



Office for Democratic Institutions and Human Rights

# REPUBLIC OF CROATIA

## PARLIAMENTARY ELECTIONS 2007

### OSCE/ODIHR NEEDS ASSESSMENT MISSION REPORT

25-28 September 2007



Warsaw  
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**OSCE/ODIHR Needs Assessment Mission Report  
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**I. INTRODUCTION**

In anticipation of an invitation from the Government of the Republic of Croatia to observe the upcoming parliamentary elections, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) undertook a Needs Assessment Mission (NAM) to Zagreb from 25 to 28 September. The NAM was comprised of Mr. Vadim Zhdanovich, OSCE/ODIHR Senior Election Adviser and Mr. Jonathan Stonestreet, OSCE/ODIHR Election Adviser.

The purpose of the OSCE/ODIHR NAM was to assess the conditions and preparations for the forthcoming parliamentary elections, and advise on modalities for a possible election-related observation activity. The OSCE/ODIHR NAM met with officials of the Ministry of Foreign Affairs, State Administration Office, representatives of the Sabor (Parliament), the State Election Commission, Members of Parliament representing national minorities, political parties, non-governmental organisations (NGOs), media organizations and the international community.

The OSCE/ODIHR is grateful to the Ministry of Foreign Affairs of the Republic of Croatia for the co-operation provided to the NAM. The OSCE/ODIHR also takes this opportunity to express its appreciation for the support and assistance provided by the OSCE Mission to Croatia.

**II. EXECUTIVE SUMMARY**

Elections to the Parliament are expected to be called for 25 November 2007. The Parliament is elected by proportional representation from ten constituencies in Croatia, as well as from one constituency representing citizens residing outside of Croatia. In addition, there are seats set aside for national minorities. A large number of political parties are expected to compete.

Since the 2003 parliamentary elections, the Parliament has adopted laws in order to further strengthen the election process, although the parliamentary Election Law itself remains largely unchanged. In 2006 and 2007, the legislative changes addressed the compilation and maintenance of the voters' list, the establishment of the State Election Commission (SEC) as a permanent body, and the regulation of political party financing. While much of the new legislation follows previous OSCE/ODIHR recommendations, its implementation remains largely untested in an election context.

The new Law on the State Election Commission was further modified in February 2007 to include Supreme Court justices in the leadership of the SEC. The SEC was then formed in its new composition, and a Secretariat has been established to support

its work. Political parties and civil society overall expressed confidence in the SEC and lower levels of election administration.

Registered voters living outside Croatia may represent around 10 per cent of the electorate. Some concerns were expressed regarding the challenges related to the organization of the election process for these voters, the majority of whom are in Bosnia and Herzegovina. Although some steps have been taken to improve the process, the potential issues for out-of-country (diaspora) voting include the number and location of polling stations, the quality of the voters' lists, and ensuring that election day procedures are conducted in accordance with the law.

National minority representatives said that legislation related to minorities was generally good. However, some issues were raised, including the electoral system, the number of polling stations to be established in Serbia and in Montenegro to serve out-of-country voters, procedures for identification of national minorities on the voters' lists, and effective media access during the campaign.

There appears to have been considerable progress in establishing freedom of the media in Croatia, and media organizations did not raise concerns in this respect. Some concerns remain regarding the criteria for appointment to and the activity of the body regulating the public television broadcasters. Most media and political party representatives identified provisions requiring absolute equality in airtime for all election contestants as problematic, as the resulting large number of spots is watched by few voters, purportedly making it difficult for any party to convey their messages to voters.

In anticipation of an invitation to observe the parliamentary elections, the OSCE/ODIHR recommends the establishment of a Limited Election Observation Mission (LEOM) for a period of approximately four weeks prior to election day. However, given the overall confidence expressed by political parties and others in the election day proceedings, the presence of a credible domestic observer organization, and past OSCE/ODIHR findings, the deployment of short-term observers is not considered necessary.

### **III. FINDINGS**

#### **A. BACKGROUND**

Under the 2001 Constitution the Sabor is a unicameral parliament consisting of between 100 and 160 seats, with the system of election – including the number of deputies elected from each constituency – determined by law.<sup>1</sup> The Parliament is elected for a maximum four-year term, with the last elections held on 23 November 2003. The current government is led by the HDZ (Croatian Democratic Union) with the participation of HSLS (Croatian Social Liberal Party), HSU (Croatian Party of Pensioners), and SDSS (Independent Democratic Serbian Party).

