



NATIONAL DEMOCRATIC INSTITUTE FOR INTERNATIONAL AFFAIRS

Fifth Floor, 1717 Massachusetts Avenue, N.W. Washington, D.C. 20036
(202) 328-3136 ■ FAX (202) 939-3166 ■ E-Mail: demos@ndi.org

REPORT OF THE NATIONAL DEMOCRATIC INSTITUTE FOR INT'L AFFAIRS PRE-ELECTION ASSESSMENT DELEGATION CROATIA, OCTOBER 16, 1995

I. THE DELEGATION AND ITS WORK

A five member international delegation sponsored by the National Democratic Institute for International Affairs (NDI) visited the Republic of Croatia from October 8 until October 16, 1995. Its purpose was to assess preparations for the October 29, 1995 parliamentary elections and the pre-election campaign environment. All members of the delegation are familiar with Croatia and have participated in international electoral assessments in other countries.

The delegation consists of Shlomo Avineri, a Professor of Political Science at Hebrew University of Jerusalem (Israel); James E. Tierney, former Attorney General for the State of Maine (US); Paula Newberg, Senior Associate of the Carnegie Endowment for International Peace (US); Edward McMahon, Senior Program Officer, NDI (US); and Leslie Campbell, Croatia Field Representative, NDI (Canada).

This mission contributed to an ongoing effort by NDI to support the democratic development process in Croatia. NDI first visited Croatia in October 1994 with a three-member delegation to assess the general political environment. In January 1995, NDI returned to convene a multi-party training conference, held in Opatija, where close to a hundred party activists participated. In August 1995, NDI opened a permanent office in Zagreb.

The purpose of the current mission was to:

- 1) Examine the political environment in Croatia in view of the parliamentary elections to be held on October 29, 1995;
- 2) Review the new electoral legislation, including the process by which it was passed, and the implementing decrees issued by the Election Commission of the Republic of Croatia in light of international norms, standards and practices;
- 3) Identify the issues that should be considered by additional international observer delegations that may visit Croatia prior to and during the elections.

In accordance with international norms and prior NDI experience throughout the world, the NDI delegation was aware of the importance of nonpartisan and impartial analysis of the pre-electoral environment. In performing its mission, the NDI delegation met with government officials responsible for administering the elections. Meetings were conducted in Zagreb, Varazdin, Osijek and Zadar.



NDI will distribute this statement with its findings to the Croatian government, the political parties, the press, as well as foreign embassies and international organizations.

II. SUMMARY

The delegation has found that certain aspects of the electoral law and its implementing decrees, when combined with the ways in which they are applied, raise a number of serious issues relating to the October 29 parliamentary elections. Specific concerns include:

- hasty and non-transparent process of changing the electoral law;
- alterations in the number of Serbian members of parliament;
- broadened franchise of the Croatian Diaspora;
- changes in the type of system used to elect legislators;
- unequal access to the media;
- aspects of the election administration process

These issues acquire considerable importance given the nascent nature of democratic development in Croatia.

III. THE ISSUES

On Monday, September 18, 1995, the Parliament was called into session and immediately presented with a new election law that included significant amendments to the existing legislation. On that day, the content of the law was made public for the first time. After only a few hours of parliamentary debate, the new election law was passed without change, using emergency procedures. On Wednesday, September 20, the Parliament was dissolved. On Friday, September 22, President Franjo Tudjman called an election for Sunday, October 29, 1995.

The NDI delegation notes that the new election law and its associated decrees have not addressed many of the shortcomings identified by election observers in 1992.

The delegation notes several issues specific to the new electoral law which will have an effect not only on Croatia's democratic development, but will also help determine the identity of the future political culture of the Republic of Croatia. These issues are also of importance to the international community, which has closely followed political development in the country.

Issues identified by the delegation include:

A) Electoral Law Changes: The speed and lack of discussion in the passage of the new law permeates every discussion about the upcoming elections. Many of the political and governmental representatives interviewed expressed surprise at both the scope of the changes and the speed with which a new election was called. Even established democracies untouched by war would find it difficult to adapt to such changes in their electoral systems in only thirty days time. The lack of discussion of the new law, and the speed with which it was passed, will have an adverse impact upon the fairness of the upcoming election.

B) Serbian Representation: The election law guarantees proportional representation of national and ethnic minorities that exceed 8% of the population according to the 1981 census. The new law, however, contains a clause which overrides this process and reduces from 13 to 3 the number of seats guaranteed to the Serbian minority.

Officials explained that the new number of seats is based on the actual population of Serbs now in Croatia. However, the change in the law, even if based on current estimates, presupposes that Serbs who have left Croatia recently due to war conditions will not return. It also precludes their effective representation in Parliament for at least the four year term of the Parliament to be elected on October 29. Moreover, the new allocation of seats have been assigned without the assistance of a census.

C) Croatian Diaspora: Legislation has established the right of people of Croatian origin living permanently abroad to apply for citizenship, to vote and to be elected to parliament. In the 1992 elections, approximately 88,000 of these members of the Croatian Diaspora participated in the voting.

The new electoral law establishes a completely new representative system for the Croatian Diaspora. Twelve seats, out of a total of 127, will now be reserved in parliament for Croatians residing abroad. They will be elected on separate lists using proportional representation by Croatian citizens living permanently outside of the country.

Without taking a position on the issue of extraterritorial representation, the delegation notes that reserving almost 10% of all seats to people living permanently outside of a state is unprecedented. Moreover, this issue raises fundamental questions relating to concepts of citizenship, representation, and sovereignty. These questions were not adequately discussed during the passage of the electoral law.

