



**GONG**

**THE FINAL REPORT ON THE ELECTION OF  
MEMBERS TO REPRESENTATIVE BODIES  
OF LOCAL AND REGIONAL SELF-GOVERNMENT UNITS**

**May 15, 2005**

**GENERAL INFORMATION**

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At the election of members to representative bodies of local and regional self-government units, held on May 15, 2005 citizens of the Republic of Croatia were electing the members of 426 municipal and 123 city councils and the members of 20 county assemblies as well as the Assembly of the City of Zagreb at 3,914 polling stations in the Republic of Croatia. The election was held for the total of 8,377 members of councils and assemblies and 63,717 candidates were listed in 3,914 candidacy lists. Each municipality, city and county was one constituency. Elections were held using proportional system, with the threshold of 5%. 4,015,832 voters were registered in voters' lists.

The elections of members to representative bodies of local and regional self-government units were monitored by **1000 GONG observers** allocated to the same number of polling stations and **105 mobile teams** that visited additional 1500 polling stations, which covered in total around 40% of all polling stations in Croatia.

**GONG'S GENERAL ASSESSMENT**

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GONG's general assessment is that the elections were conducted in accordance with the election legislation although there were some problems with violations of election procedures by some polling committees. The level of polling commissions' professionalism and understanding of the election procedures ranged from satisfactory to very good, with certain exceptions. Irregularities that were noticed were successfully removed in cooperation with election administration bodies.

Violations of legal regulations on election silence by certain political parties and independent lists were surprising.

Due to the lack of regulations that govern election campaign financing, election process is not completely transparent, and due to a number of imprecise provisions of the election law, there was no legal security of candidates at the election.

**Having in mind that the legal framework has remained the same, with only minor changes, we cannot provide a positive assessment of the election process in the Republic of Croatia, regardless of the quality of the performance of election committees and the democratic atmosphere in which the election was conducted.**

## **LEGAL FRAMEWORK**

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Act on the Election of Members to Representative Bodies of Local and Regional Self-Government Units was once more amended slightly more than a month before the local elections were conducted. The said Act was passed before the 2001 local election and amended in 2003 in order to be harmonized with the Constitutional Act on the Rights of National Minorities. Since the Act was in many aspects imprecise and in collision with the Constitutional Act, GONG submitted a request for review of constitutionality of the said Act with the Constitutional Act on the Rights of National Minorities as early as on February 24, 2005. In March 2005 the Croatian Parliament adopted amendments to the Act and changed some imprecise provisions; however, some imprecision still remain and add to the legal uncertainty of voters and candidates at elections (*see recommendations*).

### **Legal regulations that contain provisions on the Election of Members to Representative Bodies of Local and Regional Self-Government Units are:**

- Constitution of the Republic of Croatia, Official Gazette of the Republic of Croatia - Narodne Novine (NN) No. 41/01
- Constitutional Act on the Constitutional Court - final draft, NN No. 49/02
- Constitutional Act on Rights of National Minorities, NN No. 155/02
- Act on the Election of Members to Representative Bodies of Local and Regional Self-Government Units, final draft NN No. 44/05
- Law on Voters' Lists, NN No. 19/92
- Criminal Code, NN No. 110/97, 27/98, 50/00, 129/00, 51/01 and 111/03
- Mandatory Instructions of the State Election Commission

### **Act on the Election of Members to Representative Bodies of Local and Regional Self-Government Units**

Members of representative bodies are elected by secret ballot at direct election, using proportional electoral system, in such a way that the whole territory of one local or regional unit (county – city – municipality) constitutes one constituency.

All Croatian citizens over 18 years-of-age, except the persons who were proclaimed legally incompetent, have the right to vote at local election on the basis of universal and equal suffrage provided that they have a registered place of permanent residence in the unit (county – city – municipality) where the election is conducted.

Candidates can be nominated by political parties and voters and a condition for nomination of an independent list nominated by voters is to collect valid signatures of voters registered in voters' list – 100 signatures for municipal list, 150 signatures for town list, and 500 signatures for county list and the list for the election of members of the City Assembly of the City of Zagreb. Every candidate has to have the place of permanent residence in the constituency in which s/he is nominated.

