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General Information

On April 15th, by Government's decree, elections for members of representative bodies of local and regional units of self-government were announced as well as elections for municipal mayors, mayors, county mayors and the Mayor of The City of Zagreb. Elections were held on Sunday, May 17th 2009, the second round and re-run elections were held on May 31st 2009, while the third round, as well as the second round and re-run elections were held on June 14th 2009.

Around 4080000 voters with the right to vote on 6591 polling stations were directly electing 429 municipality mayors and 435 of their deputies, 126 mayors and 194 deputies, 21 county mayors and 42 deputies and the Mayor of The City of Zagreb and his/her two deputies – all in all, there was 1970 candidacies.

Additionally, voters elected a total of 886 members of county assemblies and 51 members of Zagreb City Assembly, as well as 2206 members of city councils and 5343 municipality councils. For the 21 county assembly and for the Zagreb City Assembly, as well as for 126 city councils and 427 municipality councils a total of 2982 candidate lists were submitted on which a total of 46324 of candidates were represented.

Elections were organized by county, city and municipality election commissions, while their work was monitored by the State Election Commission.

The first round of elections was observed by a total of 700 GONG's observers, out of which 92 of them were in 46 mobile teams, and they observed more than 1000 polling stations. The second round of elections was observed by 200 GONG's observers, out of which 80 of them were in 40 mobile teams, and they observed at 540 polling stations.

GONG's General Assessment

The pre-election period was marked with numerous dilemmas in regard to the implementation of the new election law, as there was a lack of clear rules of campaign publicity of parties, lists and candidates in the media, and, also, of election campaign financing. Major problems were noted concerning the fact that there is a great number of registered voters on areas that border with Bosnia and Herzegovina, voters who do actually reside in Bosnia and Herzegovina. The transparency of campaign financing remained to be on a low level, and an increase in local resources misuse is discernible, which is forbidden by Law on financing political parties, independent lists and candidates, but it is not known if anyone was sanctioned for this type of local resources misuse.

Election days were mostly conducted in a democratic atmosphere which made it possible for the voters to fulfill their voting rights. However, freedom of choice, secrecy of the vote and voters' dignity have been seriously infringed in some regions/municipalities by certain party and candidate supporters, but also by certain election boards, and it is not of importance here whether or not those occurrences could have had an impact on election results or not. With elections, the mere result is not all that matters, but the process itself is equally important, and events that occurred during

Election Day, which are described in detail in GONG's announcements¹, show that during the election process in some areas, **human and citizen rights were violated**.

Furthermore, voters, parties and candidates have a right to educated election boards and elections commissions, and with this problems also occurred. Breaches of regulations by election boards, but also numerous violations of law by political parties and candidates and their activists, show that the election process in The Republic of Croatia is suffering severe problems, as is the whole of Croatia's political establishment, which, in the end, puts the rule of law itself in question. To put it more concrete, cases of violating the law and procedures, as well as the fundamental democratic principles like secrecy of the vote and freedom of choice without intimidation and blackmail are troublesome and they have occurred on these elections. In that sense, implementation and certain cases of law violations on these elections do not represent progress in election implementation compared to 2005 local elections. For example, writing down the names of voters that did or did not show up in a polling station and cases of election boards visiting the sick and disabled voters, without those voters asking them to do so is worrying and shows that there was an organized violation of freedom of choice and secrecy of the vote conducted in certain places.

Certain cases of violence, but also reports on buying votes (by offering money, photographing voting ballots) show that there are serious doubts that there are regions in which authority was gained in an illegal manner, by committing acts of felony. The high number of reports concerning ballots that were not shuffled in the right manner, nor turned face down, a case of forbidding observers to visit the sick and disabled with the election board, as well as cases of harassment of observers (not only GONG's observers) show that the part of the election boards came to polling stations uneducated and with a mission that was not implementing elections according to procedures.

Additionally, a high number of breaches of election silence made by a large number of parties and independent candidates was noted. Especially severe violations were committed by agitating on Election Day inside, in front of and in the near vicinity of polling stations, largely done by HDZ activists and current city and municipality mayors which created a tenser atmosphere of Election Day in certain places and could have made an impact on election results. The arrival and presence of unauthorized persons in or in front of certain polling stations contributed to the atmosphere of autocracy and fear in those places and with that, the independence of election boards was brought to question.

Local units have had a major job of matching the new statutes with regulations on national minority representation, which were largely not matched on time, i.e. before the elections which begs the question will the composition of all councils and assemblies be in accordance with the Constitutional Law on National Minorities Rights.

Legal framework

Local elections where one directly elects mayors of local and regional units of self-governance are regulated with several laws and obligatory instructions from the State Election Commission (hereinafter: SEC). Recommendations from international and domestic observers and domestic legal experts on creating a unique electoral code which would procedurally regulate all types of elections

¹ www.gong.hr Announcements on the course of Election Day

in an equal manner, in order to avoid the problem of unmatched stipulations, is not yet adopted.

Because of this, some of the stipulations that regulate local elections collided and numerous stipulations remained imprecise and indefinite, which opened a path to various legal interpretations. SEC once again had to take up the role of an arbiter and, due to legal security of the election procedure participants, to make ad hoc decisions and interpretations of regulations that, at times, arrived on the field too late.

In the months prior to elections itself, there were already numerous fears and issues out of which some were dealt with by quickly amending numerous regulations two months before the elections, while numerous ones remained unsolved to this day. These issues are in large part on functioning of local and regional self-governance, but also issues about the jurisdiction of bodies for which the elections were taking place – mayors and representative bodies. And so, potential candidates found out about what is the jurisdiction of bodies and functions they can run for, moments before the elections.

Examples of open questions are as follows:

- The method for re-calculating votes into mandates for representative bodies isn't pure D'Hondt Method, but a derivative for which is proven to lead to too many mandates, especially on local elections.
- Local means of public informing are obliged to make possible for all candidates to introduce and explain their election programs. It is not sanctioned by law if the media do not respect said stipulations, and for local elections there is no Ethics Committee either which would monitor whether or not fair play of election campaign is being followed, although such committee is anticipated for parliamentary elections. It is not regulated in detail what are the exact obligations of local media with the separation of private media from the public ones.
- Stipulations that regulate questions concerning election campaign financing are perfunctory, do not regulate key areas and are largely vague, and concrete examples of that are given in the following chapters.
- Laws that regulate elections for representative bodies and mayors contain some stipulations that collide (different arrangement of polling stations while elections are being held in the same rooms; different criteria for choosing members of election commissions and boards while the same bodies are implementing elections; instructions for voting with a certificate are different while it is being voted for the body and the mayor simultaneously; different signing of the election board work record, while the same body is implementing both kinds of elections; different stipulations on observers; different stipulations on documents necessary for voting etc.).
- It was overlooked to regulate the public announcement of results per polling stations so, although technical features allowed it, it depended on the good will of particular commissions.
- Voters' signatures are collected on a prescribed form. Candidacy proposals must be submitted to the competent election commission on a prescribed form within 12 days of election announcement. However, it is questionable whether or not a form can be the

condition of acceptance or it has to be clearly evident from the communication that there is will of support, and whether or not a form can change legal conditions from article 16 which, in fact, prescribes the important ingredients of this document: “In the form, along with the voter’s signature, a name, surname, address of voter’s residence and the number and place where a valid ID card was issued are also cited.”

