MECs/CiECs no later than five days before election day.<sup>9</sup> Each VC is composed of a chairperson, two members and their deputies. Members must not be members of political parties, but they are not required to be lawyers or judges. The SEC has prepared a manual for the work of VCs, with step-by-step explanations of election-day procedures. Each MEC/CiEC should train VC members. The short timeframe for establishing VCs before election day, however, leaves little time for this.

GONG, a domestic election observer group, will deploy observers to some 10 to 15 per cent of polling stations, and will also conduct observation of out-of-country voting. Presidential candidates and political parties will also conduct observation of the election process.

### **Voter Registration and Voter Lists**

Croatia has a passive continuous system of voter registration, compiled in a centralized, computerized database, maintained by the Ministry of Public Administration (MPA) via its local offices. Voter lists are compiled and updated on the basis of data maintained by institutions responsible for different civil records, including those related to citizenship, residence and travel documents. Thus, generally, voters do not have to take any action to register to vote. Although the SEC supervises the conduct of elections, it has no jurisdiction over the voter lists. For this election, voters could check their registration in the voter lists at local MPA offices, on the MPA website or by SMS, and request corrections by 12 December. Registered voters, who on election day expect to be temporarily absent from their residence, could request to be taken off their original voter list until 12 December and receive a temporary registration certificate, indicating the intended municipality or country of their voting.

The accuracy of the voter lists remains a matter of concern during this election, especially because the number of deceased persons on the lists is widely believed to be high. The Prime Minister has confirmed the government's awareness of inaccuracies but noted that it would be

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<sup>8</sup> Adopted April 2006 and amended February 2007.

<sup>9</sup> The deadline for the establishment of VCs for the upcoming election is 21 December.

difficult to deal with them so close to the election.<sup>10</sup> Additionally, the MPA informed the OSCE/ODIHR LEOM that a citizen of Croatia can retain residency in the country even when the person has established dual citizenship and permanently lives abroad. If they do not pre-register to vote abroad, there is no official way to remove such citizens from in-country voter lists. As of 11 December, 4,089,643 citizens were registered on the in-country voter lists. Several OSCE/ODIHR interlocutors pointed to the fact that this number is unrealistically high, given that the official total estimated population of the country is 4,436,000.<sup>11</sup> Others, for instance the State Secretary of the Ministry of Interior, informed the OSCE/ODIHR LEOM that the official estimation of the population is actually much higher.

### **Out-of-country voting (OCV)**

By law, all citizens of Croatia residing abroad have the right to vote.<sup>12</sup> Therefore, those who do not have permanent residence in Croatia are passively registered in the out-of-country voter list. This list is compiled by the City of Zagreb Public Administration Office, which receives information from the citizenship records as well as from travel document records of the Ministry of Foreign Affairs. As of 11 December, 405,915 citizens without permanent residence in Croatia were registered on the out-of-country voter lists. Citizens, who live outside the country but have maintained a residence in Croatia, have to pre-register in order to be included in the voter list in the place where they actually live.<sup>13</sup> In such cases, they must be temporarily deregistered from the in-country voter list.

The SEC, in close co-operation with the Ministry of Foreign Affairs, is responsible for establishing polling stations abroad. This must be completed no later than five days before election day. For this election, the SEC expects to establish approximately 270 polling stations in 55 different countries,<sup>14</sup> of which 124 will be in Bosnia and Herzegovina (BiH). The number of OCV polling stations and especially their density in some countries has been criticized by OSCE/ODIHR LEOM interlocutors as favouring some and disadvantaging other out-of-country residents, as well as some presidential candidates.

## **VII. THE CAMPAIGN**

The official campaign period started on 19 November 2009. The main sources of information for voters are print and electronic media. The campaign is visible throughout the country, especially in the capital city and regional centres. Most presidential candidates are holding meetings, rallies and entertainment events. A number of candidates have visited BiH to garner the out-of-country vote there. The tone of the campaign has recently become sharper, with some candidates levelling personal accusations against each other rather than discussing substantive issues. Among campaign topics, the issue of corruption dominates with the economic crisis, the arbitration agreement with Slovenia, EU accession, and the relationship with BiH also playing a role.

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<sup>10</sup> Comment broadcast by Radio Free Europe, 23 November.

<sup>11</sup> State Statistics Office, data from 2007, [http://www.dzs.hr/default\\_e.htm](http://www.dzs.hr/default_e.htm).

<sup>12</sup> The Constitution, Article 45; the Presidential Election Law, Article 5.

<sup>13</sup> The deadline for pre-registration or temporary registration of out-of-country voters was 12 December.

<sup>14</sup> In 2007, 263 polling stations were established in 53 countries.

## Campaign finance

By law, presidential campaigns may be financed by candidates' own resources and from donations by citizens and legal entities. Foreign donations are prohibited. Individuals can donate up to 90,000 HRK (approximately 12,300 EUR) to a political party or presidential candidate and legal entities can donate up to one million HRK (approximately 136,900 EUR) per calendar year. There are no spending limits. Candidates have to report to the SEC seven days prior to election day the amounts and sources of funds collected and fifteen days after the election the amount and sources of funds spent on their election campaigns. Candidates who have been nominated by political parties do not have to disclose the source of funds that come from their respective parties. Campaign finance regulations do not provide for auditing of income and expenditure, sanctions for non-compliance with regulations, or enforcement mechanisms.