### **Law on Voters' Lists**

Croatian citizens assert their right to vote on the basis of registration into voters' lists. Voters' lists are public records kept in general administrative offices of every city or municipality corresponding to voter's place of permanent residence. At local election it is not possible to vote outside one's place of permanent residence and voters without the place of permanent residence in the Republic of Croatia do not have the right to vote.

The notice of the Central State Administration Office for Public Administration, issued on April 7, 2005 regulated in more detail the preparation of voters' lists for the election of members to representative bodies of local and regional self-government units.

Croatian citizens who had the right to vote but who were not registered in the final and verified voters' lists that were delivered to polling stations, had an opportunity to attest their right to vote on the election day by presenting a certificate issued by proper authorities. On the election day certificates were issued by register's offices (for persons who became of age after voters' lists were made final), police stations (for certificates of permanent residence) and in general administrative offices.

## **Mandatory Instructions of the State Election Commission**

Mandatory Instructions (MI) are rules established by the SEC after the elections are called which interpret in closer detail legal provisions for administering elections. The State Election Commission issued 6 Mandatory Instructions in total:

Forms for Administering Election (MI I),

Sequence and Timetable of Election Activities (MI II),

Withdrawal of Candidacy (MI III),

Rights and Duties of Observers and the Procedure for Observing Election (MI IV),

Voting of Physically Disabled Persons, Illiterate Persons and Persons Who Are Unable to Come to Polling Stations (MI V),

Voting of Displaced and Exiled Persons (MI VI).

### **MI on the Rights and Duties of Observers and the Procedure for Observing the Election**

In accordance with law, the SEC issued a mandatory instruction on the rights and duties of observers which in closer detail regulates the rights and obligations of candidates' observers, non-partisan and foreign observers and the procedure for observing the election. The issued regulation is completely in accordance with international standards and it enabled all accredited observers to observe the election without disturbance and provided them insight into the complete election process.

However, the SEC failed to issue a mandatory instruction stipulating that candidates on party and independent lists are not allowed to be observers in the place where they were nominated.

### **The Criminal Code**

Provisions of the Criminal Code that refer to violations of election regulation during election procedures can be found in Articles 116-121: Violations of Voter's Freedom of Decision (Article 116), Denying the Right to Vote (Article 117), Abuse of the Right to Vote (Article 118), Violation of the Secrecy of Vote (Article 119), Destruction of Election Material (Article 120), and Election Fraud (121).

## **ADMINISTRATION AND CONDUCT OF THE ELECTION**

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### **State Election Commission**

In accordance with the Election Law, State Election Commission (SEC) was set up as the highest body for administering elections whose members are judges of the Supreme Court and distinguished lawyers, appointed by the Constitutional Court. The SEC proscribed the forms for nomination, issued mandatory instructions for election committees and directly monitored the work of county election commissions and the City Election Commission of the City of Zagreb.

Due to imprecise provisions of the electoral law, the SEC had to regulate a number of issues by announcing mandatory instructions. The 6 mandatory instructions were issued timely. Besides the mandatory instructions, the SEC passed 2 technical instructions for the work of election commissions and polling committees that refer to the procedure for handling ballots with the aim of ensuring the secrecy of ballots' serial numbers and control the number of representatives of national minorities in representative bodies.

The SEC issued 13 public announcements, and those on the locations of county election commissions, on the appeal to set up polling stations on locations accessible to disabled persons if possible, on locations of polling stations for exiled and displaced persons, on greater protection of secrecy of vote and on the representation of representatives of national minorities in representative bodies, were of greatest importance for informing voters and candidates.

Also, it answered a number of questions and resolved objections filed by participants in the election process, lower election administration bodies, NGOs, the media and etc. The most frequent questions and objections made by candidates referred to nomination procedures, appointments of members of enlarged election committees, obligations of the media and media promotion, the issue of excessive seats in smaller municipalities and towns, proportional representation of national minorities' representatives in representative bodies, and other.