In some local self-governance units, **elections for neighborhood councils were also implemented.** However, by dismissing representative bodies of local self-governance in order to conduct general elections of members of representative bodies of local self-governance units, the mandate of those working bodies ended while the new ones haven’t been constituted yet. Seeing how representative bodies play an important part in the protection of electoral law for elections for neighborhood councils (Appeals body), by simultaneously holding elections for members of the representative body of local self-governance unit and elections for members of neighborhood councils of the same local self-governance unit, a situation was created in which for the protection of electoral law in electoral disputes in regard to neighborhood councils in that unit, there is no competent Appeals body. The constitutional Court warned about this same issue in its decree U-VIIA / 2542 / 2009 and it, in fact, **banned future simultaneous holding of these types of elections** because of unmatched legal stipulations: *“The Constitutional Court therefore concludes that all future neighborhood councils elections, including the ones for town neighborhoods, must be held in a time when the representative body of a town or municipality in which they are being conducted has already been constituted, because this is the premise for a precise, unobstructed and efficient implementation of elections for neighborhood councils.”*

Managing and implementing elections

Voters’ lists and activities of the Central State Administrative Office

In April, The Central State Administrative Office (hereinafter: SDUU) conducted the preparation for voters’ list implementation by sending a circular letter to lower bodies. Additionally, the citizens were able, as always, to check their information via the Internet in voters’ lists on SDUU’s pages and they were also able to do an SMS check via T-Mobile and VIP operators (with the standard price of an SMS). As with previous elections, on these ones the problem was actualized of registered voters’ residences who do not, in fact, reside in the Republic of Croatia, seeing how their number in some regions greatly influences the number of voters who voted and by that, on election results. The problem was most visible in small towns that border with Bosnian and Herzegovina. For example, in a small town of Dusina next to Vrgorci, there are 440 voters registered at the house number 0 (zero). Such examples are published on an Internet page www.popisbiraca.politika.com which allows a check of how many voters are registered on any address in Croatia.

	Population census	Voters’ list	Increase %
Banja	175	253	145%
Dusina	371	528	142%
Orah	260	363	140%

Podprolog	291	400	137%
Veliki Prolog	359	490	136%
Vrgorac	1536	2084	136%

SEC responded to these problems with an announcement² in which it said that it acts in accordance to voters' regulations that it receives from the SDUU in whose jurisdiction their accuracy is. After the Ministry of Interior (hereinafter: MUP) was publicly called out because of the said problems, they posted an announcement in which they referred to legal stipulations in which it is stated that bodies of state administration are in charge of voters' lists. On the other side, immediately after this, SDUU requested all state administration bodies in counties remove persons from the voters' lists as soon as they receive a checking-out from place of residence from the police. They emphasized in the SDUU that it is necessary that all police notifications of change in residence be processed the same day, even by overtime work if necessary, in order to prevent inaccuracies in voters' lists. ³ SEC then referred a recommendation to the SDUU and MUP that the mentioned issue be settled by implementing paragraph 2 of article 13 of the Residence Law according to which the competent body is obliged to adopt an order on removing from residence record if it concludes that the registration applicant provided untruthful information. The problem with voters' lists, according to SEC and the public, puts to question citizens' trust in the election procedure, the regularity of electoral bodies and competent institutions' work and in election results. There are no signs that MUP or SDUU proceeded as SEC recommended, beside announcements that the problem is to be resolved by amendments of the Residence Law, which was also announced after the 2005 local elections, but hasn't yet been resolved.

Despite reactions from these institutions, it **remained unclear which of them is, in fact, responsible for dealing with these issues** because every institution shifted competence and responsibility onto others. In the end, the problem remained unsolved, and in some places, the number of fictitiously registered voters created much tension during pre-election and post-election period, as was reported by the media (for example, in Vrgorac).

In areas where people with residence abide in Serbia, announcements about voters who have the right to vote and Croatian documents, travelling from Belgrade to vote on local elections, created tensions. According to statements made by the President of Coordination of Organizations that Emerged from the Croatian War for Independence of the City of Petrinja, the condition for having a Croatian ID card is proof of ownership of a house or apartment or submitted contract of tenancy. After selling one's real estate, competent bodies should annul the ID card within 15 days, and many failed to do so, which is why a lot of citizens still have their voting rights, states The Coordination.

Additionally, the SDUU pointed out that on Election Day, it had to issue a great deal of voting certificates in Zadar and Knin area and in areas where there are a lot of returnees, because voters,

² www.izbori.hr - Priopćenja

³ Published in media at the end of April 2009

largely from Serbia, were not entered in the voters' lists. According to information they received, this happened due to the fact that MUP activated residences to those voters several months prior to the elections without notifying the bodies competent for managing voters' lists, i.e. general administration offices.

Several thousand voters of Serbian nationality came to Croatia by buses to vote, according to the Vice-President of the Government, Slobodan Uzelac, while the arrival was organized by the SDSS party. The mentioned arrival caused an incident in Petrinja on Election Day when a few of the Coordination of Organizations that Emerged from the Croatian War for Independence of the City of Petrinja members stopped a bus by a Serbian transporting company "Lasta" which was transporting voters from Serbia. Soon, the police intervened and it was forced to reroute the buses to another direction, with police escort. Situations like these could have been stopped by a more efficient work of the institutions, but also by duly informing citizens on their voting rights.

The Central State Administrative Office fulfilled its duties for local elections in a correct manner. However, **more initiative from the SDUU was expected** concerning improvement of residence records that has direct impact on voters' lists records. Education of voters on voters' lists could have been more intense and more visible.

Electoral Bodies

According to SEC's statements set forth on a meeting with GONG held in December 2008, SEC began preparation for election implementation several months before they were announced, by analyzing provisions and issues and by preparing obligatory instructions. Besides the usual instructions given by SEC during every elections (course of deadlines and program of election operations, forms for candidacy and election procedures), **because of the vagueness of the regulations, numerous elements of the electoral procedure and election implementation had to be construed *ad hoc*** and SEC had to give additional instructions to lower election commissions.

We would like to point out to the most important examples:

- In order to strengthen citizens' confidence in the electoral procedure and regularity of electoral bodies' work, SEC instructed lower electoral bodies to, wherever possible, avoid appointing as member of election boards persons that are relatives to candidates in elections. According to statements of the president of lower electoral bodies, the instruction came after most of the bodies were already appointed so it didn't have the desired effect. However, SEC, within its authority, replaced all presidents and deputies in county, city and municipality election commissions for whom it was learned that they were close relatives to candidates, which is a positive improvement.
- Election laws did not proscribe a prohibition on one voter supporting, i.e. signing their support to more candidacies or lists of candidates for representative bodies' members. According to the aforementioned, none of the electoral bodies performed checks of signatures of citizens that gave their support, and in regard to the possibility of giving support to two or more candidates or lists.

- Checks of voters' signatures were being performed only if an objection was put in to some of the candidate lists. In this case, it was being checked whether or not the voter comes from the specific municipality/city/county and the voter's ID card number.
- Independent lists didn't have the right to be represented in election boards, even if they had representatives in representative bodies. Opposite to that, if a new party were to appear in a council as a result of a councilmen's deserter, then this new party would be able to nominate members into electoral bodies if it decided to participate in elections.
- The order of deputies of municipality mayors/mayors/county mayors on the voting ballot wasn't put alphabetically, but in the order the candidate i.e. party determined.
- Seeing how there was a great number of cases of using e-mails and SMSs for pre-election purposes, SEC called upon the parties/candidates to refrain from sending advertising e-mails to citizens because they create expenses to citizens who open their e-mails via mobile phones.
- Observers could have gotten an official observer's card at the polling station as well (election boards had them in their material).
- Voting ballots had to be shuffled and turned face down in a fan shape.
- When voting with a certificate, it wasn't necessary to bring 4 certificates (seeing as there were 4 excerpts from voters' lists, one for each type of election), but the one certificate was put into one record (for the county assembly), while it was only recorded in other records in the case that a voter voted for other elections. While counting, the evidence/note in the record had to be counted in order to be known if that voter also voted.
- All voters who declined to vote for a particular body and voted for the rest of them were cited under remarks, in order to prevent possible manipulations and voting instead of these persons.
- If a voter took the entire set of voting ballots but subsequently changed his mind and returned the ballot with a remark that he does not want to vote with that ballot, the election board had to make an official minute into the appropriate excerpt and in the record and take the ballot back keeping it separated; after the closing of the polling station count it in as an unused ballot.
- If an election board noticed that a voter took a ballot from the polling station, it had to make an official minute in the record.
- After the closing of the polling stations, the election boards had to first count votes and determine voting results for county assemblies and county mayor.
- Between two round of elections SEC announced a reminder to election boards as to which ballots are valid and which are invalid in regard to observed problems in proclaiming ballots (in)valid after the first round.

