



## GONG

# FINAL REPORT ON THE ELECTION OF REPRESENTATIVES TO THE CROATIAN PARLIAMENT

November 23, 2003

### GENERAL INFORMATION

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At the Elections of representatives to the Croatian Parliament on November 23, 2003, citizens of the Republic of Croatia were electing:

- 140 representatives in 10 constituencies in the Republic of Croatia (I-X)
- up to 14 representatives of the voters without permanent residence in the Republic of Croatia (XI)
- 8 representatives of national minorities (XII)

**4 371 608 voters** were registered in voters' lists.

**3 578 715 voters** were registered in constituency voters' lists, while **393 844 voters** were registered in voters' lists for national minorities. **399 049 voters** were registered in voters' lists for voting abroad.

Elections were conducted at **6 795 polling stations** in Croatia and **155** polling stations abroad.

Elections were monitored by 3000 GONG observers at polling stations and by 63 mobile observer teams that visited another 1004 polling stations where there were no GONG observers present or where there were some irregularities reported. This means that 55 per cent of polling stations in the Republic of Croatia were covered. GONG observers were also monitoring the elections in the Diplomatic and Consular offices of the Republic of Croatia in Paris, Vienna, Kotor, Bucharest, Stuttgart and The Hague.

### GENERAL ASSESSMENT

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GONG's general assessment is that the Elections of representatives to the Croatian Parliament were conducted in accordance with the election legislation although there were some problems with the voting of members of national minorities, voters' lists, and violations of election silence. The level of polling committees' professionalism and understanding of the election procedures ranged from extremely low to high. Irregularities that were noticed were successfully removed in cooperation with election administration bodies.

Election regulation is still not satisfactory and it caused many problems and irregularities in the conduct of the elections, as well as objections from voters, candidates, observers and the media.

## LEGAL FRAMEWORK

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Legal regulations that contain provisions on the conduct of parliamentary elections in the Republic of Croatia are:

- The Constitution of the Republic of Croatia, Official Gazette of the Republic of Croatia, Narodne Novine (NN) No. 41/01
- The Constitutional Law on the Constitutional Court - final text, Official Gazette NN No. 49/02
- The Constitutional Law on the Rights of National Minorities, Official Gazette NN No. 155/02
- The Law on the Election of Representatives to the Croatian National Parliament - final text, Official Gazette NN No. 69/03
- The Law on Constituencies, Official Gazette NN No. 116/99
- The Law on Voters' Lists, Official Gazette NN No. 19/92
- The Criminal Code, Official Gazette NN No. 110/97, 27/98, 50/00, 129/00, 51/01 and 111/03
- Mandatory Instructions of the State Election Committee, Official Gazette NN No. 166/03, 170/03, 171/03, 172/03, 174/03
- Regulations on the Conduct of Electronic Media with State Concession during Election Campaign NN No. 165/03.
- Regulations on the Rights and Duties of NGO Observers, Official Gazette NN No. 170/03
- The Code of Electoral Ethics, Official Gazette NN No. 178/03

### **The Law on the Election of Representatives to the Croatian National Parliament and the Law on Constituencies**

Under the valid Election Law all Croatian citizens over 18 years of age, except persons who were proclaimed legally incompetent, elect members of the Croatian Parliament on the basis of universal and equal suffrage. Elections were conducted at polling stations in the Republic of Croatia and in Diplomatic and Consular Offices of the Republic of Croatia abroad.

140 members of Parliament were elected after the Republic of Croatia was divided into 10 constituencies and 14 members of Parliament were elected in every constituency from candidate lists.

In accordance with the Constitutional Law on the Rights of National Minorities, members of national minorities elected a total of 8 MPs to the Croatian Parliament in a separate constituency - Constituency No. XII, in the following way: members of the Serbian minority elected 3 members, and the Italian and Hungarian minorities elected one member each. One member was elected by the Czech and Slovak minority combined, one by the Austrian, Bulgarian, German, Polish, Roman, Romanian, Ruthenian, Russian, Turkish, Ukrainian, Wallachian and Jewish minorities combined, and one by the Albanian, Bosnian, Montenegrin, Macedonian, and Slovenian minorities combined.

Voters without permanent residence in the Republic of Croatia had right to elect up to 14 MPs in a separate constituency- Constituency No. XI.

Election administration bodies were the State Election Committee (SEC), Constituency Election Committees (CECs), Municipal or City Election Committees (MECs, or CiEC) and Polling Committees (PCs). They were formed after the elections were called and they had the responsibility to administer the elections, to ensure the regularity and legality of the elections and the electoral campaign, and to declare results.

Candidates, parties, a group of 100 voters or 5% of the voters of a constituency were able to file objections in connection with violations of election regulations in the process of candidate registration or election to the SEC not later than 48 hours after the disputable event occurred.

Electoral rights could also be protected by appealing against the decisions of the SEC to the Constitutional Court within 48 hours of receiving the decision.

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

Voters assert their right to vote on the basis of the 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.

Voters who were absent from the place of their permanent residence on the Election Day had the opportunity to vote in the place of their temporary residence. It was necessary for them to remove their name from the voters' list in the place of their permanent residence at least 8 days before the Election Day and temporarily register themselves in the voters' list corresponding to the place of their temporary residence.

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 the voters' lists were made final), police stations (for certificates of permanent residence) and in general administrative offices.

Voters who have the place of permanent residence in the Republic of Croatia but happened to be abroad on the Election Day voted on presentation of a proof of Croatian citizenship, proof of identity and a certificate for voting abroad issued by the local general administrative office in Croatia. They voted for the constituency in which they have permanent residence in the Republic of Croatia.