GONG had an excellent cooperation with the SEC the whole time during the election process. Having in mind the working conditions, election regulation, the amount of work and tight deadlines of the election procedure, we hold the opinion that the SEC administered the elections well and that it reported to the public on all aspects of election process in a transparent and prompt manner.

### **County, City and Municipal Election Commissions, and Polling Commissions**

In accordance with law, administration of the election was entrusted to county, city and municipal election committees.

GONG had very fair cooperation with county, city and municipal election commissions, as well as most polling commissions. We received help and understanding from election commissions and most polling commissions in solving some minor problems at polling stations, except in several cases which we solved in cooperation with the State Election Commission. Furthermore, cooperation continued after the election when we asked and obtained copies of the protocols of polling station committees from election commissions and we were granted insight into election material, except in the city election commission of the town of Vrgorac (which did not send the copies of polling station committees' protocols), and the Town of Pag (which refused to grant GONG observers insight into election material after the election).

The general impression is that in these elections polling committees were well informed about the procedures, although the conduct of election administration ranged from very bad to excellent. Although the Reminder on the Operation of Polling Committees was expanded and improved by additional instructions and regulations, some members of polling committees did not read it. City Election Commission of the City of Zagreb organized outstanding instruction for presidents and vice presidents of election committees which received excellent response and several of them were also monitored by GONG.

### **Central State Administration Office**

Central State Administration Office conducted its duties well, especially concerning the issuing of instructions regarding voters' lists and control of their work to lower offices.

Central State Administration Office provided timely information to the public about voters' lists.

GONG referred voters' questions and reports in connection with voters' lists to the Central State Administration Office whose employees responded in a timely manner. Voters occasionally reported that persons who had died were registered in voters' lists, however, most of these reports proved to be untrue after the Central State Administration Office inspected the lists.

There was some confusion after the election caused by imprecise legal provisions in connection with the share of national minorities' representatives in representative bodies, or to be more precise, harmonization of the existing statutes of representative bodies (number of representatives of national minorities) with the last verified voters' list, in accordance with the Constitutional Act on the Rights of National Minorities. Despite the fact that it was responsible for monitoring the legality of the work of representative bodies of local and regional self-government, Central State Administration Office did not provide any concrete answers to the following questions: which is the last verified voters' list with which statutes should be harmonized and what would happen if a legal loophole occurs due to the failure to harmonize the statute in the period provided by law.

## **ELECTION CAMPAIGN AND THE MEDIA**

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Campaign was conducted in an atmosphere of peace and tolerance, with the exception of unfair behaviour of some individuals who put up or destroyed election materials.

Due to imprecise provisions on the obligations of the media, several candidates complained about media coverage, however, we hold the opinion that the efforts of the media to provide equal presentation of all candidates, in accordance with the election law, were positive. Some media even defined in advance their in-house rules for covering media campaigns.

Although this was the first time that the Law provided fines for physical and legal persons who violate election silence, once again a great number of violations were recorded all around Croatia. Reports about the putting up of posters, distribution of leaflets and campaigning came from over 30 locations. We referred all persons who reported these incidents to competent election commissions.

A great disadvantage of the campaigns was the failure to publish the sources of funds and the way the funds were spent. Once again the issue of campaign financing was not legally regulated in advance and voters were deprived of the information who financially supported particular parties/candidates and to what extent and how the money was spent. Transparent financial reports on campaigns would help increase public confidence in political parties/candidates. The media reported on cases of abuse of authority and local budgets in campaigns by the current political majority in bodies of local and regional self-government units.

## **THE ELECTION**

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### **Atmosphere**

During the Election Day, GONG received more than 200 reports by citizens and observers in connection with dilemmas and violations of election procedures. Citizens mostly complained about violations of election silence and the slight difference in the colour of ballots and they inquired about the procedures for voting of disabled and old and infirm persons, on locations of polling stations and phone numbers of election commissions and general administration offices.