- SEC recommended to employers that were having inventory the entire Election Day that they should organize their work in a manner that will make possible for voters to go out to vote and fulfill their right.
- On Election Day in the second round, SEC allowed, by instruction, voting with invalid ID cards and drivers licenses even though the law stipulates that a valid ID card or passport is necessary for determining voter's identity.
- On GONG's inquiry, SEC pointed out that there are no legal obstacles for competent election commissions to announce or deliver via official request early reports on the sources and rate of funds collected for financing election advertisement of candidates and their deputies.

Three NGOs, CESI, Croatian Youth Network and GONG addressed SEC with a request that for all future elections, information with which it would be possible to monitor the implementation of the Law on Gender Equality (according to which political parties are obliged to candidate 40% of women on lists) and measures of the National Youth Program, which as one of the measures determines promotion of youth political participation, be made available. Such information weren't available for local elections since political parties in conducted elections largely formed pre- election coalitions while it wasn't visible from the candidate lists which candidate comes from which party. Also, it is necessary to make available the age structure of candidates on lists.

Lower election commissions were formed within legal deadlines, while SEC had to elect two members of the extended composition of county election commissions and their deputies in the Sisak-Moslavina County from party ranks by rolling the dice, since parties which, by the composition of yonder representative bodies, were considered to be the ruling ones, did not reach an agreement on the candidates.

SEC had to warn the City of Zagreb Election Commission (GIP Zagreb) of the inappropriateness of the situation in which one election candidate was also employed in city administration and was performing duties of the Head of Administration of GIP Zagreb, and within her duties she was managing numerous election activities, as well as presenting GIP Zagreb on press conferences. The aforementioned represented **severe violations of the principle of independence of election commissions' work**. During the first round of elections in the City of Zagreb, many voters were confused because they couldn't find their names on excerpts from voters' lists at their usual polling stations. In communication with observers and voters, and with comparing numbers of polling stations from the last elections, it was concluded that the polling stations numbers were changed, but also some of the streets which pertain to a particular polling station. There were cases when polling stations from the same street were separated according to even and odd numbers, but there was no warning about it anywhere. After SEC's warning, GIP Zagreb took additional steps for voters to get by easier in the second round and every election board was given a phone number which to call and find out the voter's polling station by his/her address.

Cooperation between GONG and electoral bodies was correct on all levels with some harsh exceptions and without understanding from certain electoral bodies. The fact that all irregularities in the election process that were being pointed out to by the citizens, GONG, independent candidates and even some political parties were being belittled by SEC with the explanation that there is no

proof for those irregularities and that they couldn't have had an impact on the election result, is especially discouraging.

Education of electoral bodies and voters

SEC made and distributed the Agenda for Election Commissions' Work and published it on its web page, but **it failed to conduct a comprehensive education of electoral bodies.** "Instructions" were conducted for presidents and deputies of county election commissions, while lower bodies decided for themselves whether or not they have the time and resources for educations. For example GIP conducted four educations for members of election boards in the area of the City of Zagreb.

SEC published on its web pages a brochure "I vote for the first time". Additionally, SEC made a short educational leaflet for voters, which was inserted into one daily newspaper. However, a **comprehensive education of voters by SEC was not conducted**, especially having in mind the fact that these were the first direct elections of heads of executive power implemented in Croatia and the fact that SEC has been a permanent body for several years and that 2008 was a year without elections.

After the elections, GONG performed an insight of election material and the structure of invalid and valid ballots, and examples of poorly educated members of election boards were shown on a small sample. After the first round, we performed insight at 4 polling stations in Vukovar and it was concluded that out of 220 invalid ballots at least 53 of them (hence, one-fourth), according to the Constitutional Court's viewpoint (decision on election disputes from 2009), should have been valid. Since regularity in proclaiming ballots invalid for just one specific party or candidate was not noticed, this shows that it wasn't a matter of a deliberate attempt to influence the result, but that the election boards were poorly educated and insecure in their work.

After the second round, GONG performed insight at 6 municipalities and one city (Čaglin, Donji Vidovac, Sunja, Generalski Stol, Majur, Hrvatska Kostajnica, Zlatar Bistrica), and it was concluded that *out of 217 invalid ballots at least 7 of them, according to the Constitutional Court's legal viewpoint* (decision on election disputes from 2009), should have been valid. Additionally, 4 ballots were found that should have been invalid, according to the same viewpoint, but were acknowledged as valid. Since the ballots were not being proclaimed invalid for just one specific party or candidate, it shows that it wasn't a deliberate attempt to influence the result, but that election boards were still poorly educated. In only one investigated case was it disputable whether or not the ballot could have influenced the result – in Zlatar Bistrica. There, a ballot was proclaimed to be valid while on it both candidates were encircled, and one was crossed. If it were proclaimed invalid (this would be in accordance with Constitutional Court's legal viewpoint), there wouldn't have been an equal number of votes for both candidates and there wouldn't have been a third round.

Also, when compared with local elections for representative bodies in 2005, a high number of invalid ballots in some counties were noticed, which tells us about poorly educated voters and election boards, but also, about the voters' negative attitude towards candidates and politics.

COUNTY (election for county assemblies)	2005 (%)	2009 (%)
Lika - Senj	3,08	5,14

Vukovar –Srijem	2,83	5,04
Zadar	3,78	4,75
Sisak - Moslavina	3,35	4,39
Karlovac	3,30	4,34
Virovitica – Podravina	2,97	4,18
Bjelovar – Bilogora	2,26	3,18
Osijek – Baranya	2,39	3,06
Varaždin	1,65	2,77
Zagreb	1,58	2,49

Election Campaign and the Media

886 members of county assemblies and 51 members of the City of Zagreb Assembly, and 2206 members of city councils and 5343 municipality councils were being elected in total. There was a grand total of 2982 candidate lists with 46324 candidates that were submitted for 21 county assemblies and the City of Zagreb Assembly, and 126 city councils and 427 municipality councils:

- for county assemblies 125 candidate lists with 5361 candidates

(74.15% male and 25.85% female);

- for the City of Zagreb Assembly 28 candidate lists with 1428 candidates

(63.52% male and 36.48% female);

- for city councils 821 candidate lists with 14175 candidates

(70.85% male and 29.14% female);

- for municipality councils 2008 candidate lists with 25360 candidates

(79.63% male and 20.37% female).

Out of a total of 46324 candidates in submitted candidatures, 75.80% of them were men and 24.19% of them were women.

429 municipality mayors and 435 deputy municipality mayors, 126 mayors and 194 deputy mayors, 21 county mayors and 42 deputy county mayors, and the mayor of Zagreb and his/her deputy were being elected in total.

There were a total of 1970 candidatures submitted:

- for municipality mayors (with deputies) 1416 candidatures (85.28% male and 14.71% female)

- for mayor (with deputies) 482 candidatures (77.10% male and 22.89% female)
- for county mayor (with deputies) 64 candidatures (84.3% male and 15.62% female)
- for the City of Zagreb Mayor (with deputies) 8 candidatures (75% male and 25% female)

Out of a total of 4376 submitted candidatures, 82.83% were men, and 17.16% were women.

