



# REAGAN-FASCELL Democracy Fellows Program

National Endowment for Democracy 1025 F Street NW, Suite 800, Washington, D.C. 20004 · Tel. (202) 378-9700 · www.ned.org

## Special Report

December 2007

### New Borders and Anomalies in the Balkans: Croatia's Diaspora Constituency

Tihana Bartulac-Blanc

#### Summary

Croatia's Diaspora Constituency has become politically controversial. The challenge ahead lies in balancing several competing factors:

- As citizens of Croatia, Diaspora voters have a legitimate claim to a vote in Croatian elections. As a community, they made substantial sacrifices in the wars that led to Croatia's independence. As a result, they have a recent and strong link to Croatia.
- On the other hand, their citizenship is based on their ethnicity, not on their current or former residence, as many have never lived in what is Croatia today.
- Unlike any of the ten constituencies in Croatia, Diaspora voters have consistently elected candidates from only one political party (the HDZ). This has helped to ensure the victory of the HDZ in past elections.
- Croatian Diaspora voters are concentrated in neighboring Bosnia and Herzegovina, where they are one of three major ethnic groups that enjoy special constitutional status. Their continuing political link to Croatia is a factor in persistently tense Bosnian politics.

The Diaspora vote is unlikely to be resolved without addressing underlying issues such as entitlement to citizenship and voters' list update. However, solutions not requiring constitutional amendments are possible: for example, further reduction in the number of seats allocated to the Diaspora, as has been done in the past.

The president of Croatia, most parliamentary parties, Croatian civil society and relevant international groups have all recommended some level of change, so serious discussion and reforms should not be delayed. Whatever the solution may be, it is imperative that all stakeholders participate and that the issue does not disappear from the public agenda until the next election.

**About the Author:**  
Tihana Bartulac-Blanc has worked in the planning and management of international elections in transitional democracies around the world, including West Africa, the Balkans, the Caucasus, Latin America, and the Middle East. As a Reagan-Fascell Democracy Fellow at the NED's International Forum for Democratic Studies in Washington, D.C., she is researching minorities and elections using the countries of the former Yugoslavia as case studies. Jeff Fischer and Lisa Handley, independent electoral consultants, each contributed a section to this report.

The author wishes to thank the participants of the two roundtables on Croatia's Diaspora Constituency, held at NED on November 14 and December 11, 2007. She is also grateful to Vanja Skoric and GONG for research support in Croatia and to Ivna Giauque for legal research assistance in the U.S.

*The views expressed in this report are those of the individual author and do not necessarily reflect those of the National Endowment for Democracy or its staff.*

## Contents:

1. Introduction [2]
2. Diaspora  
Enfranchisement in  
Croatia [3]
3. Global Standards on  
External  
Enfranchisement [6]
4. Impact of Croatian  
Diaspora Vote in  
Bosnia and  
Herzegovina [8]
5. Other Problems [9]
6. Stakeholders'  
Attitudes [11]
7. Potential for Electoral  
Reform [13]
8. Recommendations [17]  
Notes [18]

## 1. Introduction

The external vote enables “some or all electors of a country who are temporarily or permanently abroad to exercise their voting rights from outside the national territory.”<sup>1</sup> In Croatia, the external vote refers to two main categories of voters: those who are abroad on Election Day but maintain residence in Croatia, and those who reside abroad and have no residence in Croatia. The first group of voters simply vote for their home constituency but do so from abroad. This has not been controversial. The latter category of voters reside abroad, often permanently, and so do not have a home constituency in Croatia. Instead, they have a separate constituency (“Diaspora Constituency”).<sup>2</sup>

The Diaspora Constituency has become politically controversial. The challenge ahead lies in balancing several competing factors: As citizens of Croatia, Diaspora voters have a legitimate claim to a vote in Croatian elections. As a community, they made substantial sacrifices in the wars leading to Croatian independence. As such, they maintain a strong and recent link to Croatia. On the other hand, their citizenship is based on their ethnicity, not on their current or former residence, as many have never lived in what is Croatia today. They have consistently elected candidates from only one political party, although this has not been the case in any of the ten geographical constituencies in Croatia. This has helped the victory of the Croatian Democratic Union (HDZ) in past elections. In addition, Croatian Diaspora voters are concentrated in neighboring Bosnia and Herzegovina (B-H) where they are one of three major ethnic groups that enjoy special constitutional status.<sup>3</sup> This continuing political link to Croatia is a factor in persistently tense Bosnian politics.