A small number of reports referred to grave violations of election procedures. For example, two female voters were already circled on the voters' list and were unable to vote, several polling committees refused to visit ill voters and the mayors of two municipalities drove polling committees into house visits and one of them inspected voters' lists at the polling station, and the other campaigned during house visits. Several reports about dead persons registered in voters' lists were received.

In general, we assess that the atmosphere at polling stations was tolerant and democratic. Election commissions' mostly fair organization of the elections contributed to the overall atmosphere. State Election Commission and other election commissions were very transparent and open in their work.

### **Election Day**

GONG's assessment of the election process is based on the reports of the observers and mobile observer teams, and citizens' reports. Observers reported only a small number of incidents and we conclude that polling stations were set up in accordance with regulation, opened and closed on time and that all needed election material was received, with only few exceptions.

#### Violations of election process regulations

- a small number of polling committees did not ensure the secrecy of the serial numbers on ballots by mixing and turning the ballots (several polling stations in Zagreb, Topolovac, Bosiljevo, Netretic and Osijek);
- polling committees did not put up posters with the names of the candidates at several polling stations (Cakovec, Valbandon);
- at several polling stations members of polling committees issued ballot papers without conducting identity checks (Pasman, polling station 2; Segovina, polling station 61; Lopari-Rab, polling station 1);
- the secrecy of vote was not ensured at the polling station in Brdovac (The County of Zagreb), polling station 72 in Brinje, polling station 5 in Kastav – Rubes, polling station 2 in Sv. Barbara in Kostrena and polling station 1 in Bakar;
- one member in each of the polling committees 31 in Slavonski Brod and 11 in Siroka Rijeka – Vojnic, were also candidates on lists;
- membership of the polling committee at the polling station 157 in Tuhovec (Varazdinske Toplice) was incomplete, lacking the president and vice president, and promotional material around the polling station was not removed;
- polling committee at the polling station 7 in Krilo Jesenice did not receive wax and string so the ballot boxes were taped instead of sealed;
- ballot boxes were not sealed at polling stations 6 and 13 in Cepin;

- a member of the polling committee at the polling station 3 in Plasko helped voters circle names in ballot papers;
- a member of the polling committee at the polling station 11 in Porec wore an IDS (Istrian Democratic Parliament) badge, and in Zagreb at the polling stations 304 polling committee used pencils with an HDZ (Croatian Democratic Union) logo;
- at the polling station 1 in Pakostane polling committee refused to sign the objection made by an observer against the work of the polling committee;
- polling committee at the polling station 1 in Stari Jankovci let a party observer come to the polling station after 7pm in order to monitor the counting of ballots and the partisan observer then circled 4 ballots; GONG observer then wrote a complaint.

Most irregularities were removed after GONG observers warned polling committees about them or in cooperation between GONG and competent election committees.

### Partisan observers

A large number of candidates in the Counties of Osijek-Baranja (Markovac, Retfala), Brod-Posavina (Slavonski Brod), Lika-Senj (Licko Petrovo Selo and Korenica) and Istria (Visnjan) and the City of Zagreb were also candidates on lists.

### **Re-run elections**

By decisions of competent elections commissions which identified irregularities in the election process, elections were repeated on two occasions, on May 29, 2005 on 12 polling stations and June 12, 2005 at two polling stations. Re-run elections were conducted in an atmosphere of democracy without any violations of election procedures and GONG observers monitored the election at 13 polling stations.

### **Announcement of results and objections**

In accordance with law, municipal, city and county election commissions were responsible for announcing the results of the vote. Collective results of the vote for 4 counties (by cities and municipalities) were announced directly via SEC web site. However, most of the results were not published in a way that would enable the public to review, research and analyze the results. Furthermore, even more than a month after the election was conducted, the results, either collective, or by constituency or by polling stations, were not published in their entirety which presents a serious obstacle for post-election research and analysis. However, collective results of the elections for all counties, cities and municipalities, except for the County of Sibenik – Knin, were published on June 20 on the SEC web site. We have to point out that the results by polling stations have not been announced yet.