The deadline for submitting candidate lists for the election of members of representative bodies of local and district (regional) self-government and candidatures for the election of municipality mayors, mayors, county mayors and the City of Zagreb Mayor, has ended on April 27, and competent election commissions compiled and published in public newspapers all legitimate submitted candidate lists and candidatures. Candidates for members of representative bodies could have been nominated by political parties registered in the Republic of Croatia, independently or in a coalition of two or more parties, and by constituents (independent lists), while the condition for purposing independent candidacies by constituents was to collect legitimate signatures of voters who are registered in the voters' list. Bearer of list for representative body and a candidate on that list could have simultaneously been the municipality mayor, mayor and county mayor and their deputies, as well as candidates for said positions. However, in case one was elected for both positions, for head of executive power and a seat in a representative body, the elected candidate had to choose which function he/she will perform because he/she did not have the right to perform a function in a representative body and an executive function. Nobody could run simultaneously for municipality mayor/ mayor and county mayor. Official proscribed forms for candidates could have been bought in The Official Gazette Store or downloaded from Internet pages www.nn.hr and www.izbori.hr. Competent election commissions were determining the number of voters' signatures, but they were not checking the legitimacy of collected signatures except in cases of official complaints. SEC did not issue an instruction that a voter can support only one candidate with his/her signature, which means that voters could have signed, i.e. give their support to a greater number of candidates/lists.

A case from Oroslavje was made public when a person who was collecting signatures in Oroslavje from April 14th till April 26th 2009, was found guilty by the court: the person was collecting signatures for the support of an HDZ candidate Milan Babić and in the table with the voters' list, the person entered false information on the voters, their ID cards number and signed them himself and then submitted that list as an attachment to the applicant of political parties' coalition proposal. The person in question was sentenced to ten months in jail by a not legally binding decision, after being found guilty in a court trial.

GONG received several complaints about refusals of candidate lists after they were received by the competent election commission. For example, first three candidates from the Independent List of Željko Buterina in the Novigrad Municipality submitted the candidate list, and, while submitting it, the President of the Novigrad Election Commission explained that the list fulfills legal conditions. Still, the Commission decided afterwards that the list should be refused without explaining the reasons for it, and the possibility for amendment according to Law, was not offered. The Independent List put in a complaint, and the Constitutional Court annulled said decision and proclaimed it to be illegitimate. Errors in the competent election commissions' work also were noted upon submitting HDZ, HSS and HSLŠ candidate lists in Gospić. The complaint was put in by the SDP-HNS coalition due to the fact that

one of the candidates was active in the Republic of Croatia Armed Forces service. Since the Law on Electing Members of Representative Bodies of the Local and District (Regional) Self-Government specifically forbade for military personnel, officers and employees of the Republic of Croatia Armed Forces to run for elections, the list would then be illegitimate. The Commission adopted a decision in which it noted that the person in question dropped her candidacy in the meantime, and a second person was introduced in her place, almost 48 hours after the deadline for determining lists ended, and by that it was allowed for one candidate to be replaced with another. This procedure was later supported by the Constitutional Court by decree. However, the Law foresaw the possibility for withdrawal only in the case of candidate's death, and it was then specified that the deceased candidate should be crossed of the list and the list would be legitimate.

The means of public informing were obliged to make possible for all political parties and candidates who take part in elections to introduce and present their election programs and to manage their election campaign publicity unhindered and under equal conditions. The HRT (Croatian National Television) tracked the local elections in its programs only on a county level, cities-county headquarters level and the City of Zagreb level, and on the level of cities larger than 10000 residents i.e. 30000 residents because of the scope and technical limitations. HRT broadcasted the election program⁴ on its Second Channel within the County Panorama program (Zagreb, Rijeka, Bjelovar, Split, Osijek, Varaždin and Zadar/Šibenik) in the duration of 15 minutes the most, and in special presentation shows on the Second Channel. Parties and candidates also had the chance to make a free presentation in the so called bonuses, i.e. reports from pre-election rallies, and the duration could have not exceeded 15 minutes; then there were also presentations of county mayor and mayor candidates, face offs in the second round and paid promotional messages.

Regional stations of Croatian Radio presented candidates for county mayors and mayors of cities larger than 10000 residents and cities-county headquarters, in live shows with a show host in the studio, with a 5 minutes duration. In face off shows on the Croatian Radio, the right to participate was given to candidates for county mayor on regional Croatian Radio stations, as well as candidates for mayors of cities larger than 10000 residents who entered the second round of elections on a regional area. All lists and candidates had the right to one bonus – report from a pre-election rally in the duration of two minutes on regional Croatian Radio stations. Croatian Radio-Television (HRT) made possible in its TV and radio programs, for paid promotional messages to be announced, in two minutes duration. Such promotional messages had to be clearly separated from the rest of the program so that the public could clearly distinguish that it's a paid promotional message. The content of the promotional message had to be closely tied with their political programs, while the HRT broadcasted them in accordance with the client's demand, the program scheme, legal regulations and the available promotional program time.

As on last elections, public and private media had the same legal obligations despite the fact that HRT as a public media, finances itself largely through a payment of radio-television levy system, while private media finance themselves mostly through marketing.

Additionally, a certain number of local media is still in the ownership of municipalities/cities and counties which could have greatly influenced the objectivity in reporting during the pre- election

⁴ www.hrt.hr – HRT program rules of for tracking local elections „2009 Elections“

campaign, and on non-transparent and unequal cost sheets for candidate appearances and guests from the opposition and the ruling party. In some cases (for example, OTV and Z1 television), it was hard to see whether a candidate paid to be a guest or whether it was a regular pre election program which allows equal conditions for all candidates.

With the help of its volunteers and an agency for media tracking, GONG tracked minutes of candidate and party videos that appeared on Croatian National Television (HTV), including regional programs, and compared its data with the HTV data that GONG acquired after it requested them from the HRT, in accordance with the Freedom of Information Act.

Table 1: Paid videos on HTV in seconds and advertisement costs on HTV, NOVA TV and RTL.

STRANKA/ KANDIDAT	PAID VIDEOS ON HTV (seconds)		ADVERTISEMENT COSTS ON HTV (kn)	TOTAL ADVERTISEMENT COSTS ON HTV (HTV+NOVA TV+RTL)
	Data from HTV	GONG's data		
SDP	3741 ⁵	1497 (only SDP, without candidates)	413.610,00	985.695,00
SDP Split/Zadar	360	420	160.000,00	160.000,00
SDP Milan Badić	/	1098	631.870,00	1.112.143,00
Josip Kregar	455	454	245.670,00	439.390,00
HDZ Mesić	120	122	79.307,00	133.244,00
HDZ Sisak Pintarić	80	80	22.478,00	22.478,00
Željko Kerum	240	240	156.020,00	1.050.705,00
Plinio Cuccurin	435	485	312.040,00	312.040,00
Anto Đapić HDZ/HSP	465	379	246.350,00	246.350,00

⁵ Including costs of Milan Badić and Tonino Picula.

Tomislav Ivić HDZ Osijek	376	385	250.250,00	250.250,00
SDP Tonino Picula	/	60	39.000,00	147.150,00
HDZ Dražen Barišić	60	58	37.694,00	37.694,00
HSS Bjelovar – Bilogora County	160	160	104.000,00	104.000,00

HTV replied to GONG's request within legal deadline, on minutes of candidate and party videos that appeared on HTV, including regional programs. Comparing HTV's answer and GONG's data, it can be concluded that the given information is almost identical. If we compare data of two of the strongest candidates in the City of Zagreb, Milan Bandić and Josip Kregar, from Table 1, we can see that the SDP candidate Milan Bandić spent on advertising (HRT, NOVA TV and RTL) a total of more than 1.1 million kunas which does not include a very intense advertisement on local TV stations, OTV and Z1 television. According to the City of Zagreb Election Commission, candidate Bandić spent a total of approximately 2.5 million kunas in his campaign. From the report that the City of Zagreb Election Commission announced, it is not visible how much money was spent purely on advertisement. According to Table 1, independent candidate Kregar spent on advertising (HRT, NOVA TV and RTL) a total of approximately 440 thousand kunas, and from the City of Zagreb Election Commission's report it is visible that the total cost of candidate Kregar's campaign is around 1.9 million kunas.

Considering the mentioned data and the total intensity of campaign activity of SDP's candidate Bandić, it can be estimated that Bandić's campaign cost much more, but considering the **vagueness of the legal framework and financial reporting practice**, the aforementioned is hard to prove.