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<sup>1</sup> The current Parliament has 152 deputies.

Elections must be called no more than 60 days, but not less than 30 days, from the date of the dissolution of Parliament, which is still in session at the time of writing. Most interlocutors met during the OSCE/ODIHR NAM expected that 25 November 2007 would be the likely date for the elections, and all political parties met by the NAM stated that this date would be satisfactory.

The official election campaign does not begin until the registration of party lists is completed 14 days after the calling of elections; however, political discussion and media coverage is already focusing on the elections. Political parties informed the OSCE/ODIHR NAM that they expected the campaign to deal with issues of reforms in health care, education, and pension systems; judicial reform and economic issues, as well as NATO and EU accession. The main government party, HDZ, stated that it would promote the achievements of the government, while the opposition Social Democratic Party (SDP) and Croatian's People's Party (HNS) said that corruption would be a major issue. Some interlocutors believe that post-conflict issues, such as war crimes trials and co-operation with the International Criminal Tribunal for the former Yugoslavia (ICTY), will nevertheless be prominent issues in the campaign.

The Law on Political Parties enables parties to register as legal entities without difficulty, as the main requirement for the formation of a party is that it has at least 100 members. Over 100 political parties are registered, and a large number of parties are expected to present candidate lists for the election. Many of these are very small, and according to most interlocutors do not appear to conduct any activities between elections.

The OSCE/ODIHR has observed a number of elections in Croatia. The 2003 parliamentary elections were found to be conducted generally in line with OSCE commitments and international standards for democratic elections, although some outstanding concerns were identified.<sup>2</sup>

## **B. LEGAL FRAMEWORK**

The election system is defined by the Law on the Elections of Representatives to the Croatian Parliament (1999, hereafter "Election Law"). The law has been amended since that time, but the system itself remains substantially the same as in 2003. The parliament is elected by proportional representation from 11 multi-member constituencies. The territory of the Republic of Croatia is divided into ten constituencies electing 14 deputies each. An additional constituency represents Croatian citizens residing abroad, with the number of deputies elected from this constituency depending on the overall voter turnout. Political parties must receive 5 per cent of the vote in a constituency to receive a mandate. There are 8 seats reserved for representatives of national minorities, who are elected in a majoritarian system.

In addition to the Election Law, the parliamentary elections are regulated by a number of other laws as well as decisions, instructions and regulations of the State Election

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<sup>2</sup> The OSCE/ODIHR Election Observation Mission Report on the 23 November 2003 Parliamentary Elections in the Republic of Croatia is available at [www.osce.org/odihr-elections/14356.html](http://www.osce.org/odihr-elections/14356.html)

Commission (SEC). Since the 2003 parliamentary elections, the legislative framework has been modified in several respects. A roundtable to discuss electoral reform was organized in November 2004 in a joint effort of the OSCE Mission to Croatia, the Venice Commission of the Council of Europe, and the OSCE/ODIHR. Several issues were identified, *inter alia* the establishment of a permanent election administration, reform of the voters' lists, regulation of campaign financing, and harmonization of election legislation. Some of the subsequent changes to the legislative framework represent improvements and address some of the previous recommendations made by the OSCE/ODIHR and the Venice Commission.<sup>3</sup>

The Law on the State Election Commission was adopted by Parliament on 31 March 2006. The law established the State Election Commission (SEC) as a permanent, independent, and professional body elected by the Parliament, with a Secretariat to support its work. The law was amended in February 2007 to provide that the President of the Supreme Court is *ex officio* the President of the SEC, and that two of the SEC Vice Presidents are Supreme Court judges.

The Law of Voters' Lists was adopted on 9 February 2007. The law does not change the passive system of voter registration, but makes a number of improvements to the system. These include: clarification of the procedures used to compile the lists; provision for electronic processing of the information gathered; limiting the use of voting certificates by voters temporarily outside their place of residence on election day; access of citizens to the voter lists on a continuing basis; and prior registration for citizens who reside abroad permanently or "for a longer period of time" (including refugees) or who are travelling outside the Republic of Croatia on election day. Some concerns remain, however, particularly with regard to the accuracy of the voters' lists for citizens residing outside of the Republic of Croatia.