Numerous objections made to competent county election commissions and the SEC before and after the election day point to an increased need to make the election practice more uniform. To be more specific, most objections referred to the doubts of irregularities caused by imprecise or nonexistent provisions of the election law. Constitutional Court resolved the total of 76 complaints against first-instance decisions made by election commissions for these local elections, 9 of which were adopted.

The most important decisions of the Constitutional Court that resolved the loopholes in the legal framework for local elections are the following:

- U-VIIA / 2209 / 2005; U-VIIA / 2215 / 2005; U-VIIA / 2249 / 2005 on resolving the issue of excessive seats and the situations when the said issue could not be solved by applying pure D'Hondt method;
- U-VIIA / 2192 / 2005 resolving the issue of the lists to be used to complete a representative body in case additional representatives of national minorities are needed;
- U-VIIA / 2303 / 2005 resolving the issue of the day on which the fact that an elected councillor had withdrawn its registration of the place of permanent residence in the municipality in which it was elected becomes valid;
- U-VIIA / 2006 / 2005 resolving the issue of the party that has the authority to propose members of enlarged membership of election commissions and members of polling committees corresponding to the representation in the representative body.

## **GONG's post-election activities and analyses**

### Comparisons of the official and GONG's protocols

GONG collected forms and protocols from polling stations where GONG observers monitored the election with the aim of further comparing official protocols to GONG observers' forms. No official discrepancies were found between the collected protocols and forms; however, we were unable to conduct an additional comparison with the officially entered election results because even one month after the election, election results by polling stations were not made public. Nonetheless, it was noticed that around 5% of inspected official protocols (around 500 of them) contained errors in Head VII of the Protocols on the Operation of Polling Committees that refer to the total number of voters (Section 6) and the total number of voters who voted (Section 7).

Following reports about problems at particular polling stations on the election day and using the method of random selection GONG requested photocopies of protocols on the operation of polling committees from all polling stations in the following towns and municipalities: Imotski, Vrgorac, Podcrkavlje, Donji Andrijevići, Erdut, Skabrnje, Pasmañ, Pakostane, Udbina, Brinje, Rab, Plaski, Stubičke Toplice, Gracac, Pađ, Donji Lapac, Drniš, Zadvarje, Kneževi Vinogradi, Draz, Dvor, Gvozd, Pokupsko and Gospić. From the 24 listed towns and municipalities only the town of Vrgorac failed to send the requested photocopies of protocols despite our repeated requests. Following the inspection of all protocols from all polling stations, the polling stations where certain figures diverged from the average were set apart. We have to point out that it was very difficult to determine on such a small sample what was the acceptable average for the 2005 local election, especially because there were no election results by polling stations. That is why we tried to compare the data with those from the last local, parliamentary and presidential elections. However, the data was not fully comparable since certain polling stations had changed (certain number of voters was added or removed). However, we consider some of them as indicative for certain deviations.

### Questions and reports by citizens and candidates

After the election day, GONG continued to receive phone-calls and e-mails of the candidates and citizens asking for help, advice or explanations in connection with the election process. We additionally checked some of the claims we received and we asked for additional documents from competent election commissions. For example, a family from Omis asked for assistance in filing criminal charges for the abuse of the right to vote, claiming that the results of the vote at the polling station Podume in Omis were not entered into the protocols properly. GONG sent an observer to inspect the election material in Omis and citizens' suspicions were confirmed after finding 2 ballot papers that were ascribed to the wrong election list.

Also, candidates from an independent list in Pađ requested that we inspect photographs of ballot papers on which a certain party was circled that were taken a day before the election and the said bunch of ballot papers was found in a private car. Although it was obvious from the photographs that the ballots in question did not contain serial numbers (so, they were not official ballots), we asked the city of Pađ to make the election material (ballot papers) available to us. Unfortunately, our request was rejected, despite our additional explanations, on the grounds that the election process in the city of Pađ was finished and that observers do not have the authority to inspect election material anymore. The local media was informed about the issue. Also, persons who were registered at polling stations in Pađ as having voted at home were checked randomly and in all 10 cases all voters confirmed they did cast their votes.