Voters who have the place of permanent residence in the Republic of Croatia but live abroad voted on presentation of a proof of Croatian citizenship, proof of identity and an official document of the country where they live that proves they have residence permit there (work visa, refugee card, etc.). They voted for the constituency in which they have permanent residence in the Republic of Croatia.

Voters without permanent residence in the Republic of Croatia voted on the basis of a voters' list kept in the General Administrative Office in Zagreb which was delivered to all diplomatic and consular offices where polling stations were set up.

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

Mandatory Instructions (MI) are rules established by the SEC after the elections are called which interpret in closer detail the legal provisions for administering elections. Up to November 23, the Election Day, the State Election Committee issued 13 Mandatory Instructions:

The Sequence and the Timetable of Election Activities (MI I), Forms for Nomination Procedures (MI II), Nomination Procedures (MI III), Forms for Election Procedures (MI IV), Rights and Duties of Foreign Observers (MI V), Compiling the List of Candidates in Constituency No. XII (MI VI), Voting of Persons Serving in the Armed Forces of the Republic of Croatia, on Maritime or River Ships Under Croatian Flag and Imprisoned Persons (MI VII), Voting of Physically Disabled Persons, Illiterate Persons and Persons Who Are Not Able to Come to Polling Stations (MI VIII), The Set-up of Polling Stations (MI IX), Voting of Displaced Persons (MI X), Forms for Election Procedures (MI XI), Voting Abroad (MI XII), and Voting of Voters Temporarily Registered in Voters' Lists Outside of the Place of their Permanent Residence (XIII).

### **The Criminal Code**

Provisions of the Criminal Code refer to violations of election regulation during election procedures and they have not been changed since the last elections. Articles that stipulate sanctions for particular violations of election rules and regulations 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), Destroying Election Material (Article 120), and Election Fraud (121).

### **Regulations on the Conduct of Electronic Media with State Concession during Election Campaign**

Under the Regulations, the Croatian Radio and Television and other electronic media with national concession in the Republic of Croatia during the election campaign period, which starts with the declaration of compiled constituency lists and ends 24 hours before the election day, had the obligation to ensure equal access to their broadcasts to all political parties, party coalitions, holders of independent lists, and candidates for representatives of national minorities.

In presenting election activities on their programs, broadcasters had the obligation to ensure journalistic independence, professionalism and competence, consistent respect of the code of journalism ethics, and adherence to the widely-accepted rules and principles of the democratic world, especially the fundamental principle of the freedom of expression protected by Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

Broadcasters were not allowed to give a privileged position in their programmes to any political party or candidate to the disadvantage of other parties or candidates who participated in the election process. Candidates who were also government officials were not allowed to have a privileged position in comparison with other participants in the election process and it was not allowed to use their everyday activities for the promotion of their party

## **Regulations on the Rights and Duties of NGO Observers**

According to the Election law, State Election Committee released the Regulations on the rights and duties of NGO observers which regulate the rights and duties of domestic, non-partisan observers. The Rules are completely in line with international standards, and guarantee uninterrupted monitoring of the entire election process and access to all important election related information.

### **The Code of Electoral Ethics**

On November 7 the Ethics Committee of the Republic of Croatia passed the Code of Electoral Ethics with the aim of promoting the fundamental values of democracy in the pre-election period and proscribing the rules of conduct for the election participants.

As a non-partisan body consisting of highly regarded experts, the Ethics Committee was also responsible for monitoring election campaigns and establishing equality and non-discrimination in all media and equal opportunities of campaign presentation for all candidates.

Ethics Committee's Code also invited observers not to express their opinions on the parties and the candidates and not to influence voters' decisions in any way.

## **ELECTION ADMINISTRATION BODIES**

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### **The State Election Committee**

In accordance with the Election Law, the State Election Committee (SEC) was set up as the highest body for administering elections in the Republic of Croatia. Its non-partisan standing membership, appointed by the Constitutional Court, consisted of judges of the Supreme Court and distinguished lawyers (10 members). Enlarged membership was appointed prior to the elections and consisted of members of political parties in proportion to their representation in Parliament. The SEC ensured the legality of elections, appointed members of the lower election committees, issued Mandatory Instructions, announced constituency and candidate lists, and declared the results of the elections.

Due to imprecise provisions of the electoral law, the SEC had to regulate a number of issues by announcing mandatory instructions. 13 mandatory instructions were issued timely. We hold the opinion that the SEC also should have issued Mandatory Instructions referring to the voting procedures for national minorities, as well as Mandatory Instructions referring to the voting procedures for voters who happen to be outside their place of permanent residence but in the same constituency.

Also, during the campaign period the SEC 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 referred to the procedures and conditions for nomination, the procedures for appointing members of lower election committees, interpretation of provisions of the Regulations on the Conduct of Electronic Media with State Concession, forms for conducting the elections, election campaigning, voting procedures for different categories of voters, etc.

#### Some examples:

- 1) The list of polling stations revealed that a large number of private houses (400), as well as many inadequate objects such as pubs, cafés, garages and shops were used as polling stations. Also, some election committees set up polling stations in churches and parish offices which had to be relocated after an objection was filed by the Liberal Party, and the SEC's requested that the polling stations be moved.
- 2) Several media requested interpretation of the Regulations on the Conduct of Electronic Media with State Concession during the Election Campaign. The SEC issued a universal interpretation that the application of the regulations will start after the official compiled constituency lists are declared, i.e. after the start of the election campaign.
- 3) Several lower election committees requested SEC's opinion on the possibility of simultaneously holding the Elections of the representatives to the Croatian Parliament and the elections of the members of municipal/town councils (local self-government). The SEC decided that it was not possible to hold the two elections simultaneously due to different provisions for the election procedures in the two different laws regulating these two types of elections.

