

INTERIM REPORT
9 November – 21 November 2011

25 November 2011

I. EXECUTIVE SUMMARY

- Following the dissolution of the parliament on 28 October 2011, parliamentary elections were called by the President for 4 December. These elections will be the seventh parliamentary elections following Croatia's independence in 1991, and the first since the conclusion of European Union accession negotiations on 30 June.
- Voters will elect 151 Members of Parliament (MPs) from 12 constituencies. The territory of Croatia is divided into 10 constituencies which each elect 14 MPs. In addition, three out-of-country and eight national minority MPs are elected from two non-territorial constituencies.
- The legal framework has undergone several revisions since the last parliamentary elections. Changes in out-of-country voting provisions fix the number of out-of-country seats at three and limit voting locations to diplomatic and consular offices. New campaign finance regulations are also being implemented for the first time.
- The elections are administered by a four-tier system, headed by the State Election Commission (SEC). SEC sessions are public and all decisions and instructions are published on its website. Training of lower-level election commissions is currently underway.
- In an inclusive process, a total of 313 candidate lists have been registered by the SEC for these elections. The ruling Croatian Democratic Union (HDZ) and the *Kukuriku* coalition, which includes four opposition parties, are running the strongest campaigns.
- The official campaign began on 17 November and has been calm and relatively low-key. While billboards and rallies are used, parties are focusing on small meetings and use of social networking sites. Some OSCE/ODIHR LEOM interlocutors have raised concerns about potential misuse of administrative resources.
- Croatia has a diverse media landscape. National media are obliged to provide airtime to all contestants on an equal basis. OSCE/ODIHR LEOM interlocutors noted that this often results in lacklustre campaign coverage in the public media and very limited coverage in the private media.
- Six complaints pertaining to candidate registration have been filed with the SEC so far, all of which have been dismissed. Four of the complaints were appealed to the Constitutional Court, which has upheld two of the SEC decisions and will decide on the other two in the coming days.
- The OSCE/ODIHR LEOM opened in Zagreb on 9 November with a ten-member core team and six long-term observers who were deployed on 16 November to three locations.

II. INTRODUCTION

Following an invitation from the Ministry of Foreign Affairs and European Integration of the Republic of Croatia, and based on the findings and conclusions of the Needs Assessment Mission,¹ on 9 November 2011 the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) established a Limited Election Observation Mission (LEOM) to observe the 4 December 2011 parliamentary elections. The LEOM, led by Ambassador Geert-Hinrich Ahrens, consists of a ten-member core team based in Zagreb and six long-term observers (LTOs) who were deployed on 16 November to three locations around the country.² The mission members are drawn from 13 OSCE participating States. In line with OSCE/ODIHR methodology for LEOMs, the mission will not undertake a comprehensive observation of election day proceedings.

III. BACKGROUND

The 4 December 2011 parliamentary elections were called by President Ivo Josipović on 31 October, following the dissolution of parliament on 28 October. These elections will be the seventh parliamentary elections following Croatia's independence, and the first since the conclusion of European Union (EU) accession negotiations on 30 June. Croatia is expected to sign the EU Accession Treaty on 9 December, with a national referendum on accession expected to be held in the following months.

The current government is led by the Croatian Democratic Union (HDZ), with the participation of the Croatian Peasant Party (HSS), and the Independent Democratic Serbian Party (SDSS). The governing parties are challenged primarily by the *Kukuriku* coalition, comprising the Social Democratic Party (SDP), the Croatian People's Party – Liberal Democrats (HNS), the Istrian Democratic Assembly (IDS) and the Croatian Party of Pensioners (HSU).³

The elections come at a time when the HDZ faces corruption charges against its former leadership, including ex-Prime Minister Ivo Sanader. On 27 October, it was announced that the State Attorney's Office for the Suppression of Corruption and Organized Crime (USKOK) had expanded the probe to the HDZ as a legal entity.

IV. LEGAL FRAMEWORK

The primary law governing the 2011 elections is the 1999 Law on the Election of Representatives to the Croatian Parliament (LERCP, amended in 2010). The legal framework is fragmented and encompasses a number of other laws, including the Constitution (1990, amended in 2010), the Law on Voter Lists (2007), the Law on the State Election Commission (2006, amended in 2007), the Law on Constituencies (1999), the Law on Political Parties (1993, amended in 2001) and the Law on Political Activity and Election Campaign Financing (2011). Legislation is complemented by instructions issued by the State Election Commission (SEC). OSCE/ODIHR has previously recommended that the legal framework for elections should be consolidated and harmonized. As noted by OSCE/ODIHR in previous elections, the LERCP foresees rather short deadlines for electoral preparations, which presents a challenge to the work of the election administration.