In November 2007, Croatia held its fifth parliamentary election since independence in 1991. The incumbent HDZ won a relative majority of parliamentary seats and won all seats in the Diaspora Constituency. With these Diaspora seats, HDZ is much more likely to be able to form a coalition government in the narrowly divided parliament. Prior to the elections, most polls predicted a narrow victory by the largest opposition party, the Social Democratic Party of Croatia (SDP) on its own, but also stressed that the Diaspora voters, who have supported the HDZ in every previous election, could tip the scales in that party's favor, and thus decide the winner on the national level.

Given these projections, SDP made the Diaspora vote a campaign issue. Both sides presented compelling arguments for their case, underlining the complexity of the issue. Doing so as a part of their election campaign significantly politicized the issue. For the first time in Croatia's elections, the SDP and most of Croatia's other parliamentary parties did not present candidate lists in the Diaspora Constituency. The SDP hoped to emphasize the perception of bias and garner support among its voters in Croatia, whereas the HDZ defended the existing system, insisting on the equality of all Croatian citizens before the law.

There are only ten other countries in the world where seats are reserved in the national legislature for citizens living abroad.<sup>4</sup> However, not a single one of these countries exhibits key problems associated with this type of vote found in Croatia. Despite the attention the Diaspora vote has received, and although independent international and local groups have commented on elements of the issue, none have provided a comprehensive analysis of the Croatian Diaspora Constituency in light of international best practices.

To contribute to the debate surrounding Croatia's Diaspora vote and maintain its momentum in the aftermath of the recent election, I conducted a study of Croatia's Diaspora Constituency, including electoral models used in other countries, and organized two roundtables that brought together regional and topical experts before and after the November 2007 election in Croatia. In this report, I present my findings and

*“At the very heart of the problem with the Croatian Diaspora vote lies the fact that a substantial number of Diaspora voters are citizens of neighboring Bosnia and Herzegovina.”*

recommendations for stakeholders in Croatia and abroad.

## **2. Diaspora Enfranchisement in Croatia**

### **2.1 Entitlement to Citizenship and Vote**

At the very heart of the problem with the Croatian Diaspora vote lies the fact that a substantial number of Diaspora voters are citizens of neighboring Bosnia and Herzegovina. Following the wars of the 1990s on the territory of the former Yugoslavia, the new international borders were drawn, leaving many groups outside the territory dominated by their ethnic group. After winning its independence, Croatia adopted a new Constitution and citizenship law that entitled Croats in B-H to Croatian citizenship and the right to vote in Croatia. The Constitution provided that the Government “shall ensure suffrage to its citizens abroad at the time of elections, so that they may vote in countries in which they are, or in a way specified by law.”<sup>5</sup>

The citizenship law granted citizenship in the new Croatia to all former citizens of the Socialist Federal Republic of Yugoslavia who held republican citizenship in the Socialist Republic of Croatia as of 8 October 1991.<sup>6</sup> This continuity of citizenship applied regardless of actual residence in Croatia. Affected persons automatically became citizens of Croatia. In addition, citizenship in the Republic of Croatia could be based on ethnic origin, which conferred citizenship to those who provided a written statement that they ‘felt’ Croatian, in addition to demonstrating their attachment to the legal system, customs and culture, and indicating proficiency in the Croatian language and Latin script.<sup>7</sup>

This minimal requirement entitled most ethnic Croats living in B-H to dual citizenship.<sup>8</sup> The right to citizenship and the right to vote are seen by many as well-deserved rewards for their contribution in the wars of the early 1990s. The most recent evidence of such indebtedness to ethnic Croats in B-H is the campaign statement by the former Minister of Science, Dragan Primorac, who topped HDZ’s Diaspora list: “The money allocated by the Croatian Government to Bosnia and Herzegovina is not aid but debt payment.”<sup>9</sup>

At the same time as creating a permissive citizenship rule for ethnic Croats, the citizenship law makes it difficult for Serb refugees from Croatia to obtain Croatian citizenship. Ethnic Croat applicants do not need any link to the territory of Croatia, whereas non-ethnic Croats must show five years of continuous residence in Croatia immediately prior to their application. This has proven difficult for refugees in Serbia and Montenegro to establish due to their displacement caused by war. In addition, the combination of their numbers,<sup>10</sup> and the lack of access to the polling stations make them unlikely to influence the Croatian vote. International observers reported that “the large number of Croatian citizens (mainly ethnic Croats) in BiH have good access...while those in Serbia and Montenegro (mainly ethnic Serbs) have had limited access since sites were established only in cities with Croatian diplomatic or consular offices.”<sup>11</sup>

In 1995, the parliamentary system of representation was changed to allow all Croatian citizens without residence in Croatia to vote in a separate constituency.<sup>12</sup> The law allocated 12 seats, or 9.5% of all seats in the Croatian Parliament, to the Croatian Diaspora. While Diaspora voters live in 43 different countries, more than 70% of them live in neighboring Bosnia, so these seats are in fact seats returned by Bosnian Croats. One such Diaspora representative, Vinko Soljic, was a member of the Croatian Parliament as well as the president of the B-H Federation,<sup>13</sup> underscoring the complexity and uniqueness of the system.

