



**STATEMENT OF THE NATIONAL DEMOCRATIC INSTITUTE FOR
INTERNATIONAL AFFAIRS
PRE-ELECTION DELEGATION TO
CROATIA'S 2000 PARLIAMENTARY ELECTIONS
ZAGREB, DECEMBER 18, 1999**

I. INTRODUCTION

The National Democratic Institute for International Affairs (NDI) is a nonprofit organization working to strengthen and expand democracy worldwide. NDI works with democrats in every region of the world to build political and civic organizations, safeguard elections and promote citizen participation, transparency and accountability in government. The Institute has conducted pre election missions to Croatia for the 1997 local and 1995 parliamentary elections.

The Institute has conducted more than 40 international election observer delegations and more than 80 pre-election delegations around the world. It has established a reputation for independence, impartiality and professionalism in conducting electoral assessments. Given that this is a pre election assessment, the delegation cannot render a definitive statement on these elections. Ultimately, it will be the people of Croatia who determine the legitimacy of the process.

II. THE DELEGATION AND ITS WORK

This pre-election delegation included political and civic leaders, as well as elections and human rights experts from four countries. Delegation members have participated in numerous election assessments and international election observer delegations in Central Europe and other regions of the world. The delegation visited the Republic of Croatia from December 12 until December 18, 1999. The delegation consisted of Shlomo Avineri, Professor of Political Science at Hebrew University of Jerusalem and former Director-General of Israel's Ministry of Foreign Affairs; Dr. Deborah Alexander, NDI Regional Director for Central & Eastern Europe; Maria Leissner, former Member of the Swedish Parliament and former leader of the Liberal Party of Sweden; Tom Andrews, former United States Congressman from the State of Maine; and Karen Gainer, NDI Director of Programs in Croatia.

The delegation is making its observations and findings based upon: NDI's continuous presence in Croatia since 1995; the Institute's analysis of this year's changes to the parliamentary election law; review of reports by other international organizations involved in the electoral process in Croatia; and analysis of

information presented to the delegation during its meetings in the country. The delegation met with representatives of governing, opposition, and minority parties, the National Election Commission, non governmental organizations, Organization for Security and Cooperation in Europe (OSCE)/ODIHR, Croatian TV and Radio representatives, the State Directorate for State Administration and Local Self-Government, the Constitutional Court and the newly formed Ethics Commission.

The delegation's objectives were to:

- Express the support of the international community for a democratic election process;
- Assess the political environment and the legal framework surrounding the elections in light of international norms, standards and practices;
- Highlight issues that should be considered by additional international observer delegations that may visit Croatia prior to and during the parliamentary elections, and
- Identify issues and processes that could be improved upon for the presidential elections and subsequent elections.

The delegation conducted its activities according to international standards for nonpartisan, pre-election assessment observation.

III. SUMMARY OF ISSUES

On January 3, 2000, Croatia will hold its third parliamentary elections for the House of Representatives since achieving independence in 1991. Due to the failing health of President Tudman, elections were not called for December 22 as had been anticipated. The Parliament amended the constitution to accommodate the President's "temporary incapacitation" and the Speaker of the Parliament became the Acting President in late November, 1999. President Tudman died on December 10 and his state funeral was held on December 13.

Croatia now finds itself at a crossroads. Finally at peace, and in control of its territory, citizens of Croatia may go beyond the divisive issues of the last decade. This is an opportunity for citizens to demonstrate their commitment to democratic electoral reform. The delegation has concerns relating to the January 3 parliamentary elections. The issues of greatest concern are:

- Diaspora Voting
- Minority Voting
- Balanced Political and Election Coverage by State-Controlled Media
- Access to Voter Lists

IV. THE SPECIFIC ISSUES

A. *Diaspora voting*

The delegation commends the multi-party nature of the negotiation process that led to the adoption of a new variable quota system for determining the number of seats reserved for Diaspora candidates. In addition, the delegation notes the new system may equalize the value of votes cast by Croatian Citizens without residences within the country with those cast by citizens within Croatia. Having ten percent of the seats guaranteed to diaspora votes, as provided under the old election law was disproportional. The current flexible formula may slightly redress this grievance. However, not knowing the number of seats allocated to the diaspora before the election outcome only adds to a lack of transparency.