¹ Previous OSCE/ODIHR reports are available at: www.osce.org/odihr/elections/croatia.

² Long-term observers are based in Osijek, Sisak and Zadar.

³ The *Kukuriku* coalition was initially known as the "Alliance for Change."

Provisions that regulate out-of-country voting were significantly changed in 2010. The Constitution and, consequently, the LERCP were amended to fix the number of Members of Parliament (MPs) elected by out-of-country voters at three, a number previously determined by voter turnout within the out-of-country constituency. Changes also determine that out-of country voting will be limited to the premises of diplomatic missions and consular offices of Croatia. This is expected to result in a significant reduction in the number of polling stations established abroad. While out-of-country voting takes place over two days, from 3 to 4 December, some OSCE/ODIHR LEOM interlocutors have expressed concerns as to whether voting can be efficiently administered in a reduced number of polling stations.

V. ELECTORAL SYSTEM

A total of 151 MPs will be elected from 12 multi-member constituencies to serve four-year terms in the unicameral parliament (*Sabor*). The territory of Croatia is divided into 10 constituencies, each electing 14 MPs under a closed-list proportional representation system. Candidate lists must receive five per cent of the valid vote in a constituency in order to participate in the allocation of mandates.

In addition, there are two non-territorial constituencies. One represents Croatian citizens residing abroad and elects three MPs under a closed-list proportional representation system, also with a five per cent threshold. The other constituency elects 8 MPs to represent the 22 constitutionally recognized minorities of Croatia in 6 separate elections under a majoritarian system. Within this constituency, 3 seats are reserved for the Serb minority and 5 for the other 21 minorities.⁴ Voters who are identified on the voter lists as belonging to a national minority, on the basis of self-declaration, have the option to vote for either national minority candidates or for candidates of their territorial constituency.

VI. ELECTION ADMINISTRATION

Parliamentary elections are administered by a four-tiered system, comprising the SEC, 12 Constituency Election Commissions (CECs), 556 Municipal Election Commissions (MECs) and City Election Commissions (CiECs),⁵ and some 6,550 Voting Committees (VCs).⁶

The SEC is responsible for the overall conduct of elections. It is a permanent, independent and professional body composed of a president, four vice presidents and four members appointed for a term of eight years. The president of the Supreme Court is also the president of the SEC. Two of the vice presidents are judges appointed by the Supreme Court from among the judges of that court. All other members are appointed by parliament upon nominations by the ruling party and the opposition. They must be lawyers with at least ten years of relevant experience and cannot be members of political parties. The SEC is holding two regular sessions every day. All SEC sessions are public and their timing is posted in advance on its website.

Lower-level election commissions are appointed by the next higher election commission. The members of commissions at all levels, with the exception of VCs, must have a legal background.

⁴ Amendments adopted by the parliament in June 2010 that modified the way in which national minority seats are allocated were repealed by the Constitutional Court in July 2011. For further information, see the OSCE/ODIHR Needs Assessment Mission Report at: www.osce.org/odihr/elections/Croatia/84048.

⁵ There are 429 MECs and 127 CiECs including the CiEC for the city of Zagreb.

⁶ Each VC is responsible for a polling station. Out-of-country polling stations should be announced by 22 November and in-country polling stations by 23 November.

The LERCP provides for parliamentary parties to have representatives in the extended membership of all lower-level commissions, a measure designed to enhance the transparency of the election administration's work. The LERCP does not set deadlines for the appointment of party representatives, except for the appointment to VCs. At the time of writing, party representatives have not yet been appointed to lower-level commissions.

Despite the tight election calendar, the SEC has so far administered the election process in an efficient manner. It has adopted ten instructions regulating various procedural aspects, including technical details of candidate registration and voting procedures for special categories such as members of the armed forces, prisoners and detainees, and homebound voters. On 11 and 12 November, the SEC commenced trainings of the CECs. Those trained are currently providing similar trainings to the MECs and CiECs within their constituency.

VII. VOTER REGISTRATION

Croatia has a passive system of voter registration. Voter lists are compiled on the basis of the records of permanent residence, citizenship, travel documents and records of addresses for people residing abroad. The responsibility for compiling the voter lists falls under the Ministry of Public Administration (MPA). A special office of the MPA is established in the City of Zagreb for the compilation of the voter lists for out-of-country voting. Voters can check their details at MPA offices, through an internet-based search programme, or via an SMS service. Corrections may be requested up to 14 days before election day. Voters who expect to be temporarily absent from their place of residence on election day may request a voting certificate, allowing them to vote at any polling station.

VCs will be provided with a printed excerpt from the voter lists that contains all voters registered in that polling station and a list of voters who have temporarily de-registered from that polling station to vote in another location. Separate voter lists for each national minority group will be provided in polling stations where voters, declared as belonging to a national minority, are registered to vote.