*“As a lower turnout in Croatia and a higher turnout in B-H could now lead to a more favorable outcome for one political group, and possibly even their victory at the national level, this system became vulnerable to attempts at affecting voter turnout.”*

Furthermore, because of the significantly lower turnout of Diaspora voters in the 1995 election, the number of votes required for a parliamentary seat in the Diaspora Constituency was much lower than the number of votes required for a seat in any of the ten constituencies in Croatia. This led to the introduction in 1999 of an electoral formula called the ‘non-fixed quota’ to determine the number of Diaspora seats in the Parliament.<sup>14</sup> The quota means that the number of representatives elected in the special Diaspora Constituency is calculated by dividing the total number of votes in Diaspora Constituency by the average number of votes required for one parliamentary seat in Croatia.<sup>15</sup> While this provision succeeded in reducing the number of Diaspora seats in subsequent elections,<sup>16</sup> it also caused the number of seats to be dependent on the ratio between turnout in Croatia and turnout in Diaspora. As a lower turnout in Croatia and a higher turnout in B-H could now lead to a more favorable outcome for one political group, and possibly even their victory at the national level, this system became vulnerable to attempts at affecting voter turnout, such as increasing the number of polling stations in B-H.

In addition, the electoral formula for calculating the number of Diaspora seats creates the possibility for the number of seats in the Parliament to surpass the constitutional limit of 160.<sup>17</sup> With 140 seats in the ten geographical constituencies and eight seats reserved for minorities, if the maximum of 14 seats were obtained by the Diaspora Constituency under the formula, it would result in a total of 162 seats in the Parliament, or two more than allowed by the Constitution. As this scenario would require a very low turnout in Croatia and a very high turnout among the Diaspora, the possibility is considered only theoretical and as such has never been addressed. However, it is inappropriate for the electoral law to create the possibility of an unconstitutional election outcome.

## **2.2 Entitlement to Vote in Referenda**

Diaspora enfranchisement, which was initially limited to elections for the President and the Parliament, was recently extended to referenda. Based on the Constitutional provision for equality of all Croatian citizens, the Constitutional Court decided that the right to vote applied to all Croatian citizens equally.<sup>18</sup>

The Referendum Law was first passed by the HDZ-dominated parliament in 1996,<sup>19</sup> allowing the Diaspora to vote in national referenda. This provision was amended in 2001 following the defeat of the HDZ by an SDP-led coalition and the election of their candidate as the president of Croatia.<sup>20</sup> The third and latest amendment, adopted in response to the Constitutional Court ruling during another HDZ term, abolished the requirement that citizens eligible to vote in referenda have to reside in Croatia for at least one year prior to the referendum. The timing of the passing of the law and amendments indicates the different attitude that the HDZ- and SDP- dominated administrations have toward the Diaspora vote.

The latest amendment also points to an attitude toward an expansion of the Diaspora vote. The Constitutional Court based their decision on the constitutional equality of all Croatian citizens regardless of where they live, without making any reference to Article 45 (2) of the same Constitution, which states that *“In elections for the Croatian Parliament and for the President of the Republic [emphasis added], the Republic of Croatia shall ensure suffrage to its citizens who are abroad...”* In this way, the Court may have established the precedent for an expansion of the Diaspora vote to all other elections including local elections, based on the principle of equality. At the same time, that equality has not been established for Croatian citizens in terms of access to polling stations.<sup>21</sup>

The only national referendum was held in 1991,<sup>22</sup> but this decision created the possibility for

*“Diaspora enfranchisement, which was initially limited to elections for the President and the Parliament, was recently extended to referenda... The new amendment could allow Croats in Bosnia to decide whether Croatia should join NATO or the EU.”*

the Diaspora voters to defeat potential future referenda on Croatia joining NATO, or even the EU. Because the Referendum Law requires the turnout to be over 50%, traditionally low Diaspora turnout could lead to the defeat of a highly popular referendum.<sup>23</sup> In other words, the new amendment could allow Croats in Bosnia to decide whether Croatia should join NATO or the EU.