Having in mind the working conditions, the amount of work and close deadlines in the election process, we hold the opinion that the SEC administered the elections in a professional way and its cooperation with GONG was satisfactory.

### **Constituency Election Committees, City and Municipal Election Committees, and Polling Committees**

According to the law, the greater part of election procedures is entrusted to the constituency election committees, and city and municipal election committees. CECs have non-partisan standing membership appointed by the SEC, which consists of judges and distinguished lawyers and enlarged membership appointed prior to the elections consisting of members of political parties (10 members). MECs and CiECs consist of standing members who may be members of political parties and enlarged membership appointed prior to the elections (total of 10 members).

In general, election committees' cooperation with GONG was satisfactory.

However, GONG received some complaints made by citizens and appointed members of election committees in connection with the composition of polling committees. In the stated cases, appointments of the members of the polling committees were annulled without any legally founded explanation, which may have influenced the voters' confidence in the election process. Also, the day before the elections we were contacted by a number of appointed members of polling committees who did not know which committees they were appointed to and they complained that no one had contacted them in connection with the arrangements for the election day.

Posters with the addresses of polling stations and the lists of streets and blocks allocated to particular polling stations were put up only one or two days before the Election Day so GONG had to answer hundreds of phone calls from citizens asking about the locations of their polling stations on the day before the elections, as well as on the Election Day.

The general impression is that election and polling committees were well informed about the procedures, although the conduct of election administration ranged from very poor to excellent. Memorandum on the operation of polling stations, which was handed to all members of polling committees, was supplemented and updated by additional instructions for the operation of polling committees.

Some polling committees reported to GONG that they were not sufficiently informed about the election procedures and asked for help in their work on a number of occasions. Some polling committees also contacted GONG to inquire about the polling stations particular voters were allocated to. We helped them using the web site [www.pravosudje.hr](http://www.pravosudje.hr). Polling committees also asked whether they needed only one ballot box for all national minorities, what to do with outdated identification cards, what to do if they give a ballot paper to a person who is not registered in the voters' list, what to do if they give a voter the wrong ballot paper, etc.

In cooperation with the SEC, GONG printed and distributed posters to all polling stations in the Republic of Croatia, which drew citizens' attention to the fundamental rules of the voting procedure (it is allowed to vote only one time, voting is carried out on production of official documents of identification, etc). Polling committees put up the posters at polling stations as a part of the official election material.

### **The Ministry of Justice, Administration and Local Self-Government and general administrative offices**

The Ministry of Justice, Administration and Local Self-Government had accepted GONG's initiatives such as checking one's status in the voters' list via phone or the Internet, or temporary registration in a voters' list via fax that aimed to ease the exercise of the right to vote. Voters were able to check their status via the Internet on the web site of the Ministry of Justice [www.pravosudje.hr](http://www.pravosudje.hr), where they could also look up phone and fax numbers of general administrative offices. After the locations of polling stations were determined, they were also able to check the address of their polling station on the web site or via text messages.

The Ministry also issued two sets of instructions for the use of general administrative offices in all counties. General administrative offices mostly performed their duties in a professional way and provided citizens with information, except in several incidents that were reported from the Splitsko-Dalmatinska County.

However, the Ministry's announcements in connection with voters' lists were insufficient, untimely and difficult to understand. Unclear or untimely explanations of the voting procedures for some categories of citizens (voters changing the place of their permanent residence on the Election Day) and some general administrative offices' unwillingness to provide assistance might have deterred those voters from voting.

## ELECTION CAMPAIGN AND THE MEDIA

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### Nominations

The State Election Committee received a total of 405 nominations in the period set by law: 363 nominations of candidate lists and 42 nominations of candidates (Constituency No XII) for the elections of representatives to the Croatian Parliament. The distribution according to the ordinal number of the constituency is as follows:

Constituency No. I: a total of 41 list (25 party lists, 8 coalition lists and 8 *independent* lists)

Constituency No. II: a total of 37 list (25 party lists, 8 coalition lists and 4 *independent* lists)

Constituency No. III: a total of 32 list (21 party lists, 8 coalition lists and 3 *independent* lists)

Constituency No. IV: a total of 30 list (18 party lists, 8 coalition lists and 4 *independent* lists)

Constituency No. V: a total of 34 list (19 party lists, 8 coalition lists and 7 *independent* lists)

Constituency No. VI: a total of 31 list (21 party lists, 8 coalition lists and 2 *independent* lists)

Constituency No. VII: a total of 34 list (22 party lists, 9 coalition lists and 3 *independent* lists)

Constituency No. VIII: a total of 31 list (22 party lists, 7 coalition lists and 2 *independent* lists)

Constituency No. IX: a total of 36 list (25 party lists, 6 coalition lists and 5 *independent* lists)

Constituency No. X: a total of 34 lists (19 party lists, 8 coalition lists and 7 *independent* lists)

Constituency No. XI: a total of 23 list (14 party lists, 5 coalition lists and 4 *independent* lists)

Constituency No. XII: a total of 42 list (34 party lists and lists of organizations, 1 coalition list, and 7 voters' nominations)

Nominations were submitted for a total of 5 155 candidates, 3 859 (74.86%) of which were men and 1 296 (25.14 %) women.

The average age of the candidates was 45.95 years; the average age of male candidates was 46.96 years and the average age of female candidates was 42.94 years.

Both the youngest male candidate and the youngest female candidate were born in 1985. The oldest male candidate was born in 1917 and the oldest female candidate in 1919.

Due to withdrawal or disallowing of some lists, the number of candidates was reduced to 5 105.

Official election campaign started at midnight on November 6, 2003.