Another example of the problems citizens encountered was the pressure and accusations for not going out to the polls. To be more precise, several employees and an official of the (former) city government of the City of Knin turned to us because of the pressures they were facing after the election because it was revealed that they did not come out to the election. It was impossible to find out exactly who made the information available because the persons who turned to us did not want to file criminal charges for the violation of the secrecy of vote, but some asked for protection via the media.

## Representation of national minorities

One of the greatest problems that arose as a result of imprecise election law before and after the election was the issue of proportional representation of the representatives of national minorities in representative bodies. Namely, although GONG broached the issue even a couple of months before the election, it still remained unclear even after the election in what way the harmonization of the statutes of representative bodies within the legal deadline after their constitution will be conducted. It will be recalled that the Article 20 Paragraph 7 of the Constitutional Act on the Rights of National Minorities provides that before every election the official results of the census about the number of members of national minorities in a local and regional self-government unit should be harmonized with possible changes registered in the latest verified voters' list of that unit. Since the units did not conduct harmonization before the local elections were held, under the provisions from Article 70 of the Act on the Election of Members to Representative Bodies of Local and Regional Self-Government Units (final draft) they have the obligation to conduct harmonization within 60 days from the day on which the representative body of the unit was constituted, as it is provided in Article 9 Paragraph 3 of the same Act.

Two questions arose: what was the latest verified voters' list of local and regional self-government units (stated in Article 20 Paragraph 7 of the Constitutional Act on the Rights of National Minorities) with which the harmonization should be conducted after the local election, i.e. 60 days after the constitution of representative bodies and what happens if units do not harmonize their statutes within the legal deadline? The said questions were sent in the form of a request for official interpretation of legal provisions to the Committee for Constitution, Standing Orders and Political System and to the Committee for Legislation of the Croatian Parliament and the Central State Administration Office, which is competent for monitoring the legality of the work of local and regional self government. Only the Central State Administration Office responded saying that "the results of the 2001 Census were relevant for determining the number of members of national minorities for implementation of the Constitutional Act". Also, they said that "since voters' lists were not made accurate because the records on places of permanent residence were not made accurate and voters' lists contain persons that moved from units of local self-government or were falsely registered there, the census is the relevant document for determining the number; after the records on the place of permanent residence and voters' lists are put into order the provision on harmonization from the Constitutional Act will be implemented...". In other words, we did not receive a concrete answer but an explanation that voters' lists were not up-to-date and that the harmonization will have to wait until voters' lists are harmonized, i.e. until the records of places of permanent residence are made to correspond to the real situation in the field, for which no deadlines exist.

## Announcement of results

Until the very day of the election GONG tried to obtain information from all competent institutions on where and in what way the complete results of the local election by polling stations will be made public. Under the election law, results of election are announced by the competent election commissions of cities, municipalities and counties, but neither the manner nor the location of the announcement, as well as the technical availability of results by polling stations were specified. Since the year 2000, the practice was to publish the information on the web site of the State Election Commission (SEC) and on a CD (by polling stations) produced by the SEC, as is the case in other countries.

However, the SEC, which according to the law is not competent for making the results of local election public, did not even receive any funds from the Government of the Republic of Croatia to publish the said complete results of the election over its legal obligations. In response to an inquiry to the State Institute for Automatic Data Processing (which usually provides technical support to SEC and other election commissions for elections) we were informed that they have the results of the election for only 4 counties and that the "requested results were in the ownership of competent election commissions" and that we needed to ask for the consent of these commissions in order to obtain the results. Since nobody was able to give us a concrete answer whether, when and in what form the complete results of the election by all polling stations in the Republic of Croatia will be available, we sent an open letter to the Government of the Republic of Croatia which called the election and asked whether a location / institution / institute which has all the results of the local election exists and what is it; and, if it does not exist, when will the said data be made public and by what institution?