### 2.3 Delimitation

The territory of Croatia is divided into ten geographical constituencies, each comprising approximately 350,000 voters and each returning 14 representatives to the Parliament through the system of proportional representation.<sup>24</sup> The constituencies are supposed to be roughly equal in size, and the law provides that “the number of voters in the constituencies must not differ more than +/- 5%.”<sup>25</sup> Regardless of this legal provision, the total number of voters in the last three parliamentary elections (see Table 1) varied between some constituencies by significantly more than 5%. For example, in the 2003 election the total number of voters reported by the State Electoral Commission (SEC) in the 4<sup>th</sup> Constituency was 328,076 whereas the number of voters in the 10<sup>th</sup> Constituency was 401,333,<sup>26</sup> a difference larger than 18%. One of the explanations offered for this discrepancy is that minorities make it impossible to determine the exact size of a constituency as they can choose to vote for their geographical constituency or their minority list.<sup>27</sup> A complaint about the size of the constituencies being contrary to the law was submitted by a political party to the State Electoral Commission,<sup>28</sup> but it was rejected on the grounds that “complaints about laws and voter registration do not fall under SEC’s authority.”<sup>29</sup> The electoral formula for calculating Diaspora seats is based on the idea that the number of votes required for a seat in Croatia and for a seat in Diaspora should be equal, but the failure to adhere to the delimitation provision of the law, means that this objective is not achieved. According to Mirjana Kasapovic, a professor at the Faculty of Political Sciences in Zagreb and a prolific author on Croatia’s democracy and elections, “the Constitutional principle of equality of citizens and their right to vote was thus breached.”<sup>30</sup>

Constituency No.	2000 Election	2003 Election	2007 Election (after election)
1	363,434	358,461	350,569 (361,236)
2	385,179	388,713	388,193 (399,648)
3	365,094	365,042	362,944 (366,005)
4	333,735	328,076	320,964 (335,091)
5	381,150	360,242	360,778 (372,163)
6	345,904	343,857	341,697 (356,575)
7	372,446	382,084	389,908 (403,812)
8	375,114	374,678	363,305 (385,594)
9	372,363	388,450	414,532 (428,590)
10	391,959	401,333	409,570 (416,017)
11	360,110	396,617	405,092 (404,590)
12	198,070	286,861	370,834 (248,899)

**Table 1.** Number of Voters per Constituency in the Last Three Parliamentary Elections.

In addition to the ten geographical constituencies within Croatia and the Diaspora Constituency, eight additional members of the Parliament are elected through a first-past-the-post system from a separate list of candidates, called the 12<sup>th</sup> Constituency, by members

of different minorities, but only if they choose not to vote for their geographical constituency.

---

### 3. Global Standards on External Enfranchisement

This section was contributed by Jeff Fischer.

Underlying the problems with Croatia's Diaspora Constituency is one pervasive deficiency – the lack of an international consensus on external enfranchisement rights. The objective of such an international consensus is to identify and observe a set of agreed upon electoral practices for when and how electoral rights can and should be extended to external electorates.

The transnational nature of external enfranchisement makes it an international issue, as demonstrated by the effects of Croatia's Diaspora Constituency on Bosnian politics. And, external enfranchisement programs are increasing, many of which are aimed at short-term economic migrants whose remittances are vital to the domestic economies. It is an electoral reflection of globalization.

Evidence of this trend is documented in a recent study by the International Institute for Democracy and Electoral Assistance (IDEA). Out of 214 independent countries and dependent territories surveyed, more than 100 report some form of external enfranchisement. It is most common in Europe (40%), but can be found in all regions: Africa (21%), Americas (14.45%), Asia (16.5%), and Pacific (5.6%).

This issue defines a certain class of voter – external voter. The external voter is a citizen who is eligible to register and vote, but his or her residential or asylum status and location do not permit them to participate by conventional in-country avenues. Voters in this category include diplomats, military, Diaspora, short-term economic migrants, refugees and asylum seekers. In some word play, external voters can also be Internally Displaced Persons (IDPs), who are external to their habitual residence but still within their country's borders. In any case, those individuals forcibly displaced could have been dislocated by conflict, disaster, or rapid development and remain eligible for enfranchisement.

While it is correct to point out that many of the Croatians in this case fit none of those categories,<sup>31</sup> it is the lack of a consensus prohibition on what is acceptable enfranchisement practice for external voters that permits such tactics to be employed by governments.

Following the dramatic increase in the number of countries holding an external vote, beginning in the early 1990s, there have been several initiatives to identify and promulgate international electoral standards – what makes an election free and fair. Conferences have been held on the topic and scholarly articles written.