### Election campaign financing

Election campaign financing was not regulated in a satisfactory way. There were no provisions that stipulate permissible and impermissible donors, campaign expenditure limits, the obligation of participants to make public the campaign expenditure and the sources of the campaign funds within a set period, and sanctions for violating the regulations. Campaign financing in the Republic of Croatia is completely non-transparent and funds can be gathered from many sources including the state budget from which a substantial sum is allocated to different parties.

If they fulfil certain conditions, all political parties and candidates (independent or candidates of national minorities) who contest in at least one constituency have the right to reimbursement of election campaign expenses from the state budget.

Under the Law on Political Parties (Official Gazette, NN No. 76/93., 111/96., and 164/98.), parties who have seats in Croatian Parliament receive funds in advance no later than 48 hours after the adopted lists become final. They receive the amount that was set for the year preceding the elections. 39 142 714.00 kn was disbursed to parliamentary parties for election campaign expenses in these elections.

Other parties and independent lists that win at least 5% of the valid vote also have the right to reimbursement of campaign expenses. They receive the reimbursement within 30 days of the declaration of the official results. In these elections, the Government of the Republic of Croatia set the amount of 40,000.00 kn for reimbursement of election expenses to each party or list that received at least 5% of the vote of a constituency and did not have any seats in parliament before the elections.

Under the Election Law, every party contesting the elections has to make public the estimated amount and the source of its own election campaign budget. As it can be seen from the media coverage, only a few parties complied. However, the exact sources and amounts of campaign expenses remain unknown, which reduces political parties' credibility and voters' confidence in the election process.

## **Election campaign**

Political parties' and independent candidates' election campaigns were conducted in an atmosphere of peace and tolerance, which is confirmed by the number of announcements and warnings issued by the Ethics Committee as the body in charge of evaluating the conduct of the participants in the election campaign. The Ethics Committee issued a total of 6 announcements and one warning to campaign participants. Announcements mostly referred to the destroying of election material, while the warning was issued against the calls for the use of violence.

## **The media**

According to OSCE's report, the media fulfilled their legal obligations stipulated by the Election Law and the Regulations on the Conduct of Electronic Media with National Concession. The only exception was the privately owned television network NOVA TV that considered the Regulations unconstitutional and on October 29, 2003 filed a Motion for Review of Constitutionality of the Regulations, which is still undergoing proceedings.

Voters were able to receive information on parties/candidates' platforms from the media. However, the short duration of the election campaign and the large number of candidates lead to the overcrowding of media space and the forms and the time of certain broadcasts were quite unappealing to viewers and listeners. Just like in the last parliamentary elections, there were no televised debates of the major election participants, which is usually the most interesting part of presentations of party platforms.

## **VIOLATIONS OF ELECTION SILENCE**

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The lack of sanctions for violations of election silence proved to be the main weakness of election legislation and sub legal regulations. The day before the elections (November 22) and on the Election Day (November 23) GONG received several dozen citizens' reports of the violations of election silence.

Compared to the 2000 elections when the media committed most violations of election silence, in this election only one such incident occurred.

The following cases were reported to GONG:

### **November 22, 2003:**

- 1) A candidate at the elections in Australia, polling station number 5 in the Keysborough Catholic Centre, reported the presence of the campaign material of HDZ (the Croatian Democratic Union) at the polling station
- 2) A citizen from Slavonski Brod, Slavonija II ¼, reported that around 4pm on November 22, the leaflet Vesna - Your Representative which promotes Vesna Skare-Ozbolt, a candidate of DC (the Democratic Centre), was put into her letter box.
- 3) A citizen from Split, from Bacvice, Jure Kastelana 18, reported that during the morning of November 22 leaflets of HB (the Croatian Bloc) and HIP (the Croatian True Revival party), and DC and HSLs (the Croatian Social- Liberal Party) were being thrown into letter boxes.
- 4) A citizen from Zagreb reported that a campaign video of Ivo Sanader, HDZ candidate, was played around 2pm on November 22 on a large commercial screen placed in the public area in Ban Josip Jelacic Square.
- 5) A citizen from Zagreb reported that in the afternoon of November 22 HDZ's leaflets were thrown into the letterbox at Gustava Krkleca 3, in Spansko.
- 6) Citizens from Precko, Zagreb, reported that HNS (Croatian National Party) and HND (Croatian Independent Democrats) leaflets were being attached to the windscreens of the parked cars on November 22.
- 7) A citizen from the Zagreb city centre reported that Marko Veselica's leaflets were thrown into letterboxes on November 22.
- 8) A voter from Germany reported that the busses that were arranged to take the voters to the polling stations in Stuttgart had HDZ posters put up on them.
- 9) A citizen from Gornji Kukuruzari, reported that HNS leaflets were thrown into letterboxes on November 22.
- 10) A citizen from Sarengrad reported that HSS (Croatian Peasant Party) leaflets were distributed door-to door on November 22.

- 11) putting up of HDZ's posters in Prapatnica, giving out the Croatian Party of Rights' leaflets in Marsonia, Slavonski Brod, putting up posters and giving out leaflets by Ante Kovacevic, a candidate of the HKDU (Croatian Christian and Democratic Union) in Gracac, giving out HIP and HB leaflets in Precko, Zagreb, HDZ posters in Sveta Nedjelja.