Apart from the fact that the results of the election by polling stations are the ownership of all citizens of the Republic of Croatia, without publishing these results it is impossible for the organizations that monitor election process as well as expert analysts, the media, political parties and candidates themselves to conduct any systematic post-election analyses. GONG holds the opinion that the failure to publish complete results of the local election would be a significant step backwards for the transparency of the election process. At the time when this report is being written (end of June 2005), collective results of the election for all counties, cities and municipalities, except the County of Sibenik - Knin were made public. However, the results of the election by polling stations have not been published yet.

## **RECCOMENDATIONS MADE BY GONG**

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### **Act on the Election of Members to Representative Bodies of Local and Regional Self-Government**

Having in mind imprecision and legal loopholes in the Act, it is necessary to make changes in such a way as to adopt a single election law (code) that would proscribe the technical administration of all types of election on all levels and include the provisions on issues that are currently regulated by SEC's mandatory instructions.

Therefore we suggest the following:

a) Everything that was regulated by Mandatory Instructions should be proscribed by Law

The chairman of the State Election Committee sent the same suggestion to all government institutions on several occasions. The regulation in question refers to the provisions that regulate the technical aspects of election administration which should be proscribed by the legislator and not by an administrative body such as the SEC. These provisions already exist which means that they should only be finalized and incorporated into the existing legislation. They refer to:

- *the sequence and the timetable of election activities*
- *forms for conducting elections*
- *voting procedures for persons with physical disabilities, illiterate persons, and persons who are not able to come to polling stations*
- *voting procedures for exiled persons*
- *the rights and duties of observers and the procedure for monitoring the operation of election administration bodies*

No legal framework exists in local elections for the voting of persons serving in the armed forces of the Republic of Croatia, persons serving on river or maritime ships under Croatian flag or imprisoned persons and voters abroad. Postal voting should be made possible for the said groups of voters.

b) expanding the deadlines in election process

For the purpose of increasing the quality of the election process deadlines for conducting pre-election activities should be expanded from 30 to at least 45/60 days so that all election activities can be carried out in time.

c) systematic education of members of election bodies (particularly members of polling committees)

A number of irregularities that were reported on the election day once again occurred as a consequence of the polling committees' lack of knowledge and unfamiliarity with the legal regulations of election process. Despite the fact that Reminders of the Operation of Polling Committees were issued for polling committees and that instruction for presidents and deputies of polling committees were conducted in most cities and municipalities, we think that it is not enough to ask members of polling committees to only read the Reminders (which many of them received only on the election day) for the elections to be conducted well. Educational training courses should be carried out several days before the elections.

d) adjustment of the method for turning votes into mandates – if proportional election system is kept

The method for turning votes into seats is not the *pure* D'Hondt method but a derivation which demonstrably leads to an excessive number of seats at local election, which happened at this election

in several cities and municipalities. Since the Croatian Parliament adopted an amendment to the Act on the Election of Representatives to the Croatian Parliament on April 2, 2004 which replaced this method by the *pure* D'Hondt method, which was in accordance with a decision of the Constitutional Court, the same practice should be applied and the *pure* D'Hondt method should be used in local elections as well.

e) Announcement of election results

It should be stipulated by regulation that election commissions announce and make available results of election by polling stations, since they have the technical capacities to do so. However, this still depends on the good will of particular commissions. We hold the opinion that the passing of the said provision is in the interest of citizens as well election participants since no institution nor body exists that is responsible for gathering and announcing all results of local election.

f) Harmonization of representative bodies' statutes in proportion to the representation of national minorities

This issue should be specified by an act by determining the latest verified voters' list of local and regional self-government units (stated in Article 20 Paragraph 7 of the Constitutional Act of the Rights of National Minorities) on the basis of which the harmonization should be conducted after a local election, i.e. 60 days from the day of constitution of representative bodies and by specifying what would happen if the said units failed to harmonize their statutes within the legal deadline.