The Law on Financing of Political Parties was adopted on 15 December 2006. The law introduces a prohibition on anonymous donations, establishes limits for contributions by natural and legal persons, and requires that parties file reports with the State Audit Office and the Ministry of Finance. While it was generally considered that the law represents a considerable step forward over previous regulation of party financing, several interlocutors noted concerns regarding some aspects of the law, especially the transparency of financial reporting, the effectiveness of control over financing, and the lack of specific provision for regulation of campaign financing.

### C. ELECTION ADMINISTRATION

Elections are administered by a four-tier system of independent bodies, including the State Election Commission, Constituency Electoral Commissions (CEC), Municipal and City Electoral Commissions (MEC and CiEC), and Voting Committees.

The SEC in its new composition was established in February 2007, after the adoption of the amendment to the Law on the State Election Commission. Under the law, the

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<sup>3</sup> Joint opinions of the OSCE/ODIHR and the Venice Commission on election related legislation in the Republic of Croatia are available at [www.osce.org/odihr-elections/19391.html](http://www.osce.org/odihr-elections/19391.html)

SEC is now composed of nine persons: the President of the SEC (the President of the Supreme Court); two Vice Presidents who must be justices of the Supreme Court elected by the Court; two Vice Presidents who are elected by Parliament, proposed by the majority and opposition parties respectively; and four members elected by the parliament, two proposed by the majority and two by the opposition parties. The commissioners must be lawyers and must not be members of a political party. The Vice-Presidents and members have eight year terms.

As the SEC had previously functioned only during election periods and lacked a permanent Secretariat, the new law gives the SEC greater ability to regulate the election process adequately and to ensure the implementation of the election legislation and regulations. However, the amendments providing for the participation of Supreme Court judges in the SEC place additional burdens on the work of the Supreme Court. The President of the SEC indicated that he would welcome a solution agreed by the next Parliament that would make the SEC completely separate from the Court.

The CECs and MECs/CiECs will function as in 2003. The commissions are temporary bodies formed after the calling of elections, with the President and deputies appointed by the next higher commission and an additional number of members representing a balance of majority and opposition political parties added after the registration of candidate lists. Voting Committees administer the polling stations on election day and are appointed by the CECs on the proposal of the MECs/CiECs. They are similarly composed of a balance of nominees from political parties. The SEC stated that the number of polling stations is likely to remain around 6,500 on the territory of Croatia. The SEC plans to organize training for election commissions.

All interlocutors expressed confidence in the SEC, as well as in lower level election administration on the territory of the Croatia, but the organization of elections outside the borders of Croatia garners less confidence.

#### **D. DIASPORA/OUT-OF-COUNTRY VOTING<sup>4</sup>**

Registered voters outside of Croatia vote for candidate lists in a dedicated constituency, with the number of mandates in the constituency determined after the election on the basis of turnout overall and in the diaspora. As voter registration is not finalized until 14 days prior to the election, the final number of such potential voters is not yet known. In 2003, there were nearly 400,000 voters registered on out-of-country lists, out of a total of over four million registered voters.

Most interlocutors, including representatives of official bodies, noted that this aspect of the election process presented challenges and needed enhanced measures to ensure that the process for out-of-country voters would be conducted in accordance with the law. Potential issues were identified such as the number and location of polling stations, the quality of the voters' lists, the composition of election commissions, and safeguards for the integrity of the voting and counting processes.

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<sup>4</sup> The words "diaspora" and "out-of-country" are used interchangeably throughout. Both terms are used in Croatia.

Voting takes place in polling stations established in countries with Croatian embassies or consulates. The SEC decides the number of polling stations in each country and the composition of the Voting Committees on the proposal of the respective ambassador of Croatia. The number of polling stations had not been decided at the time of the OSCE/ODIHR NAM, but the SEC indicated that it could be between 160 – 180 worldwide. There were estimates that some 60 to 70 polling stations will be established in Bosnia and Herzegovina, where the largest number of out-of-country voters reside. This would be a significant increase over the 2003 elections. It is likely that out-of-country voting will take place over a two day period.

Most interlocutors were confident that the Law on Voters' Lists would ensure the quality of voters' lists used on the territory of the Republic of Croatia but noted that the lists for those citizens residing outside Croatia could contain the names of non-existent or deceased voters. According to the State Secretary, whose office administers the voters' lists, the problem is due to the difficulty in obtaining death certificates and changes of address for citizens living abroad. In this respect, he highlighted the new requirement for previous registration of voters abroad as an important element in improving the voters' lists for this category of voters.