### **November 23, 2003**

- 1) Citizens report HDZ's posters around polling stations - Drnis, Pokrovnik, Kljaka, Velika Gorica, Zagreb
- 2) A citizen from Split reported that in the Church of St. Dominic at the first mass at 7am, the priest had appealed to the congregation to vote for the list number 6 (HDZ)
- 3) Radio Otocac (9:30 -10:00) broadcasted a half-hour show in which the mayor spoke about his accomplishments and the accomplishments of his party (HDZ)
- 4) GONG observer reported an HSLs/DC jumbo poster 10 meters from the polling station in Suhopolje
- 5) A citizen from Kastel Sucurac reported HIP and HDZ leaflets being thrown from a car at 5.30am
- 6) A citizen from Bilje reported that she had found a leaflet vilifying the party in power signed by the opposition councillors of the Bilje City Council thrown into her letterbox on the morning of November 23.
- 7) A citizen from Zagreb (Kvaternik Square), reported that he had found an SDP leaflet in his letterbox that was not there the day before
- 8) A citizen reported party slogans and abbreviations written on a front wall in Marina, polling station number 2
- 9) A citizen from Zagreb reported HSS posters in front of the polling station 24 at Malesnica elementary school
- 10) A citizen from Zagreb reported a van with HDZ symbols driving around Staglisce
- 11) A citizen from Rijeka reported that HNS and PGS posters and leaflets were attached to cars in Frane Belulovica Street
- 12) An objection filed by SDP in Metkovic in connection with HDZ posters that were put up during the night
- 13) A citizen from Zagreb reported that HDZ put up its posters in Slavonska Street in Crnomerec
- 14) At the central square in Varazdin there was a balloon with the picture of Vesna Pusic flying near the election committee

## **THE ELECTIONS**

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### **The atmosphere**

These elections were characterized by numerous violations of election silence by parties and their supporters. The police had twenty or so interventions, usually in connection with disorderly behaviour of drunken voters.

In general, we think that the elections were conducted in an atmosphere of tolerance and democracy, except at several polling stations where there occurred some verbal incidents between voters and verbal assaults on the members of polling committees, and members of national minorities.

Election committees' mostly fair organization of the elections contributed to the overall atmosphere. The State Election Committee and other election committees were very transparent and open in their work.

GONG's Central office established good cooperation with the State Election Committee, city/municipal election committees, as well as with most of the polling committees. When trying to solve some minor problems at particular polling stations, we encountered help and understanding of most of the election and the polling committees.

### **Election Day**

GONG 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. Based on the information gathered and processed by midnight, we can report that:

- Polling stations throughout Croatia were opened and closed on time, and polling committees received all necessary election material on time and they properly prepared polling stations for voters' arrival.
- Elections were occasionally disrupted by incidents of disorderly behaviour of drunken voters

- Day before the elections and the Election Day were characterized by numerous violations of election silence

## **Violations of the election process regulations**

### Influencing voter's decision

Attempts to influence voter's decision were reported at three polling stations.

Polling committees did not inform the members of national minorities about their right to choose between the lists, and some polling committees were harassing and preventing the members of national minorities from voting for the party lists. Zagreb, Constituency I, polling station 223; Trnava, Svetoblazje, Constituency IV; Zagreb, Trnje, Constituency I, polling station 75; Zagreb, Dubrava, Constituency II, polling station 59; Vukovar, Constituency V, polling station 3, 3rd Elementary School; Zagreb, Constituency I, Primorska 32, polling station 17, kept the ballot papers for national minorities under the desk instead of on the desk.

### Family voting and not verifying voters' identity

This violation was reported mostly in rural areas.

### Voters already circled in voters' lists

Cases when voters came out to vote but their names were already circled in the voters' lists were reported in: Split, Gripe, Constituency X, polling station 34; Samobor, Constituency VII, polling station 48; Split, Pujanke, Constituency X; Zadar, Constituency IX, polling station 3.

### Verbal assaults and violence

Members of City Election Committee from the Croatian True Revival party and the Croatian Bloc verbally assaulted a GONG mobile observer team and TV Arte team when they were visiting polling stations. A person forced the door, threw the ballot boxes about and threatened to beat up a member of the polling committee in Constituency II, at the polling station number 8, at the Community Centre, Sv. Petar Cvrstec. In Constituency I, at the polling station number 185, Srednjaci bb a drunken person threatened a GONG observer after he was not allowed to vote because the date of birth on his identity card did not correspond to the date of birth in the voters' list. The person threatened to return with a gun, and after he was brought in, he was found to be in possession of a knife.

### Too many ballot papers in ballot boxes

At several pooling stations observers reported that the number of ballot papers in the ballot boxes was in excess of the indicated number of voters recorded as having cast ballots:

Constituency I, Zagreb, polling station number 20 - 2 extra ballot papers in the box. They contacted the SEC in order to check.

Constituency IV, Jagodnjak (the village of Bolman), polling station number 3 – an excess of ballot papers. We contacted the municipal election committee and they said that the polling committee had already asked for their help in counting the ballots and that they will keep our observation in mind. Constituency II, Sesvete, polling station number 84 - 5 extra ballot papers in the box. The president of the polling committee would not enter observer's objection into the protocols. We contacted the SEC.

Constituency I, Zagreb, polling station number 113 – 4 polling committees were located in the same room and their ballot papers got mixed up. They tried to arrange them according to the serial numbers. We contacted the SEC.

Constituency VII, Jelenje, polling station number 1, Zoretici, premises of the Bocce Club Zoretici- 2 extra ballot papers.

Several other cases of extra ballot papers in the ballot boxes were noticed at the PVT call centre.

### Other

- Voters appeared with certificates from the Social Democratic Party saying they were party observers asking to monitor the counting of the ballots- Klostar Ivanic, polling station number 8, Lipovec Lonjski.
- Polling stations not set up properly (two polling stations set up in one room, although it is against the law) – several reports
- Incomplete polling committees (two instead of three members)- two reports
- Pencils used for circling voters' names in the voters' lists- three reports
- Closing the polling station at 14:30pm because all the voters had voted- Pozega, polling station number 42, Community Centre Ugarci.
- Constituency V, polling station number 4, M. Gupca 21a, Vinkovci- the polling committee took the voters' list from the polling station to a voter who was not able to come to the polling station, in order

for her to exercise the right to vote. The voter is a member of a national minority but she decided to vote for party lists, so the members of the polling committee took the voters' list in order for her to sign it. Voters were not able to vote at the polling station until the voters' list was returned.