More serious may be the inclusion of ethnic Croats in Bosnia-Herzegovina (BiH) in the diaspora. This is perceived by many to be tantamount to a *de facto* creeping annexation of the ethnic Croat population in BiH. Ethnic Croats who live in BiH are not a legally defined diaspora, but instead are a constitutive nation of BiH. We would strongly urge this issue to be reconsidered. It may undermine the legitimacy of elections when non-residents may tip the balance in a close race.

Finally, diaspora voting appears to open the door for dual voting; once in BiH and again in Croatia since the diaspora has two days of voting. The delegation urges the Croatian government to take steps to ensure that voting in Bosnia-Herzegovina is conducted in a transparent manner and in adherence with Croatian electoral law.

B. *Minority Voting*

We are aware that some argue that there is no place in a mature democracy for separate ethnic voting. But taking into account the context of the historical circumstances connected with the breakup of Yugoslavia we are greatly concerned for the rights of the national minorities and note that affirmative steps to protect minority rights are accepted under major international human rights instruments.

The new election law further decreases the number of seats reserved for ethnic Serbs, from three to one, although Croatian Serbs number approximately 287,000. In comparison, each electoral district contains approximately 350,000 voters that will elect 14 members of Parliament. The reduction of Serb representation to one member in Parliament is a numerical injustice to the Serb community and contributes to its marginalization in politics.

On the other hand, the change of the system of electoral representation has the effect of helping the Serb community participate on the electoral district list. In the few electoral districts in which they make up a higher concentration of voters and can surpass the five percent threshold required, they will have the possibility of

electing candidates from their party lists.

Additionally there is a serious flaw in the procedure by which minorities opt to vote on the general lists. By law, minorities will appear on separate lists. At the polling station, a minority voter wishing to vote on the general list must have the polling clerk strike him/her from the minority list and enter his/her name on the general list (Mandatory Instruction 6) This system has obvious flaws. Both voters and polling station officials must be aware of the procedure and the delegation is not convinced that will always be the case. Furthermore, this procedure puts the burden on the individual voter, in a situation which may not always be friendly, to make a public declaration before election officials. There are a number of possible ways that election officials could make this system of minority list voting less burdensome and intimidating.

C. Balanced Political and Election Coverage by State Controlled TV

The delegation noted that there is there is an appreciation of journalistic standards at HRTV and the beginning of more diverse political programming. Nonetheless, the delegation is particularly concerned about the qualitatively unequal coverage of political parties by the state controlled national television. The ruling party has received a disproportionate amount of positive, prime time coverage during the pre-election period. This unbalanced coverage erodes trust in the media's ability to fairly provide information about the elections to voters. In an environment without a tradition of competitive elections, such media coverage does not promote public confidence in the electoral process.

The Parliament has passed rules to regulate the HRTV broadcast time for political parties. The rules provide "equal time for all parties and or coalitions". In this election there are 70 parties and/or coalitions. Each has been allocated the same amount of broadcast time. This limits the opportunity for major parliamentary parties to have access to television; at the same time this provides disproportionate attention to many parties which may have no chance to pass the five percent threshold. In addition, HRTV has interpreted these rules to prohibit any "leaders debate" between the key government and opposition leaders. The result is hours upon hours of continual political party broadcasts in identical, repetitive format that fails to inform or educate the voter.