The SEC, political parties, and civil society acknowledged that controlling the legality of the conduct of voting and counting outside Croatia was more difficult than for polling stations inside the country. The SEC emphasized that it would be conducting training for Voting Committees established in Bosnia and Herzegovina to ensure knowledge of the procedures. In addition, the SEC plans to send expert teams composed of judges to circulate among polling stations in Bosnia and Herzegovina on election day. The domestic observation NGO "GONG" intends to deploy observer teams in Bosnia and Herzegovina and possibly in Serbia. Instances of serious procedural violations, including multiple voting, were brought to the attention of the authorities by GONG after the 2005 presidential election.

#### **E. NATIONAL MINORITY ISSUES**

The Election Law sets aside 8 seats to be elected by voters from the 22 recognised national minority groups in Croatia. Voters who are identified on the voters' list as being from a national minority are permitted to choose to vote for national minority candidates or in the general election. For some minority groups, relatively few voters choose to vote for the candidates to represent their minority, choosing instead to vote for the general list for their constituency. This means that some MPs are elected with a small number of votes, which may undermine the perceived legitimacy of these mandates. As a result, some interlocutors advocated allowing minority voters to cast ballots in both elections while others would like to change the system for electing minority MPs entirely.

Other issues raised by representatives of national minorities included ensuring that an adequate number of polling stations will be established in Serbia and in Montenegro so that these voters, a large number of whom are refugees, do not have to travel long distances to get to a polling station. The OSCE/ODIHR NAM was informed that requests for additional polling stations in Serbia have been made and that the issue is



under consideration. Another issue raised was the lack of clarity in determining how voters are identified in the voters' lists as belonging to a minority group, and the format of media access by minority candidates during the campaign, which makes it difficult for these candidates to address their potential voters.

A potential issue could also be the use of expired documents. The SEC is considering eliminating expired documents as valid identification for voting purposes due to the risk of potential fraud outside Croatia. However, another interlocutor stated that obtaining new documents could constitute a burden for some refugees. In this view, the issue is not the use of expired identity documents but the quality of the voters' lists.

## **F. MEDIA**

Citing progress made by Croatia in the freedom of the media, the OSCE Mission to Croatia closed its Media Unit at the end of 2006. However, the OSCE Mission noted the need to amend the current law on the public broadcaster (Croatian Radio and Television -HRT), primarily to enhance the role of their regulatory body, the HRT Programme Council, and to ensure that its members are elected and function without political interference. The Council appoints the HRT management, program editors and directors. Some concerns were expressed to the OSCE/ODIHR NAM regarding the criteria for appointment of the Council and the potential effect on the independence of HRT. The NAM was not able to meet representatives of Croatian Television (HTV) or the HRT Programme Council to hear their views.

In addition to the Law on Croatian Radio-Television, several laws affecting media have been adopted since the beginning of 2003, including the Law on Electronic Media, the Law on Media, the Law on Access to Information, and the Data Secrecy Act.

After the 2003 elections, the OSCE/ODIHR EOM found that the media, as a whole, provided voters with a variety of political views and that candidates were able to present their platforms freely. However, the requirement for television and radio broadcasters to provide free airtime on an equal basis to all election contestants, together with the large number of contestants and substantial amounts of free airtime, resulted in lengthy broadcasts of party programs. At the time, the public broadcaster HTV reported that audience ratings for these presentations were very low, and the broadcasts therefore did not have the effect of informing the public.

A number of representatives of media and political parties advocated changing the equality requirement, but noted that is likely to remain in place for the upcoming elections. They also told the OSCE/ODIHR NAM that the requirement precludes the organization of meaningful debates among candidates, due to the obligation to include all contestants. Other interlocutors supported the equality provision in principle, stating that the issue was caused not by the requirement for equality, but rather by the large number of political parties.

## G. ELECTION OBSERVATION

Political parties met by the OSCE/ODIHR NAM did not see a particular need for international election observation on election day. They expressed confidence in the conduct of voting, counting and aggregation of results due to the participation of political parties in election administration bodies, the oversight of the SEC, the deployment of domestic observers, and the conduct of previous elections. However, most parties also indicated that international observation of the overall process could enhance transparency and would be welcomed. In addition, some interlocutors requested that consideration be given to observing the conduct of out-of-country voting in Bosnia and Herzegovina and in Serbia.