- Constituency I, polling station number 139, Drenovacka 4, Zagreb- around 6pm the polling committee noticed that they have the national minorities' voters' list that belongs to the polling station 140. Several voters were sent away from the polling station number 140 due to this mix-up. They contacted the SEC.
- Constituency X, Ston, polling station number 16, the same polling committee conducted the elections for the representatives to the Croatian Parliament and the elections for the town hall even though, according to the election laws, the committees should differ in their membership.

### **Most frequent phone calls GONG received**

2053 citizens contacted GONG on the Election Day. Most questions referred to the locations of polling stations (574). Other questions referred to the voting procedures for disabled, old and infirm persons (119), the procedure for voting with a certificate and the voting procedure for national minorities (129).

Most common complaints:

- violations of election silence
- voters' lists that were not updated even in cases when citizens were registered in voters' lists in the last elections - 128 calls
- citizens who temporarily registered in voters' lists but were not listed
- violated secrecy of vote
- polling committees' unawareness of the election procedures, not informing the members of national minorities of their right to decide what lists they want to vote for, preventing the members of national minorities from voting for party lists – 13 reports
- unmarked polling stations

A number of members of national minorities contacted GONG protesting against the voting procedures for national minorities, saying that they felt like second-rate citizens, and resenting the fact that the polling committees had to look them up in separate voters' lists and that they were asked to publicly express their national affiliation.

GONG also received a number of reports that were impossible to verify, or that were found to be false or a misinterpretation after election committees were contacted. GONG also received a number of abusive phone calls in which the citizens blamed GONG for poor organization and administration of elections, incomplete voters' lists, polling committees' inability to visit the voters at their homes, voting procedures for some groups of citizens.

### **Election process abroad**

GONG conducted an *ad hoc* survey on how well prepared the diplomatic and consular offices of the Republic of Croatia were for administering the election process. Two weeks before the Election Day, a private email inquiring about the voting procedures of the Croatian citizens in the 2003 Parliamentary elections was sent to 60 or so consular and diplomatic offices. The aim of the survey was to find out how informed the diplomatic and consular offices were about the election process. 34 offices emailed their replies within a week. All replies, except 2 (from Munich and Tokyo), contained accurate information and instructions on the voting procedures, also offering additional help and explanations. The diplomatic and consular offices in the following countries provided positive replies: Denmark, Austria, Norway, Finland, Italy (x2), Russia, Brazil, Germany, Japan, Switzerland, Australia (x2), New Zealand, France, Slovakia, Belgium, Ukraine, Slovenia, Hungary, USA (x2), BIH (x2), Greece, The Netherlands, Romania, Spain, Macedonia, Morocco, Venezuela, Indonesia, Turkey, and South Africa.

Considering the number of voters in Serbia and Montenegro, we hold the opinion that polling stations should have been set up in more cities.

Voting abroad was conducted for two days, November 22 and 23, 2003.

During the first day of the elections abroad, GONG received 2 objections made by election contestants:

- The objection made by Croatian Bloc and Croatian True Revival party (HIP): polling station number 8 (letters D to J) in the Consulate General of the Republic of Croatia in Munich was not open on time, at 7.00am, but at 7.30am, ballot boxes were not properly sealed, the president of the polling committee refused to enter an objection by a member of the polling committee into the Protocols of the Polling Committee, and a Croatian Democratic Union (HDZ) campaign poster was removed from the polling station only after repeated warnings by a member of the committee.

- an objection filed by a candidate at the elections in Australia, polling station 5 in the Keysborough Catholic Centre refers to the presence of HDZ campaign material at the polling station.

All objections were directed to the State Election Committee.

## RE-RUN ELECTIONS

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After election materials were submitted, the State Election Committee ruled that the elections would be invalidated at polling station No. 30 in Gudci, Velika Gorica, Constituency No. VI because there were too many ballot papers in the ballot box. Re-run elections were held on November 30, 2003 with a new polling committee. Two GONG observers monitored the elections and the counting of the votes and their general assessment was that there were no violations of election procedures.

## RESULTS AND OBJECTIONS

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The State Election Committee declared the final results of the elections of representatives to the Croatian Parliament on December 3, 2003. According to the official results 154 representatives were elected to the Croatian Parliament - 140 from the party lists in constituencies No I-X, 4 representatives in the Constituency No XI and 8 national minorities' representatives in the Constituency No XII.

According to voters' lists that general administrative offices delivered to polling stations and voting certificates, a total of 4,371,432 voters came out to the elections. 2 604 889 ballot papers were found in ballot boxes, which means that the turnout was 59.59%. 2.3% of the total number of ballot papers cast was declared void and 15,326 voters received their ballot papers but did not cast them into ballot boxes.

The State Election Committee received two objections on the results of the elections but the objections were rejected. Appeals to the Constitutional Court of the Republic of Croatia followed. One appeal was dismissed as untimely, and the other one was rejected. The official results of the elections were published in the Official Gazette (Narodne Novine, No. 192/03.) on December 8<sup>th</sup> 2003, when the 3, 20-day-long deadline for constituting a new Parliament started.