VIII. CANDIDATE REGISTRATION

Political parties and coalitions wishing to contest parliamentary elections are required to register their candidate lists with the SEC. Candidate registration commenced the day that elections were called and ended on 14 November. In an inclusive process, the SEC registered 313 candidate lists, including 204 political parties, 81 coalitions, and 28 lists proposed by groups of voters. Two lists were withdrawn following their initial submission. In the 10 territorial constituencies, 298 candidate lists were registered, with 15 lists registered in the out-of-country constituency. As in previous parliamentary elections, SDP did not register a list in the out-of-country constituency. For the national minority elections, a total of 56 candidates were registered. In total, 4,359 candidates have been registered, of whom 35 per cent are women.

In the ten territorial constituencies, all lists must contain at least 14 names. A list submitted by a group of voters must be supported by 500 signatures. The law does not allow for individual independent candidacies, but only for groups of independent candidates.⁷ For the out-of-country

⁷ Paragraph 7.5 of the 1990 OSCE Copenhagen Documents provides that participating States “respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations without discrimination.”

constituency, the lists must contain between 6 and 14 candidates. Candidates for the national minority constituency may be nominated by political parties, registered national minority non-governmental organizations (NGOs), or groups of voters. Those candidates nominated by a group of voters require only 100 supporting signatures. There is no requirement that candidates have residency in the constituency in which their names are included in a candidate list.

The LERCP does not state the criteria for candidate ineligibility, but only the reasons that lead to the curtailment of the mandate of an elected MP. The Croatian Democratic Alliance of Slavonia and Baranja (HDSSB) inquired with the SEC whether Branimir Glavaš, convicted of war crimes and currently serving a prison sentence in Bosnia and Herzegovina, could be a candidate, and whether he could head the party's lists. The SEC responded that he could not be a candidate, but that he could head the lists.⁸ On 12 November, the Constitutional Court *ex officio* overruled the SEC opinion, stating that even though the law does not explicitly foresee a prohibition, permitting him to head candidate lists would be contrary to the values enshrined in the Constitution.

IX. CAMPAIGN ENVIRONMENT

The official campaign period started on 17 November and will end at midnight on 2 December. Party and candidate promotional materials were visible throughout Zagreb prior to the official start of the campaign. Electoral contestants have been able to carry out their activities freely, although the campaign has so far been relatively low-key. A moderate level of activity, including billboards, rallies and meetings, is visible throughout the country, particularly in large cities. Thus far, HDZ and the *Kukuriku* coalition have been running the strongest campaigns. Smaller parties have stated to the OSCE/ODIHR LEOM that a lack of adequate resources constrains their ability to reach out to the electorate. Several contestants, especially the *Kukuriku* coalition, Croatian Labourists and the Croatian Liberal Social Party (HSLP) are making use of social networking sites to connect with voters.

Alongside the ongoing corruption investigation of HDZ, the campaign has so far focused on issues relating to the economy, with measures to address unemployment, taxation, and infrastructure featuring prominently in party and candidate platforms. With a cross-party consensus in favour of EU accession, the upcoming referendum has so far played only a minor role in the campaign. Some OSCE/ODIHR LEOM interlocutors have expressed concerns about potential misuse of administrative resources for electoral purposes by the governing coalition.

On 8 November, in line with the LERCP, a seven-member Ethics Commission was established to supervise the election campaign. It issued an Election Code of Ethics on 14 November. While it does not issue legally binding decisions, it can issue public statements and warnings. During the reporting period, the Ethics Commission has reviewed a total of 10 cases, 4 of which were found to be in breach of the Code of Ethics.

X. CAMPAIGN FINANCING

Campaign finance regulations have been harmonized under the 2011 Law on Political Activity and Election Campaign Financing. Political parties and candidates can finance their campaign activities by their own financial resources and by donations. Parties, candidates and heads of independent lists are required to submit to the SEC campaign income and expenditure reports 7

⁸ Article 10.3 of the LERCP states: "The mandate of a member of parliament shall cease... if he is convicted by a final court decision to a prison sentence longer than six months."

days before election day and 15 days after election results are announced, both of which are made public. Total campaign costs for a candidate list should not exceed HRK 1,500,000 (approximately EUR 201,000) per constituency.

Each electoral contestant must open a special bank account through which all campaign contributions and expenditures must pass. The SEC is responsible for overseeing campaign finance regulations and has the authority to check these accounts at any moment. If violations are determined, the SEC forwards the cases to the courts to decide on sanctions such as fines or the return of funds to the state budget. The SEC has informed the OSCE/ODIHR LEOM that it has been checking accounts on a frequent basis and has so far identified two technical infringements by HSS, which have since been corrected by the party. On 21 November, the SEC issued a statement warning contestants that resources used for campaign purposes before the start of the official campaign should be reported in the campaign account. Two domestic NGOs, GONG and the national chapter of Transparency International, are monitoring campaign spending.