The parliamentary Election Law, unlike laws regulating other elections in Croatia, does not make a specific provision for the presence of international observers or for political party observers. Nevertheless, the Chairman of the SEC stated that accreditation of any observers that OSCE/ODIHR might decide to deploy would not be an issue.

The main domestic observation organization is GONG, which is already monitoring election preparations and plans to deploy some 1500 observers on election day. In addition, GONG is working with the SEC on the publication of a handbook for domestic observers and will conduct a voter education effort.

## IV. CONCLUSIONS

On the basis of the findings described above, and in anticipation of an invitation to observe the parliamentary election, the OSCE/ODIHR recommends the establishment of a Limited Election Observation Mission (LEOM) for a period of four weeks prior to election day.

In order to follow the issues identified in this report as well as any other significant election-related issues that may arise during the course of the parliamentary elections, the OSCE/ODIHR requests that the OSCE participating States send twelve (12) long-term observers to be deployed throughout Croatia. However, given the overall confidence expressed in the election day proceedings by political parties and civil society, and past OSCE/ODIHR findings, short-term observers are not considered necessary in the context of comprehensive or systematic election day observation.

## LIST OF MEETINGS

### **Ministry of Foreign Affairs and European Integration**

Mr. Vinko Ljubičić, Assistant Minister, Directorate for Consular Affairs  
Mr. Mirko Knežević, Head of Department, Directorate for Consular Affairs

### **Central State Office for Administration**

Mr. Antun Palarić, State Secretary  
Mr. Pavle Matičić, Deputy State Secretary  
Ms. Ruža Šimunec, Head of Department of Civil Status

### **Parliament (Sabor)**

Mr. Mato Arlović, Deputy Speaker  
Mr. Dražen Bošnjaković, Chairman of the Committee for Constitution, Standing Order and Political System  
Mr. Furio Radin, Chairman of the Committee for Human Rights and National Minority Rights  
Mr. Milorad Pupovac, Serb National Minority Member of the Parliament

### **State Election Commission**

Mr. Branko Hrvatin, President (President of the Supreme Court)  
Ms. Zdravka Čufar-Šarić, Vice President  
Mr. Jakob Miletić, Vice President

### **Political Parties**

Mr. Igor Dragovan, Secretary General, Social Democratic Party (SDP)  
Mr. Josip Leko, President of the Managing Board (SDP)  
Dr. Mario Zubović, Secretary, Croatian Democratic Union (HDZ)  
Mr. Josip Friščić, President, Croatian Peasant Party (HSS)  
Mr. Darko Till, International Secretary, Croatian Peasant Party (HSS)  
Ms. Vesna Pusić, President, Croatian People's Party (HNS)

### **National Minorities**

Ms. Zdenka Čuhnil, Member of Parliament (representing Czech and Slovak minorities)  
Mr. Šemso Tanković, (Party of Democratic Action of Croatia; representing Albanian, Bosnian, Montenegrin, Macedonian and Slovenian national minority in Sabor)  
Mr. Aleksander Tolnauer, Head of the Council of National Minorities  
Ms. Milena Klajner, Head of the Government's Office for National Minorities  
Mr. Tin Gazivoda, Director of Human Rights Center, Zagreb  
Mr. Vlatko Silobrčić, President of the Croatian Helsinki Committee, Zagreb

### **Domestic Observers Group GONG**

Ms. Susana Jašić, President  
Ms. Vanja Škorić, Lawyer  
Mr. Dragan Zelić, Vice President

### **Media**

Ms. Zrinka Vrabec Mojzeš, Journalist, Radio 101  
Mr. Darko Odorčić, Editor-in-Chief, HINA News Agency  
Ms. Danijela Zelić, Internal Affairs Editor, HINA News Agency  
Ms. Sanja Modrić, Journalist, Jutarnji list (daily newspaper)

### **International Community (based in Zagreb)**

Ambassador Luis Barrieros, Embassy of Portugal;  
Mr. Joonas Heiskanen, Embassy of Finland ;  
Ms. Bernarda Gradišnik, Minister Plenipotentiary, Embassy of Slovenia;  
Mr. Igor Derco, Charge d'Affaires, Embassy of Slovakia;  
Ms. Hildegard Bentele, First Secretary, Embassy of Germany;  
Mr. Martin Mayer, Political Adviser, EC Delegation;  
Mr. Neven Crvenković, Spokesman, UNHCR;  
Ms. Violeta Liović, UNDP