Furthermore, out of the total current number of 350,000 people who now appear on the list of Diaspora voters, 291,000 are Croat people who live permanently in Bosnia-Herzegovina, are citizens of that country, and are one of the original and founding peoples of that state. The Election Commission of the Republic of Croatia is planning for voting to take place in 29 Bosnian-Herzegovina towns.

It has been repeatedly pointed out to the delegation by government and opposition representatives alike that the combined impact of these changes in the Serbian minority representation and the Croatian Diaspora reserved seats transcend questions of representation and go to the heart of the

structure of the Republic of Croatia.

D) Electoral System: The new electoral law increases the number of seats to be decided by proportional representation from 60 to 80. At the same time it reduces the number of single-member parliamentary constituency seats from 60 to 28. In some cases cities were divided and combined with rural areas with which they share little or no community of interest.

E) Media Access: National television is state owned and controlled, and consists of four state channels (including one satellite channel). The authority in charge of the state network, Croatian Radio and Television (HRT), has decided to allow each party contesting the election one hour of free time.

For that one hour of free time, HRT has promulgated 17 questions which are asked by a moderator to each party. The parties cannot alter the format and must only respond to those questions without being able to develop their own agenda and methods of presenting their policy preferences. Moreover, the questions are phrased in a manner that reflects government policies and priorities. The prescribed format restricts criticism of government policies and activities.

The HRT has established rules concerning the content of paid advertising time and has dictated what is admissible in party sponsored advertisements. Two of the rules raise serious issues. First, HRT claims that all material should be "truthful" and reserves the right to reject any advertisement it deems to be untruthful. Second, HRT insists that advertisements should refer solely to the party's own program, making criticism of the other parties and the government difficult. These regulations represent a serious restriction on the freedom of expression by the various parties in the highly influential television campaign medium.

In addition to media access, the delegation expresses concern over the opposition political parties shared perception of unbalanced news coverage. In an environment without a tradition of competitive elections, such perceptions do not promote public confidence in the electoral process.

F) Transparency in Election Administration:

Background: On December 22, 1990, a new Constitution of the Republic of Croatia became effective. Almost immediately, leaders within the Republic began to draft a comprehensive election law. This process involved many citizens of varying political and philosophical views who conducted a review of the electoral laws of many other countries. These efforts intensified in the spring of 1992 with open debate in both the Parliament and the media. It was passed in May of 1992. Four months later, in August of 1992, the first election was held pursuant to the new law and the HDZ secured an outright majority of parliamentary seats.

Consideration of the 1992 election law included an intense debate on the merits of a majoritarian and a proportional parliamentary system. The Parliament finally approved a law that called for a lower house (House of Representatives) containing 60 members elected from single member

constituencies and 60 elected from party lists on a proportional basis.

Election observers raised a number of concerns during the 1992 Croatian House of Representatives election. They stated that the election fell short of the standards observed in the 1990 pre-constitutional Croatian elections, and identified several problems. Those included: application of the citizenship law to the voters; participation of displaced persons in the voting; composition of the voter registries; polling places outside Croatia that were located in cultural clubs and churches; and fairness of media coverage.

1995 Changes and current issues: In the spring of 1995 several draft amendments to the election law were prepared by experts in constitutional law and presented to leaders of the HDZ. While there was discussion within the HDZ of the proposed election law changes throughout the summer of 1995, there was no public debate. The proposed election law was first made public on September 18, 1995.

The new law amends the provisions regarding the participation of domestic nonpartisan observers and political party pollwatchers. International observers are expected to be accredited. Previously each party could send an observer to the regional and national election commissions and polling places. For the current elections, the party in government is allowed one non-voting representative and all opposition parties combined are allowed one non-voting representative both of whom will participate in the work of the election commissions and polling committees. While the delegation notes that party representatives will participate in the work of the election commissions, it believes that domestic observers and party pollwatchers would contribute measurably to the transparency of the process and to citizen confidence.

The delegation is also concerned about the current state of the voters list. Although the list is updated continuously on the basis of information reported to various government authorities it is clear, based on evidence presented to the delegation that the lists are inaccurate and outdated. The rapid population shifts of the last several months and the difficulty of keeping up with the change in status of many residents of Croatia has made it impossible for government officials to have an up to date voters list for this election.

Finally, in both the 1990 and 1992 elections, notices were mailed to voters prior to election day, notifying them of their presence on voter registries and the site of the polling place. Although not required by law, many voters are likely to again be expecting this form of notification. The delegation has been told that the notification process will not take place prior to the October 29, 1995 election.

IV. Final Notes:

The delegation raises the above mentioned issues in a spirit of cooperation and in the hope that the election authorities, the government and political parties will make every effort to promote as transparent a process as possible. The delegation recognizes that there may not be time to address some of the issues raised here before election day, but the delegation recommends a post election round table among the political parties and government leaders,

along with an open public discussion of these issues in order to raise public confidence in the electoral and governmental process.

The delegation recognizes that Croatia is in the early stages of its democratic transition. Only five years ago the country held its first democratic elections, and political development has been affected by the tragic war in the region. Nevertheless, in a situation where a long tradition of genuine elections is absent, and where elections are organized on short notice, confidence in the process is all the more important. This is particularly true where the ruling party is expected to garner substantial support in the electorate and it is necessary for the incumbent government and the election authorities to take measures beyond the minimum legal requirements to create an expectation that fairness will prevail.

The delegation recognizes that it is the Croatian citizens who will be the final judge of the election process. NDI looks forward to continuing to support Croatian efforts to advance the country's democratic process.

Finally, the delegation wishes to express its gratitude to government and elected officials, political party and civic leaders, journalists and others who took time to share their views.