In the pre-election period, GONG held a meeting with the Agency for Electronic Media that tracks electronic media programs, especially in a sense of abiding by legal stipulations that in a pre-election race period, the publisher has to allow all political parties to advertise under equal conditions in accordance to election regulations and instructions from the competent body that monitors or implements elections. Every case of violation of media publicity regulations, the Agency evaluates separately and responds to every reported case including anonymous tips. In the unofficial and official campaign period, the Agency behaved in a restrained manner, not wanting to interfere with the editorial policy of the media in the sense of abiding by legal stipulations on equal conditions for all political parties and candidates. As explained, the Agency can react only in the case of proving that a party paid for its publicity in a time when the official campaign had not yet started. On its internet

pages, the Agency published just one announcement regarding local elections, in which it is being reminded that all candidates, parties and lists have the same right to introduce and present their election programs and that they all can have election campaign publicity under equal conditions.

Since there were indications that certain local media in public ownership did not abide by the stipulation on equal conditions during campaign, a more significant undertaking by the Agency was expected in order to see into possible cases of law infringements, since the Agency is regularly monitoring all electronic media programs; however, this did not happen. Citizens who pay for this Agency's work, justifiably expect that the Agency work proactive and with the goal of improving media's work on all areas.

Election campaign publicity lasted for 17 days. It started with the day of announcing collective candidate lists and candidacies, i.e. April 29th and lasted till May 15th. However, in reality, the campaign started much sooner than the start official campaign launched. Nor during the unofficial campaign time nor during the official campaign period, **was it known exactly what was and what wasn't allowed**. Present competent institutions like SEC and lower election commissions, could have only pointed out with their warnings that there is an unequal position of particular parties and candidates in the campaign, without the possibility of sanction.

There were also **cases noted of using children in the local elections campaign**. In March, the City of Karlovac used kindergarten children for delivering campaign letters to their parents. Also, the City of Sisak Mayor, Darko Pintarić, organized lectures for elementary school students on his successes as mayor. The Children's Ombudsman reacted and condemned such actions.

The main goal of an election campaign should be to inform the citizens on party and candidate programs for the upcoming elections, i.e. to inform on alternate ways in dealing with local and development issues. Although these were local elections, general national subjects, such as the relationship to communism, were being imposed, and they were additionally potentiated by the Church.

The Croatian Bishops' Conference invited all Catholic believers to go out and vote in as large a number as they can, and, among other things, suggested that they should not accept political agendas or candidates that approve of any form of totalitarian system, especially the ones that deny, lessen or are keeping silent about the responsibility of the executors of horrid communist crimes after World War II. This represents yet another inappropriate action of the Church and its meddling in the pre-election campaign. Practices such as this one are inappropriate in democratic, secular states. The bishops stated that those were just recommendations to believers, not commandments. However, those messages can be clearly associated with certain political options and parties in Croatia. The bishops, although never directly mentioning party names and consequently suggesting to believers who to vote for, they did, however, having in mind the messages they sent out, show their sympathy towards certain political options.

The portal Javno.hr noted a case in which it is common to hear elements of political speeches and public acknowledgements to politicians on their donations during church ceremonies. In Zagreb's Vrbani neighborhood, a minister thanked the political parties for their donations after the Easter mass, although some of those donations were just promised. He thanked SDP for money donations, HDZ for a promised amount of 50000 kunas and HSS for 120 cubic meters of oak.

Tportal.hr and Novi List reported that in the beginning of May, the minister Zlatko Čibarić from Gornje Vežice, during Sunday mass, announced the appearance of PM and HDZ candidate for Mayor of Rijeka, Vesna Buterin.

At the end of May, the Index.hr portal published the words of the minister Ivan Kozjak from Sveti Juraj na Bregu, of him explaining during mass how to vote in the second round of elections in that municipality saying: "I shall not be sorry if those 'komunjare'⁶ win, but I shall be sorry to leave here if HDZ or HNS win."

The Government also wasn't immune to interfering with the local elections campaign. An unusually high number of openings of local infrastructure projects are noted, while NOVA TV reported that the President of the Government opened fake constructions for the building of the Zagreb – Bjelovar – Koprivnica highway.

Election silence violations⁷

Election silence was being violated in the most severe way by HDZ (among other things by agitating in front of and around polling stations on Election Day) and in a broad area of Croatia. SDP and other parties violated election silence in particular places, largely by sending SMSs, by calling citizens on the phone and by handing out campaign material. GONG filed minor offence charges against parliamentary parties that violated election silence (HDZ, SDP, IDS, HSS, HNS, HSP), and, since financial sanctions are proscribed by law, we expect that the competent bodies will proceed to investigate and fine the perpetrators.

Although fines for violating the election silence are specified to be from 3000 to 500000 kunas, parties and candidates violated the election silence on these elections as on previous ones also. It is surprising that the parties that adopted the stipulations on penalizing election silence violations are the same ones that violate it. However, **it has not yet been noted that a party was sanctioned for violating election silence in Croatia**. Because of this, GONG filed minor offence charges for election silence violations to the Zagrebačka County Police Administration against The Croatian Democratic Union (HDZ), Social Democratic Party (SDP), Croatian Peasant Party (HSS), Croatian People's Party (HNS) and Croatian Party of Rights (HSP) for 57 different cases of election silence violations. The Zagrebačka County Police Administration replied that it is not authorized to implement or to monitor the implementation of the Electoral Law nor was it authorized to carry out investigative actions by which the perpetrators of the offence would be identified. The Zagrebačka County Police

⁶ Derrogatory term for communists.

⁷ www.gong.hr – Priopćenja:

GONG osuđuje nepravilnosti u predizbornoj kampanji te kršenja izborne šutnje (GONG condemns irregularities in pre-election campaign and election silence violations)

O tijeku izbornog dana 17. svibnja 2009. do 24.00 sata (On the course of Election Day May 17th 2009 untill 24.00 hours)

Kršenje izborne šutnje 30. svibnja 2009. do 20 sati (Election silence violations on May 30st 2009 untill 20.00 hours)

Kršenja izborne šutnje do 21 sat tijekom izbornog dana 31. 5. 2009. (Election silence violations untill 21.00 hours during Election Day May 31st 2009)

Administration stated that the State Election Commission is competent for all irregularities in the election procedure. SEC replied to GONG's inquiry that it is not determined by laws who is authorized for filing minor offence charges and on what grounds and forwarded GONG's inquiry to the Ministry of Justice without giving an answer. SEC explained that it is not competent for interpretation of legal stipulations. Also, GONG filed a minor offence charge against IDS to the Istarska County Police Administration. The Istarska County Police Administration on the other hand, contacted GONG making inquires on the cases and asked for a supplement to the charge with information on receivers of campaign SMSs, from which numbers they were being sent out, the content of the messages as well as information on possible witnesses who could confirm posting of posters in the Ližnjan area. In this reply it is stated that the police is the competent body for carrying out investigative actions.

Different standpoints of these institutions that proclaim themselves as being competent are astonishing and the implementation of legal stipulations on next elections is becoming questionable.

Different procedures of the two county police administrations, Zagrebačka and Istarska, in the aforementioned cases are noticeable. An education of competent institutions on handling electoral issues is necessary, as well as a better coordination of inter-institutional work in order to have the same standpoints based on law.

The Croatian Radio-Television (HRT) was also not immune to election silence violations. On second round Election Day, while election silence was still effective, HRT aired statements from several politicians, primarily from Zagreb candidates Josip Kregar and Milan Bandić, in which they, after having voted themselves, once again invited their voters to come out to their polling stations. Although, this can be seen as a direct violation of election silence, SEC saw nothing disputable in such features. Namely, according to SEC's opinion, since statements from all participants of the political battle for the most important mayor position in the country were aired, violations of election silence were non-existent. However, although SEC found nothing disputable, HRT itself noticed its error and reacted by removing the problematic statements from further informative shows.