## VIII. MEDIA

Croatia has a diverse media environment, generally enabling freedom of expression and presenting voters with a wide range of views. However, international and domestic media organizations have raised concerns about the deterioration of the media environment. This is most importantly due to violence against two journalists in 2008, but also because of a weakening of editorial and professional standards, issues about political affiliations within the state broadcaster, and a lack of investigative reporting. The OSCE Representative on Freedom of the Media has called on the Croatian authorities to ensure that journalists can work safely.<sup>15</sup> Several arrests have been made in one case, but the perpetrators in both instances have yet to be convicted.

Television is, by far, the most important source of political information. The Croatian public service broadcaster *Hrvatska radiotelevizija* (HRT) consists of two terrestrial TV stations (HTV1 and HTV2) and five radio channels. On 20 November, HRT journalists protested against alleged censorship, reacting to the suspension of a colleague whose guest had talked about corrupt officials.<sup>16</sup> Following criticism from politicians and journalists about deteriorating professional and editorial standards and alleged bias in HRT's election coverage, the HRT director, along with two other top managers, resigned on 8 December. Another protest was held on 10 December by the Croatian Association of Journalists against what they considered "the deteriorating situation of journalists and growing censorship."

The presidential election law contains provisions governing media conduct during an election campaign, *inter alia* requiring equal conditions for media coverage for presidential candidates' campaigns. To supplement the law, the HRT council, which oversees the work of HRT, on 26 November adopted campaign coverage rules. According to these rules, each candidate on HRT is entitled to five special reports lasting up to two minutes, one appearance in a thirty-minute talk show program, and two appearances in special debate programs with all candidates. The order of appearance of candidates in these programs and dates were determined by a lottery held at HRT on 19 November.

Different media outlets have broadcast campaign programs and candidate debates. The first debate on HRT among ten candidates (two decided not to participate) took place on 20 November. The second debate is scheduled for 22 December. Private *TV Nova* divided the candidates in two groups, showing activities of the first group of six candidates in its news

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<sup>15</sup> See the OSCE Representative on Freedom of the Media's Regular Report to the OSCE Permanent Council, 27 November 2008, at [http://www.osce.org/documents/rfm/2008/11/35149\\_en.pdf](http://www.osce.org/documents/rfm/2008/11/35149_en.pdf).

<sup>16</sup> HRT's editor-in-chief gave the unprofessional conduct of the journalist as the reason for the suspension.

programs, while there was limited or no coverage of the other six candidates. The same criteria were applied for its candidate debate program “Presidential Race”. Some candidates who were not included in the first group, complained to the SEC about unequal treatment (see section below) and declined to participate in a second debate.

## IX. COMPLAINTS AND APPEALS

The SEC serves as the first instance for receiving all election-related complaints. However, the presidential election law gives the SEC only limited authority to address complaints. The SEC has no mechanism to enforce its rulings, apart from issuing press statements about its decisions that should prompt the candidates or the media to comply with the law. SEC decisions on complaints can be appealed at the Constitutional Court.

Several election-related complaints were filed with the SEC by presidential candidates for unequal treatment by the media. In one case, the SEC issued a press release underlining to *TV Nova* its responsibility to provide equal conditions for candidates when it broadcasts debates. In response to another complaint, the SEC advised HRT that it was inappropriate for television guests to express their views on specific candidates and invite viewers to vote or not to vote for specific candidates where the topic of the program is not the presidential election. In addition, the SEC on 30 November 2009 issued a press release about its decision to prohibit candidates from raising money via telephone or SMS on the basis that such donations do not enable identification of the donor, contrary to the law prohibiting anonymous donations and to principles of transparency in campaign finance.<sup>17</sup> However, should candidates continue to raise money in this manner, the SEC has no mechanism to enforce its ruling. The Constitutional Court on 15 December confirmed the SEC’s decision.

## X. PARTICIPATION OF NATIONAL MINORITIES AND WOMEN

There are in total 22 official minorities in Croatia, the largest of them Serbs (4.6 per cent), Bosniaks (0.47 per cent), and Italians (0.44 per cent).<sup>18</sup> Among the nominees for the presidential election, a representative of the Serb minority, nominated by a coalition of Serb parties, collected the required 10,000 signatures, but withdrew before the SEC approved his candidacy.

There are two women among the twelve presidential candidates. Two vice-presidents of the SEC are women, as are five of thirteen judges of the Constitutional Court. There are four women members in the 21-member government, which is also led by a female prime minister. Women appear to be well-represented among candidates’ campaign staff.

## XI. OSCE/ODIHR LEOM ACTIVITIES

The OSCE/ODIHR LEOM officially opened in Zagreb on 8 December 2009. The Head of the OSCE/ODIHR LEOM has met representatives of the Ministry of Foreign Affairs, the SEC and the majority of presidential candidates, as well as representatives of civil society and the media. The OSCE/ODIHR LEOM is meeting government representatives, election officials, candidates’ campaign staff and other election stakeholders in the capital and the regions. The OSCE/ODIHR LEOM began its media monitoring on 4 December.

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<sup>17</sup> Law on Financing of Political Parties, Independent Lists and Candidates.

<sup>18</sup> According to the census of 2001.