XI. MEDIA

The media environment of Croatia is diverse and includes 170 radio stations, 31 TV channels and 15 daily newspapers. While some 60 percent of households have access to the internet, television remains the predominant source of information.⁹ Out of nine TV channels with nationwide coverage, two public TV channels *HTV1* and *HTV2*, and two private TV channels *TV Nova* and *RTL*, broadcast regular news and current affairs programmes.

Media coverage of the campaign is regulated by the LERCP and the “Rules of Procedure for Electronic Media with National Concession in the Republic of Croatia” adopted by parliament in 2007. The national public broadcaster *HRT* is required to provide ten-minute slots of free airtime to all electoral contestants on TV and radio,¹⁰ as well as cover key campaign activities and organize discussion programmes with representatives of candidate lists at a constituency level; all coverage should be on an equal basis. If private national broadcasters cover the activities of contestants in their programmes, they are also required to do so on an equal basis and in a highly regulated manner. Paid political advertising is allowed only during the official campaign period.

Since 11 November, the OSCE/ODIHR LEOM has been analysing the prime-time broadcasts of four TV channels with nationwide coverage and the contents of five newspapers in their coverage of the political actors and electoral contestants.¹¹ Before the official election campaign, the monitored broadcast media covered the activities of the political actors intensively in their regular news and current affairs programmes. Since the start of the official campaign period, the national public broadcaster *HRT* has been providing contestants with the opportunity to participate in its special election programmes in line with the regulatory framework. Private channels *TV Nova* and *RTL* offered all contestants the opportunity to present their platforms in their morning programmes, allocating five minutes to each. However, both of these channels have not been covering campaign events because of a stated lack of technical capacity to cover the campaigns of all contestants equally. Public and private broadcasters shared with the OSCE/ODIHR LEOM

⁹ Croatian Bureau of Statistics, 2011 Statistical information: Households equipped with information and communication technologies (ICT). http://www.dzs.hr/Hrv_Eng/StatInfo/pdf/StatInfo2011.pdf.

¹⁰ According to Chapter II, Article 2 of the Rules of Procedure, free airtime should be provided to “all political parties, heads of independent candidate lists and candidates who are members of national minorities.”

¹¹ The sample of the media monitored from 11 November consists of: public TV channels *HTV1* and *HTV2*, private TV channels *TV Nova* and *RTL*, as well as the daily newspapers *24 Sata*, *Jutarnji List*, *Slobodna Dalmacija*, *Večernji List*, and *Vjesnik*.

their criticism of the regulations, which are considered to result in lacklustre campaign coverage in the public media and very limited prime-time coverage in the private media.

XII. COMPLAINTS AND APPEALS

Complaints about alleged electoral violations can be filed with the SEC by political parties, heads of independent lists, candidates, and a minimum of 100 voters or 5 per cent of the voters of a constituency. The SEC is obliged to decide on complaints within 48 hours. SEC decisions can be appealed before the Constitutional Court. Appeals may also be made directly to the Constitutional Court in cases when electoral activities are being carried out in breach of the Constitution and the law. At the time of writing, six complaints pertaining to candidate registration were filed with the SEC, all of which were dismissed as unsubstantiated or not based in law. Four of them were appealed before the Constitutional Court, which in two cases upheld the SEC decision. The decision on the other two appeals is expected in the coming days.

XIII. ELECTION OBSERVATION

The LERCP only provides for election observation by NGOs. However, as in previous parliamentary elections, the SEC issued an instruction that extended this right to international observers. The previous OSCE/ODIHR recommendation that party representatives be allowed to observe parliamentary elections remains unaddressed.

The SEC has accredited all 17 domestic NGOs that applied to observe these elections. The main domestic observer organization, GONG, plans to deploy some 650 observers on election day in Croatia, as well as to observe out-of-country voting in Bosnia and Herzegovina. Accredited domestic and international observers have access to the work of election commissions at all levels. Domestic observers can request VCs to remedy irregularities and are entitled to receive copies of polling station protocols.

XIV. OSCE/ODIHR LEOM ACTIVITIES

The OSCE/ODIHR LEOM opened in Zagreb with a press conference on 9 November 2011. During the reporting period, the OSCE/ODIHR LEOM met representatives of the Ministry of Foreign Affairs and European Integration, the SEC, the Constitutional Court, the Ethics Commission, as well as representatives of other state institutions, political parties, civil society, media, and the international community. Six LTOs deployed in teams of two are meeting regional stakeholders and observing election campaign events.