Election Campaign Financing

In relation to the last local elections for members of representative bodies in 2005, the 2009 local elections **didn't see a significant step in regulating election campaigns financing** and elections remained to be non-transparent in the same amount. The Law on Electing Municipality Mayors, Mayors, County Mayors and the City of Zagreb Mayor and Their Deputies proscribes that the candidates are obliged to deliver an early report on the sources and the rate of collected funds for the financing of campaign publicity to competent municipality, county or city election commission, at least 7 days before holding of elections. Candidates and candidate deputies are obliged to deliver the final report on the sources and the rate of funds spent for campaign publicity to competent municipality, county or city election commission, within 14 days of announcing official results.

Political parties had no obligations in regard to submitting their financial reports. SEC instructed the candidates to use a form for yearly political parties' financial reports proscribed by the Ministry of Finance while drawing up their financial reports. However, the said form is not fully adjusted for election campaigns' financial reports. Also, opening special accounts for financing election campaigns of independent lists and candidates posed a problem. Namely, the Law binds for special accounts to be opened exclusively for independent lists and candidates, but not for parties. The State Audit Office stated that candidates and bearers of independent lists can open special accounts only after

the competent election commission announces the legitimacy of proposed candidatures. SEC believed that with these procedures bearers of independent lists and independent candidates, in regard to possibilities of raising funds for election campaigns financing, are in an unequal position in relation to candidates being proposed by political parties. Namely, political parties can raise funds before the announcement of legitimate proposed lists and candidatures since they already have opened accounts through which they manage their transactions. Therefore, in order to assure equal positions of all participants in the election procedure, SEC expressed the opinion that all potential candidates should have the possibility to open a special account on the day the decision of announcing elections becomes effective, in order to be made equal with the candidates proposed by political parties.

A series of **public resources misuse** was noted, like resources of city, municipality and ministry for needs of some party and candidate campaigns. The use of public resources in campaigns is forbidden by law. For example, the City of Zagreb free newspaper, Zagreb.hr, is being financed with Zagreb's tax payers' money, and it was oriented on promoting SDP candidate for Zagreb Mayor, Milan Badić. The candidate Milan Badić (SDP) in order to gain voters, used **secret personal information** from the Croatian Veterans' Registry sending out tens of thousands letters to war veterans, but also to parturient women, craftsmen, the unemployed, national minorities and pensioners using registries that are protected by Data Secrecy Law. It is not known by what means did the SDP's candidate election headquarters accessed said information. Also, in his letters Badić invited Serbs to vote for him, while the Badić headquarters gained access to law protected data through the Community of Zagreb Serbs which wasn't allowed to forward the information without the individual voter's consent.

The Varaždin County Mayor used Varaždin County's budget to send **promotional letters to citizens' addresses**. Also, several days before the elections, the County of Varaždin gave financial aid to pensioners which can be seen as a misuse of public resources in the purpose of campaign publicity. The Mayor of Osijek, Anto Đapić, paid a Prljavo Kazalište concert with city money, and the concert was for campaign publicity. GONG requested from the County of Varaždin and the City of Osijek for copies of decisions on the mentioned issues. The replies arrived in accordance with the legal deadline and it is visible from these answers that there has been a misuse of public resources. Competent election commissions should have published final reports on the sources and the rate of campaign publicity funds of all candidates in official gazettes and in local means of public announcements. However, if candidates did not submit their financial reports, they couldn't be penalized because the Law does not anticipate any sanctions. Furthermore, election commissions were not obliged to publish early reports 7 days before the elections, although with them not publishing the reports the meaning of the law, in the sense that information on particular candidates' donors be given several days before the election, is ignored.

With a very weak and **flawed legal framework** it was nearly impossible to monitor election campaigns financing because the candidates financed themselves with political parties' funds, different donations on a state and local level through third persons, the candidates formed coalitions

with other candidate etc. It is because of this that in April Transparency International Croatia and GONG⁸ invited parties, lists and candidates on local elections to:

1. publicly publish before the official campaign launches, i.e. before April 30th, the amounts they intend to spend;
2. publicly publish and deliver to the competent election commission, at least 7 days before the elections, i.e. until May 10th, preliminary reports on the rate and resources for the campaign and donor names;
3. publicly publish and deliver to the competent election commission final reports on the rate and resources for the campaign and the rate and cost structure in the campaign, 14 days after the official results have been published, the latest.

Beside the inadequate legal framework, most political parties decided not to respect good democratic practice and **did not publish early financial reports**. Until July 2009, only HNS, Democratic Union of Međimurje, Tatjana Holjevac and Josip Kregar published reports on their Internet pages.

After the elections, GONG requested Zagreb, Osijek, Rijeka and Split election commissions for copies of early financial reports and information on candidates that didn't submit reports. Only the Osijek Election Commission delivered copies of reports, while other election commissions orally notified that, according to the Law, they are not obliged to publish early reports. SEC's opinion was also requested and it also stated that competent election commissions aren't obliged to publish early financial reports, but that there is also no legal obstacle for the reports to be published before the elections and be delivered to the interested party on written request. Election commission should have published final reports on campaign financing after the elections, but those **reports from 556 municipalities and cities, and 21 counties cannot be found in one place** which complicates the accessibility of the reports themselves. It can be concluded that the legal framework and the practice on local elections did not meet minimal standards of transparency in election campaign financing, or the standards of political responsibility towards citizens (constituents and tax payers) and the public did not get answers on who is financing which option and in what amount. This fact is extremely important since there isn't a transparent election process and battle against political corruption without a transparent financing of election campaigns.

National Minorities Representation

On local elections, voters members of national minorities, voted like all citizens for offered candidate lists and candidates. With the determination of election results it should have been determined and published whether or not the representation of national minorities guaranteed with the Constitutional Law on National Minorities' Rights and by statute of municipality, city or county, was insured. With this purpose, in accordance to the Law and prior to the elections, statutes of

⁸ www.gong.hr – Announcement: GONG i TIH invited election participants to declare their campaign costs and resources

municipalities, cities and counties should have been matched with the last confirmed voters' list and on the grounds of that list it was necessary to determine on what representation does the particular national minority claim in a certain municipality, city or county.

The Government of the Republic of Croatia, in July 2005, adopted a Conclusion by which it is determined that statutes should be matched with the census and not with the latest confirmed voters' list because those lists aren't updated. The said Conclusion was in direct contrast with the Constitutional Law on National Minorities' Rights. GONG filed a motion in 2005 to the Constitutional Court to start proceedings for evaluating the constitutionality and lawfulness of the Government's Conclusion that wasn't being resolved. However, in March 2009, the Government of the Republic of Croatia reached a new Conclusion in which it is instructed that municipalities, cities and counties match their statutes, but this time to last confirmed voters' list, i.e. the last confirmed voters' list has to be the grounds for matching statutes to the census which is in accordance to the Constitutional Law on National Minorities' Rights. In April, just after the Government reached a new Conclusion, GONG received an answer from the Constitutional Court by which it is determined that the Subject is no longer founded because the Government adopted a new Conclusion, without getting into the merit of the matter. In April, GONG asked the SDUU for information on how many municipalities, cities and counties have matched their statutes by then, in accordance to the Constitutional Law on National Minorities Rights and when will the un-matched statutes be matched. In a reply from May, it was stated that the Government obliged all municipalities, cities and counties to do a congruous matching of statutes to the Constitutional Law, and offices of state administration were instructed to gather information on the statutes' (non)compatibility and to do conduct an oversight. However, **the final results are not yet known**. Furthermore, it was stated in the reply that, according to the Law, unless the statutes are not matched before the elections, the newly elected representative bodies have a period of 60 days from the day they were constituted, to do so. The Constitutional Law clearly states that the statutes are to be matched before the elections, but the Law on Electing Members of Representative Bodies of the Local and District (Regional) Self-Government leaves the possibility for newly elected representative bodies to match the statutes within 60 days from the day they were constituted. In such a case, the newly representative body is obliged, within 60 days from the day it was constituted, to match the statute with article 20, paragraph 7 of the Constitutional Law on National Minorities Rights and the Government's Conclusion from March 10th 2009. It is only after that the possibility for additional representatives is opened. The same is confirmed by the Constitutional Court's decision U-VIIA / 2738 / 2009:

"In case that before the May 17th 2009 local elections local self-government unit's statute was not matched with article 20, paragraph 7 of the Constitutional Law on National Minorities Rights and the Government's Conclusion from March 10th 2009 and election commissions, simultaneously with the determination of election results for representative bodies, determine that the representation of national minorities, as it is proscribed by the unmatched statute, is not reached, election commissions are not authorized to increase the number of members of a representative body in a municipality or city council in order to match the number with the number determined by the unmatched statute."