g) Election campaign

It is necessary to proscribe in more detail and harmonize the obligations of local media, at the same time making a distinction between the media partly or completely owned by units of local and regional self-government as well as the HTV on the one hand and private local media that should have a freer editorial policy on the other.

h) Candidates' conflict of interest

Situations of conflict of interest should be regulated by law, i.e. it should be proscribed that one person is not allowed to be a candidate at an election and a member of an election committee at the same time, candidate at an election and an observer at a polling station on the election day in the constituency in which the person is a candidate and that one person is not allowed to be nominated in two or more election lists in the same or different constituency at the same time.

i) Nomination procedure for organizations of national minorities or the Croatian people at by-election

Article 1 Paragraph 2 of the Constitution of the Republic of Croatia states that the power derives from the people and belongs to the people. Also, Article 45 Paragraph 1 and Article 132 Paragraph 2 of the Constitution of the Republic of Croatia provides that Croatian citizens have the general and equal right to vote which is asserted at direct election by secret ballot and the right to local and regional self-government is asserted via representative bodies whose members are elected at free and secret election based on direct, equal and general right to vote.

In Article 20 Paragraph 2, 3 and 4 the Constitutional Act on the Rights of National Minorities proscribes the manner of assertion of national minorities' right to representation and the Act on the Election of Members to Representative Bodies of Local and Regional Self-Government Units in Article 11 provides details on by-elections for representatives of national minorities and gives organizations of national minorities or the Croatian people the right to stand for election.

Despite the said provisions, the way in which a part of citizens (organizations of national minorities or the Croatian people) assert their right to vote and their right to run for representatives of national minorities or the Croatian people in representative bodies of local and regional self-government units at by-elections has not been proscribed. Therefore, it is necessary to regulate by law this loophole.

## **The State Election Commission**

It is necessary to make State Election Commission (SEC) a permanent body as soon as possible. Past members of the SEC were judges who had to perform their duties in court during the election period. In these elections, once again, the SEC had a close deadline after the elections were called (only 38 days) to pass 6 Mandatory Instructions, answer all questions, and deal with objections, appoint members of lower commissions, prepare the Reminder for the Operation of Polling

Commissions, coordinate the printing and distribution of election material, as well as the technical aspects of the elections.

### **Election campaign financing**

There are no regulations that govern election campaign financing at local election. Since an election process cannot be considered fully transparent unless voters receive information on who, from what sources and in what amounts finances candidates at an election, it is necessary to adopt regulations that would govern the financing of all types of election campaigns in the Republic of Croatia, including local elections.

### **Law on Voters' Lists**

The outdated Law on Voters' Lists (from 1992) and the Act on Permanent and Temporary Place of Residence are one of the main obstacles for conducting elections in a quality manner and facilitating the exercise of the right to vote to all categories of voters. To be more precise, place of permanent residence is the prerequisite for asserting one's right to vote at a local election and a significant number of persons has a registered place of permanent residence at different locations in the Republic of Croatia where they do not actually live. As a result, in some places the number of voters is higher than the number of inhabitants, as was the case in Makarska, Zagvozd, Vrgorac, Imotski, Beli Manastir, etc.

Apart from this, one of the major problems is the fact that voters' lists are not updated. Persons who have died or moved without officially changing their place of permanent residence can often be found registered in voters' lists. Although the Law stipulates the removal from voters' lists *ex officio* (the official has to determine *without any doubt* that persons who have died or moved away are registered in a voters' list), in reality this rarely happens because there are no necessary records.

Amendments to the Law on Voters' Lists and the Act on the Place of Permanent and Temporary Residence are necessary in order for the said problems to be solved.

## **CONCLUSION**

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Amendments or adoptions of the above-mentioned legislation, as well as the education of voters by state institutions, are the only way to make the election process completely transparent and to make sure that Croatian citizens and candidates are informed and educated.

Therefore we appeal to the Croatian Parliament, ministries and other government institutions to launch and carry out a complete reform of the election legislation of the Republic of Croatia in order to approximate it to the standards that exists in countries with developed democracies.