*In going through the results in electronic form, GONG found some irregularities in the number of voters who came out to the elections (circled in the voters' lists) and the number of ballot papers found in the ballot boxes at some polling stations. At some polling stations the difference is more than 100, 200 or even 300 voters, which means that more than 300 voters at one polling station (from a total of, for example, 900 voters) decided not to cast their ballot paper into the box. Since some of these numbers significantly diverge from the average for the country as a whole, GONG asked the State Election Committee to make the original election material from these polling stations available for inspection. We will be able to inspect the material in the second half of January.*

## RECOMMENDATIONS

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### The State Election Committee

It is necessary to make the State Election Committee (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 32 days) to pass 13 Mandatory Instructions, answer all questions, and deal with objections, appoint members of lower committees, prepare the Reminder for the Operation of Polling Committees, coordinate the printing and distribution of election material, as well as the technical aspects of the elections.

The SEC should become a permanent body in order to:

- 1) Provide better technical organization of elections
- 2) Provide continuous education to members of election committees and polling station committees
- 3) Ensure the continuity of informing and educating voters
- 4) Provide support to candidates

- 5) Establish easier coordination of government administration bodies
- 6) Control campaign financing
- 7) Facilitate research

This type of permanent body can pay more attention to educating and providing timely information to all voters, members of polling committees, election committees and even candidates themselves. This is especially important because election rules change just before every election, which leads to legal insecurity and untimely informing of voters and candidates.

The Law on the State Election Committee as a Permanent Body should regulate:

- The composition and appointment of the members of the SEC
- Incompatibility of the membership in the SEC with the performance of other functions
- The functions of the SEC in the period between elections
- Special obligations of the SEC during the election process for parliamentary, presidential, or local elections, as well as in early elections at all levels, and the elections for local self-government
- The SEC's responsibilities for conducting a referendum
- Financing of the SEC

Since the former Ministry of Justice, Administration and Local Self-Government has already drafted the law and the presidential elections are expected to be held this year, we appeal to the Croatian Parliament for this Law to be adopted as soon as possible.

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

The outdated Law on Voters' Lists (from 1992) is 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. In these elections the Ministry of Justice, Administration and Local Self-Government and the State Election Committee were once again forced to regulate the issues surrounding voters' lists by issuing a number of Mandatory Instructions and official directives. Since the Mandatory Instructions and the directives were issued within a month of the Election Day, voters received information on the exercise of their right to vote only after particular rules and regulations were passed.

Apart from this, one of the major problems is the fact that voters' lists are not up-to-dated. 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.

Once again we received phone calls from citizens who were not registered in voters' lists although they had been registered in previous elections.

Another problem is the lack of a centralized voters' list. At the moment, this leads to:

- Difficulties in checking one's status in the voters' list outside of the place of permanent residence
- Problems in determining the election body of the whole country
- Problems in allocating voters to particular polling stations
- Inability to control possible double entries in voters' lists.

We recommend amendments to the Law on Voters' Lists. The Law needs minor technical amendments with the aim of:

- Increasing efficiency and accurateness of keeping records
- Establishing an internal network within government administration for transferring necessary data.
- Creating a central electoral register
- Increasing the responsibility for updating voters' lists
- Increasing the quality of informing citizens about voting procedures for different categories of voters
- Resolving the issue of the content of entries in voters' lists (citizen identification number- JMBG)
- Providing free access to voters' lists to all those who are interested.

### **Election campaign financing**

These elections witnessed great media and citizen interest in the sources and expenses of election campaign financing. Some parties made public the approximate size of their election campaign budget, but there was no systematic revealing of election campaign expenditure or donors. Since there are no precise information on the amounts and sources of the funds spent in the campaign, a great number of citizens feel distrust towards political parties and have a negative attitude towards their financing.

Election process cannot be considered transparent until issues of election campaign financing are resolved and we appeal for the Law on Election Campaign Financing to be passed. Above all, this Law should determine the deadlines for election campaign financing, set limits to party and candidate campaign expenditure, prohibit certain donors (foreign donors, government institutions and state-owned companies, non-profit, religious and humanitarian organizations) and limit some types of donations (e.g. anonymous donations exceeding a certain amount). Also, it is important to proscribe that parties and candidates have the obligation to submit a statement of donations and an election expenses return the proper bodies and that these reports have to be made public. Recommendations also refer to determining the responsibility of the future permanent State Election Committee for implementation of these provisions, as well as to possible penalties. The passing of new and detailed legal regulations, political parties' and candidates' adherence to them and consistency in transparent operation would increase citizens' confidence.

### **The Law on the Election of Representatives to the Croatian Parliament**

The Law on the Election of Representatives to the Croatian Parliament is not sufficiently precise in the regulation of technical organization of elections, which resulted in the passing of a large number of subordinate legislation (Mandatory Instructions) prior to the elections. This had a negative effect on voters' and candidates' confidence in the law. Also, close deadlines for performing all election activities create additional pressure, confusion and insecurity in all those who participate in elections- administrators, candidates, observers and voters.

That is why we suggest the following:

a) All issues 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 serving in the armed forces of the Republic of Croatia, persons serving on river or maritime ships under Croatian flag or imprisoned persons*
- *Voting procedures for persons with physical disabilities, illiterate persons, and persons who are not able to come to polling stations*
- *The set-up of polling stations*
- *Voting procedures for exiled persons and voters abroad*
- *The rights and duties of observers and the procedure for monitoring the operation of election administration bodies*

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) Decreasing the number of members in election bodies with in order to economize expenses

Because of a high number of election administration bodies and the fact that all bodies have an even number of members which partly paralyses the decision-making process, the membership of election administration bodies should be the following:

- 1) Constituency Election Committees and Town/Municipality Election Committees should consist of 9 members - 5 judges, legal experts or political scientists appointed by the SEC (or a CEC). The remaining 4 members would be 2 representatives of the political party/coalition in power and 2 representatives of oppositional political parties/coalitions in accordance with party representation in parliament and accepted candidacies, as well as their deputies.
- 2) Polling committees should consist of 7 members - 3 non-partisan members and 4 members representing election participants- 2 representatives of the political party/coalition in power and 2 representatives of oppositional political parties/coalitions in accordance with party representation in parliament and accepted candidacies
- 3) Non-partisan members elect the president and the deputy on the first session of a committee.

d) Systematic education of the members of election bodies (particularly the 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, 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.

e) Allowing party/partisan observers to monitor elections

On several occasions in these elections, political parties sent their observers to polling stations although that was against the law. Since political parties are those who are most interested in elections being conducted in a fair and transparent manner, we think that party observers should be allowed to monitor elections, as they are allowed to do on local and presidential elections. If the number of members in polling committees were lowered there would be no obstacles to allowing party observers of those parties whose members do not sit in polling committees to monitor elections.

f) Postal voting

One of the problems that arose in these elections was the problem of voting procedures for different categories of voters who were not able to vote at their polling stations on the election day (voters who were absent from their place of permanent residence on the election day, voters serving in the armed forces, voters serving on ships under Croatian flag, voters in penal institutions, etc). Following experiences of countries that have the legal possibility to vote by post (Germany, United Kingdom, Bosnia and Herzegovina, Italy, etc), we recommend that this problem be solved by introducing this possibility into election legislation of the Republic of Croatia.

This would reduce the red-tape procedures of applying for special polling stations and the need to set up additional polling stations. As many as 483 polling stations of the regular polling stations (except polling stations set up in army barracks, prisons and on ships) were set up by the State Election Committee for voters who were absent from their place of permanent residence on the election day. Apart from that, 155 additional polling stations were set up abroad and 1 550 additional members of polling committees were appointed for administering the elections abroad. If we take into account that the gross daily expense allowance for one member of polling committee in these elections was 540kn, this would save (540 x 1 550) 837 000kn on the fees paid out to the members of polling committees abroad (not taking into account the cost of election material that was sent abroad and the postal charges).

The right to vote by post would be granted to all voters who inform their city/municipality election committee or the State Election Committee for Voters Abroad in time that they will not be able to vote at their polling station on the Election Day. Reasons for voting by post refer to one's absence from the place of permanent residence, regardless of whether the person is in the country or abroad. GONG's recommendations published in the *Election Package* publication defined the system for voting by mail that could be applied in Croatia without violating the secrecy of vote and creating conditions for election frauds.

Voting of members of national minorities - voting of members of national minorities should be proscribed in a more democratic manner, taking into consideration national minorities. This can be done only by proscribing an additional vote that the members of minorities can, if they want to, use to vote for additional representatives of national minorities. All other solutions do not take minorities into consideration, but only help spread unease, anxiety and abstention by insisting on two voters' lists, transferring citizens from one list to the other, making voters' nationality public in front of the polling committee and other voters.

### **The Law on Constituencies**

The valid Law on Constituencies stipulates 10 constituencies in Croatia whose territorial range/extend disrupts the territorial organization of the Republic of Croatia. We recommend that the Law on Constituencies be amended in such a way that constituencies follow territorial organization of Croatia so that the citizens can elect representatives who would represent them, their interests and their region.

### **Regulations on the Conduct of Electronic Media with State Concession during Election Campaign**

The Regulations require that electronic media with state concession ensure presentation on equal footing to all political parties, party coalitions, holders of independent lists and candidates for representatives of national minorities in their broadcasts. Having in mind openly shown dissatisfaction of voters, election candidates, and journalists with the program regulations (reporting from election rallies, special broadcasts presenting lists, lack of election debates, etc) we think that the Croatian Parliament should put in some

additional effort and change the Regulations in such a way that they ensure the presentation of election candidates on an equal footing and in an interesting and dynamic way, taking into consideration expert (journalist) opinions.

The Regulations do not in any way proscribe the violations and penalties for violations of the rules of election campaigning and election silence. Regulations should contain penalties for violations of the rules of election campaigning and election silence, to whom and when the objections should be filed and what the deadline for resolving objections is.

### **The Code of Election Ethics and the Ethics Committee**

The Ethics Committee was appointed 17 days prior to the elections, and the Code of Election Ethics was adopted 15 days before the elections. The Code regulates the fundamental values of election campaigns, the conduct of election participants, equality and non-discrimination in the opportunities of pre-election presentation and the conduct of the observers of the election process. With the purpose of improving the quality of their work and pointing out the importance of a body such as Ethics Committee, we recommend the following:

- Croatian Parliament should adopt the Code of Election Ethics as an official document that proscribes the fundamental values and the conduct of election participants. We think that the issues regulated by the Code are of overall importance to all citizens so the Code should not be written by a body that consists of only 7 persons, regardless of their reputation and expertise. Also, this type of universal code could be applied to all types of elections, not only parliamentary.
- The Ethics Committee should be set up as a permanent body which would function during all elections (parliamentary, presidential, local)
- The Ethics Committee should be given the power to take actions in cases of violations of the Code of Election Ethics (start proceedings with other bodies, etc) because otherwise the violations of the Code could not be sanctioned. Ethics Committee's public condemnation is only one of the possible sanctions, however it did not have much effect on the conduct of public officials in these or in the last elections.

### **CONCLUSION**

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Amendments or adoptions of the above-mentioned legislation are the only way to make the election process completely transparent, to make sure that Croatian citizens are informed and to make them feel dignified while exercising their right to vote.

If the election legislation remains the same, the next elections will not be assessed positive regardless of the quality and the atmosphere of democracy surrounding the elections.

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 of the European Union.