Additionally, the Constitutional Court also resolved the potential need for a smaller number of national minorities' representatives after matching the statute by decision U-VIIA / 2557 / 2009:

“If, however, it happens that in the phase of mandate assignments after the May 17th 2009 elections an unmatched statute is applied and used to form the composition of a municipality or city council, but after the statute matching it is determined that a representative body should have a smaller number of members from the lines of Croatian citizens members of national minorities than the chosen number, in this case it is not allowed to conduct additional elections in order to reach the “adequate” representation, i.e. to reduce the number of members of a representative body from the lines of national minorities’ members. In such a legal situation the mandates of a representative body’s members from the lines of national minorities’ members, elected in accordance to the (unmatched) statute of a local self-government unit, are legally protected and the number of these members cannot be reduced within the duration of their mandate.”

Considering that the SDUU did not succeed in gathering all the information on the (in)compatibility of the statutes before the elections, it can be portended that **a significant number of statutes was not matched before the elections with the last confirmed voters’ list**. The said issue is confirmed by a case from the Zadar County. GONG asked the Zadar County for information on the number of representatives from the lines of national minorities in The County of Zadar County Assembly in the previous assemblage (2005-2009) and how many representatives from the lines national minorities were anticipated for the future Assembly assemblage after the matching of the County of Zadar Statute with the Constitutional Law on National Minorities Rights. The County of Zadar answered that none of the national minorities had the representation right under the 2001 census. Therefore, the County of Zadar did not match its Statute in accordance with the Constitutional Law and the last confirmed voters’ list according to which members of the Serbian national minority make up more than 5% of the population and by that have a right to a proportional representation in the County Assembly. It was stated that the Zadar County will also conduct statute amendments after local elections.

If the statutes are matched and if an adequate representation of national minorities was not reached on local elections, the number of members of a county assembly, city or municipality council will be increased up to a needed number, while it will be considered that those members of a certain minority that were candidates on lists are elected, and those who were not elected will be the ones sequencing according to the proportional success of every list. If by this way an adequate representation is not reached, there will be additional elections in a county, city or municipality. In the time of finalizing this report (August 2009) information on possible additional elections are not yet known. In municipalities and cities in which members of national minorities have a right to an adequate representation in a municipality/city council or if the representation in a representative body is proscribed by the unit’s statute, and in counties where it is proscribed by statute that a county mayor deputy has to be from the lines of a national minority’s members, one deputy of a municipality mayor, mayor or county mayor has to be from the lines of national minorities. If this right was not realized on elections, additional elections for deputy will be announced, unless the elected municipality mayor, mayor or county mayor is from the lines of a national minority’s members. In municipalities and cities, in which one deputy is anticipated, if there were to be additional elections, the municipality mayor, i.e. mayor will have two deputies. In municipalities, cities and counties in which two deputies are anticipated, if there were to be additional elections, municipality mayor, mayor or county mayor will have three deputies.

. In the time of finalizing this report (August 2009) information on representation of national minority members in executive power are not yet known, nor is it known are there any possible additional elections.

Course of Elections

The first round of elections was being observed by a total of 700 observers, out of which 92 of them were in 46 mobile teams which observed more than a total of 1000 polling stations, and the round was characterized by a large number of election silence violations by a larger number of parties and independent candidates. Beside campaign material in the vicinity of polling stations, handing out campaign material and sending SMSs, GONG received a large number of phone calls during Election Day concerning agitations inside of, in front of and in the vicinity of polling stations, largely done by HDZ activists and current (municipality)mayors. Such behavior created a tenses Election Day atmosphere on certain places and could have had an impact on the election results.

Additionally, the arrival and presence of unauthorized persons inside of or in front of polling stations contributed to an atmosphere of fear in these places, and with that the independence of election boards was brought to question.

The number of reports concerning ballots that were not shuffled in a proper manner nor turned face down, a case of forbidding observers to escort election board members in their visit to the sick and disabled, as well as cases of harassment of observers show that a part of the election boards came to polling station uneducated and or with an assignment that was not implementing elections in accordance to regulations.

Certain cases of violence, but also reports on buying votes (by offering money, photographing voting ballots) show that there are serious doubts that there are regions in which authority was gained in an illegal manner, by committing acts of felony. A case from Omiš is indicative, where people who usually live in Australia or Switzerland voted, with which election board members committed a felony, which they confessed to in an official statement given while determining facts in the procedure of protecting electoral law.

The second round of elections was observed by 200 GONG observers, out of which 80 of them in 40 mobile teams that observed a total of 540 polling stations and Election Day in most places went by peacefully and without major violations of the electoral process. However, reports on incidents came from a certain number of polling stations. Cooperation between GONG and election boards, election commissions and SEC was correct, with some harsh exceptions. The second round of elections was also characterized by a large number of election silence violations and by a larger number of parties and independent candidates. Beside reports on campaign material in the vicinity of polling stations, handing out campaign material and sending SMSs, a part of citizens' calls to GONG referred to agitations in front of and in the vicinity of polling stations, largely done by HDZ activists which, in those places, influenced on a tenses Election Day atmosphere and which could have had an impact on the election results. Again, there were reports on ballots not shuffled in a proper manner or turned face down, writing down names of voters that came to the polling station, cases of election boards visiting the sick and disabled voters without those voters asking of it, is worrying and shows that in certain places an organized violation of secrecy of the vote was being conducted.

Examples of violation of the election procedure and rights of voters or candidates

Both GONG and election commissions received complaints from citizens and political parties of **parties keeping track of who voted** (by checking the circled names on voters lists) and blackmailing voters, which is especially sensitive in rural areas.

Observers were also **threatened**. An example of a threat to GONG observers in Vrgorac: at the polling station number 9 a GONG observer was threatened by a HDZ-HSS observer who told her he will throw her out of the polling station, find out her name and call her boss to have her license revoked; the same man told another observer (not one of GONG's) that they were sent there to cause an upheaval. Another HDZ-HSS observer told the GONG observer: „I know who and what you are and I was sent here to tail you.“ GONG observers weren't allowed to get near the table and oversee the counting of the ballots, instead they were instructed to sit down and be quiet.

The following comes from the police report on the second round of the elections: police had to intervene eight times in the second round of the local elections due to attacks on the media, threats to observers and candidates.

In Karlobag, Novi Vinodolski and Obrovac the voters complained about being asked to take pictures of their ballots with camera phones, as proof that they voted; the same was asked of citizens of Slavonski Brod with a 400 kunas prize, and 100 kunas in Zaprešić; citizens of Belišće complained that Roman minority and the elderly were paid between 200 and 400 kunas to vote for a certain candidate; in Kula Norinska, Podjurnica, one candidate allegedly offered 500-1000 kunas for a vote.

Repeated Elections, Second and Third Round of Elections

The elections that had to be repeated happened mostly due to more ballots in the ballot box than in the circled voters lists. The law doesn't permit there to be even one extra ballot and in such a case calls for a repeat of the elections. It would be useful to reevaluate this, seeing as the number of voters in the repeated elections was too small to affect the overall election outcome.

On May 31st the first round of elections was repeated in 19 municipalities and 6 cities. Second round of elections was held in 20 counties, 58 cities and 168 municipalities. 9 county mayors, 58 mayors and 168 municipality mayors were being elected.

On June 14th the second round of elections was repeated in two cities. The second round was held in three municipalities and one city. The third round of elections was held in two municipalities due to the fact that two candidates received the equal amount of votes in the second round.