D. Access to Voters Lists

Although parties are able to view voters' names on computers in most county administration offices, it is unfortunate that the State Administration decided not to make copies of the voters lists available to political and civic groups. The government's rejection of requests by political parties and civic organizations for complete copies of the voters lists frustrates their ability to verify the accuracy and integrity of the lists. This practice limits transparency by preventing public scrutiny of voters' lists as a whole. Access to these lists would facilitate efforts to make them

more accurate and, in so doing, would increase citizen confidence in the election process.

E. Other Issues

- The delegation is concerned about the implementation of the Election law provision relating to the composition of the new multiparty election commissions. For example, while the law states that the voting committees are to be comprised of members of the government and parliamentary opposition parties, it leaves open to debate the definition of "parliamentary opposition parties." Under the current law, the voting committee has the authority to determine who sits on the committee in the event that appointments are not made in a timely manner.
- The delegation is concerned that the election law no longer provides for political party poll watchers to observe the voting and ballot counting processes on election day. The absence of party pollwatchers diminishes the transparency of these processes and may have an adverse impact on citizen confidence in the election results.

V. POSITIVE DEVELOPMENTS

Despite the above-mentioned problems, the delegation was impressed by some positive aspects of the election process.

- The law now permits multi party election commission at all levels.
- The law also permits domestic nonpartisan election observers to observe all election processes including voting, ballot counting and tabulation of results.
- Parliamentary debate on the election law was widely reported in the press and consensus was reached on a consistent five percent threshold for all individual parties and parties in coalition, thereby not disadvantaging party coalitions.
- The National Election Commission has exhibited greater transparency and professionalism as evidenced by daily press conferences. The National Election Commission has developed a web page to provide information including election materials that are freely available to the public.
- Although the delegation was concerned about the qualitatively unequal coverage of political parties by the state controlled national television, the delegation noted that there is an appreciation of journalistic standards at HRTV and the beginning of more diverse political programming.
- The establishment of the Ethics Commission is a positive development. While an Ethics Commission with enforcement powers would send a

stronger signal to the electorate, political parties, and the media, the ultimate impact of the commission as presently mandated will only be judged after the elections.

VI. RECOMMENDATIONS

Because Croatia is moving into presidential elections some of the delegation's recommendations could be addressed in the immediate future; other recommendations may require more time to implement.

- During the run-up to the election, balanced news coverage should be ensured.
- In the allocation of broadcast time in the Presidential election, priority should be given to candidates representing parties in parliament.
- Voter lists could be made available to political parties to enhance confidence in the election process and possibly reduce the likelihood of multiple voting. This provision of lists can easily be accomplished with diskettes. Furthermore, ethnic identification is not relevant in the presidential elections; therefore, ethnic identification on lists of voters should be dropped.
- Limit diaspora voting to one day consistent with in country voting, thereby reducing suspicions of voting one day in Bosnia and the following day in Croatia.
- Any drafting of a special law or regulations on media for the presidential elections should be undertaken in consultation with all parliamentary parties as well as considering input from professional journalists.
- In the event that political parties cannot reach consensus for their members on the voting committees, or in the event that the political parties do not appoint members of the voting committee within the set deadlines, the voting committees should appoint politically balanced committees which have at least one member of the major opposition parties.
- If electoral laws are to be changed in advance of the presidential elections, every effort should be made to avoid comprehensive last minute changes. The citizens should be afforded sufficient time to be fully informed of the new law. This would serve to increase the confidence, fairness and transparency of the electoral process.
- It is advisable that in the future, a permanent election commission be established to prepare and maintain the infrastructure of the election process on a continuing basis.

- In order to increase the independence of the state controlled broadcast network, HRTV should start the transition from a state control network to an independent public broadcast network.

VII. CONCLUSIONS

In a situation where a tradition of genuine elections is absent, and where elections are organized on short notice, confidence in the process is all the more important. 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.

Croatia's ability to move forward in its democratic transition process and its integration into Europe will depend greatly on the way these elections will be conducted and perceived in the eyes of both the citizens of Croatia and the international community, as well.

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.