An interesting case happened in a municipality where two candidates tied in the second place after the first round of elections. According to SEC's and SDUU's interpretation, due to an inapt election law stipulation, the elections will have to be held again, with the electoral process starting again, from candidacies to the election itself. This section of the law needs to be changed to avoid unnecessary costs and delays in constituting new local government.

Protection of Election Rights

Protection of election rights is done by appealing to lower ranked election commissions and the State Election Commission, and objections to their decisions to the Constitutional court.

There were objections filed that concerned other parties in the process, e.g. one party filed an objection against a permission that was granted to another party. However, in accordance to the law stipulations, only the ones who filed an objection can file an appeal.

During the electoral process SEC held an advisory meeting with the representatives of the Constitutional Court, in order to deal with the objections better.

The Constitutional Court issued 60 decisions and 5 answers that dealt with local elections. 57 out of those 60 decisions dealt with appeals (out of which, three were granted), 2 were requests of inspection of the legality and constitutionality of the elections, and one was a warning to a local television station. It is obvious from the Court's decisions that the lower ranked electoral commissions performed acts to establish facts (like questioning the election committees, recounting ballots and inspection of the election materials), as did the Constitutional Court in certain cases.

The Constitutional Court issued the following interpretations of the candidacy process, which minimize the damage to the potential candidates:

- omissions in submitted candidacies are to be removed with the help of the electoral commissions even after the candidacy deadline, with minimum damage to the candidacy process (decisions U-VIIA / 2104 / 2009, U-VIIA-2099/2009).

- there is no legal obstruction for the candidates to also officially propose a list from section 12 (section 16) of the Law. Had the legislators wanted to limit the voter's right to propose a candidate list, in which they are also a candidate, they would have had to specifically address that issue in the law (decision U-VIIA / 2098 / 2009).

A significant number of appeals to the Constitutional Court were about **determining valid and invalid ballots**. The Court reiterated their standings on which ballot is to be thought of as valid (decisions U-VIIA / 2842 / 2009, U-VIIA / 2819 / 2009).

Some Constitutional Court opinions show how legal protection is ensured for the participants of the electoral process. Lower ranked electoral bodies and the Constitutional court don't grant appeals in which the petitioners didn't list the circumstances or concrete evidence that could point to irregularities that would affect the legality of the elections. Additionally, if the Constitutional Court, while inspecting the electoral body's registry, determines that they were signed by the members of

the committee and the observers, without complaints, it will dismiss the appeal. However, even when there are **observers' complaints and circumstantial evidence of election irregularities** (for example, in Omiš, where results from a few polling stations were annulled after the first round because members of the election committees confessed to criminal acts, and there were objections in the election registry filed by committee members and observers), the Constitutional court will not accept the appeal. The Court asks for a **high level of evidence** that irregularities occurred. Quote: „As for irregularities at polling station number 39 – Gornji Dolac II Rudine, the inspection of election materials shows that a deputy member of the committee and one observer filed their complaints in the registry, which could potentially point to irregularities during the voting process. However, judging from the nature of the alleged irregularities, as well as the fact that no other member of the election committee or observer filed any complaints, the Constitutional Court rules that the possible irregularities didn't affect the election outcome, therefore there is no basis for granting the appeal.“ Decision Odluka U-VIIA / 2555 / 2009.

However, even when the Constitutional Court decides that there were irregularities, another criteria needs to be met, which is that those irregularities **significantly affected the election result**. Quote: „As for polling station number 41 – Donji Dolac and Rupa, the Constitutional Court rules that there were certain irregularities, but they didn't significantly affect the election result. The fact that one person voted for three people who weren't present at the polling station represents a severe irregularity that cannot be justified in any way. Furthermore, it is evident from the local election commission's registry from May 21st 2009, that the president and vice president of the election committee forbade the observer to file a complaint to the registry, until the election commissions intervened, which is also inadmissible. However, judging from the total tally of the ballots that a certain candidate, or list, received, it is this Court's standpoint that these irregularities didn't significantly affect the election result nor do they bring to question the regularity of the elections at that polling station.“ Decision U-VIIA / 2555 / 2009.

Even though the determining of irregularities and their significant affect on the election result are criteria set up by law, a question arises whether the petitioners can gather enough evidence in 48 hours, which is the legal deadline for filing an objection, which could **satisfy the aforementioned criteria** and provide adequate protection of the election rights.

Result Announcement

There is no place in Croatia (physical or virtual) where one can go through election results by polling station in every local and regional unit, which makes a more serious analysis of the elections impossible. These are documents of permanent value to everyone that deals with elections, whether as an expert, participant or an observer. In local elections the local election commissions are responsible for announcing the result on a county, city and municipal level, and currently **it is impossible to get the election results** from institutions in charge, because the local election commissions have been disbanded and SEC didn't bother to publish the complete results of the elections on their website.

SEC has published on their website the election results for the first and second round only for counties (including cities and municipalities) WHICH have a contract with the Information Systems and Information Technologies Support Agency (APIS) which is owned by the state and the city of Zagreb. Additionally, 8 counties use APIS's application for converting votes into mandates, and 13 have their own bases. It has been published by the media that a contract with APIS is worth about 200,000 kinas, which was too expensive for many municipalities and cities. SEC stated that they could have hired whomever they wanted for the data process and that a contract with APIS wasn't necessary. However, SEC warned all the election commissions that they needed to check their results in APIS, providing them with free access. Such a decentralized system with different applications and uneven standards **makes it difficult to systematically and transparently publish complete election results**, which is one of the key features of a transparent election process, and SEC is completely responsible for this.

GONG's recommendations

During the period prior to the local elections, as well as after every election from 2000 onward, GONG has published numerous recommendations for the improvement of the electoral process. These recommendations can be found in the published Report and Recommendations for the Improvement Of the Electoral Process from the Overview Of the 2007 Parliamentary Elections seminar, held in January of 2008, and almost identical recommendations have been published by the OESS/ODIHR mission during the observing of the 2007 Parliamentary Elections. Seeing as the same recommendations are repeated before and after every election, and are available on GONG's website and the OSCE website, what follows is an abridgement:

- **It is necessary to completely investigate, process and sanction any future cases of voter harassment, buying of votes, misuse of local funds for campaigns and violation of election silence.**
- **Reformation of SEC is necessary to ensure independent organization of elections in accordance with international standards, as well as to fulfill other SEC jurisdictions, in accordance to the law (informing the voters, the candidates and the media, improving election law, writing scientific publications, analytic reporting and publishing all information that pertain to elections) and all those jurisdictions that aren't SEC's by law, but should be (tracking the regularity of election campaigns and sanctioning unpermitted messages and acts during campaign publicity; jurisdiction over control of financing of campaigns both during and after the elections).**

- **It is necessary to set up a system of education of bodies that implement elections by SEC, even when there are no elections.**
- **Legal framework improvements are necessary in the campaign financing area to ensure that elections are transparent and that political parties and candidates will publish their financial reports, and also to introduce sanctions for the usage of public resources in campaigns.**
- **Establishment of legal framework for media coverage of the elections, which is almost completely unregulated in local elections.**
- **Changes to the Residency law are necessary in order to put a stop to the current practice of factitious residences of citizens who don't live in Croatia but have a right of vote.**
- **It would be useful to conduct a further education of political party members and candidates on democratic standards and protection of their rights in the electoral process.**
- **It is necessary to gather all the electoral legislation into a unique codex to ensure a simpler organization and implementation of elections.**

It is necessary to change and improve numerous legislative acts to make elections transparent and legitimate, and the functioning of municipalities, cities and counties more efficient. Finally, all the aforementioned recommendations can be adopted only if a **strong political will exists, which still doesn't in Croatia**. So far, all changes in the election process have been minimal and done *pro forma*, not to improve it but to appease the public and the international community. **We cannot rate the election process in Croatia as transparent and democratic** as long as the real number of voters is undetermined, the parties and candidates do not publish their financial reports and the state institutions aren't doing their work – in an unbiased and efficient way.