The motives prompting these initiatives are largely centered on promoting a core set of electoral values and norms intended to respect basic democratic principals of individual freedom and public accountability.

However, the pursuit of universal electoral standards has proven elusive. Electoral fallacies, backlash, and cynicism have been obstacles inhibiting the application of a universal set of standards relevant for every electoral environment. Moreover, there is a diffuse set of institutional enforcement mechanisms ranging from national judiciaries to prosecute criminal shortfalls, to international observers employing moral suasion. This diffuse arrangement can

*“The transnational nature of external enfranchisement makes it an international issue, as demonstrated by the effects of Croatia's Diaspora Constituency on Bosnian politics.”*

*“The pursuit of universal electoral standards has proven elusive. Electoral fallacies, backlash, and cynicism have been obstacles inhibiting the application of a universal set of standards relevant for every electoral environment.”*

make monitoring and compliance efforts an uneven process.

Over time, the more rigid implication of developing universal standards has been relaxed and described more frequently as norms and generally accepted practices. Regardless, a set of shared democratic values on election practices offers an important baseline for elections to provide their intended public service.

For the purpose of analysis, one can examine the issue from two levels – Fundamental Practices and Sectoral Practices.

Fundamental Practices are those basic features of an electoral process which must be present for a minimal level of credibility, for example, universal enfranchisement, ballot access, freedom of speech and assembly. Direction can be taken from the International Covenant on Civil and Political Rights for both justification and specific rights: the right to participate in genuine and periodic elections, to have access to public service, to stand for election, to have freedom of thought, conscience and belief, to associate freely, and the right to be recognized as a person before the law.

Sectoral Practices recognize electoral processes as evolving and emerging demands also require some norms-setting. Recent examples of sectoral practice norms-setting include election technology, access to the franchise for persons with disabilities, and codes of conduct for election observers. It is in these initiatives for Sectoral Practices that electoral rights of external voters could be discussed.

A seminal initiative in this direction, relevant to the Croatia case, is called the Geneva Guidelines (undertaken by the International Organization for Migration), and it represents the first step. Although this initiative is directed toward the electoral rights of people displaced by conflict (both internally and externally), the Guidelines speak to two critical issues in the case of Croatia’s Diaspora Constituency— citizenship and residence.

Although dual or multi-citizenship arrangements are permitted by many constitutions, the non-residential enfranchisement confuses the issue for all other categories of external voters. It confuses the issue because the right of dual citizenship is afforded to migrants so that they can enjoy citizenship in the country of the displacement, while not sacrificing their citizenship of birth and the opportunity to return home. In Croatia’s case, citizenship is a bonus afforded to a settled population which expands their rights into a country where they have never resided.

From an external enfranchisement standpoint, here is the anomaly which Croatia’s case presents. Advocates for electoral rights for external voters take the argument that a citizen’s voice and vote should not be affected by status and location. One intended outcome of external enfranchisement is to dampen the incentives to employ human displacement as a political tool by selectively reducing the electorate.

However, the Croatian case runs a reverse on this argument. By enfranchising external voters on the basis of their status and location, new voices and votes are created to selectively expand the electorate.

There are two concluding issues which frame the importance of this case. Both issues speak to the need for an international consensus on political rights and norms for external electorates.

First, the Croatian example of non-resident enfranchisement can be emulated by other governments in efforts to selectively expand the electorate. In many cases, such tactics

would be de-stabilizing for the other countries involved. Second, the increasing trend of external enfranchisement is opening a new electoral landscape which is largely un-policed, un-monitored, and operating with few precedents. It can be an opaque process; and in such conditions voter manipulation can occur.

An international consensus of external enfranchisement can address these issues. Otherwise, external balloting, whether by non-residents or displaced habitual residents, may become electoral black boxes and sources of confidence erosion rather than opportunities for lawful electoral participation.

---

#### 4. Impact of Croatian Diaspora Vote in Bosnia and Herzegovina

In September 2007, the International Republican Institute (IRI) conducted a nationwide opinion poll about attitudes of residents of Bosnia and Herzegovina.<sup>32</sup> Consistent with their previous findings, they found that Bosnia remains deeply split along ethnic lines and that the country as a whole sees itself going in the wrong direction. However, there were marked differences among ethnicities. 52% Serbs and 68% Bosniaks (Bosnian Muslims) believed the country was headed in the wrong direction, compared with 80% Croats. IRI's general conclusion from the polling results was that "Serbs are largely upbeat ... Bosniaks are negative...Croats seem hopeless."

Croats in Bosnia look to Zagreb for leadership. A Croat, Zeljko Komsic, emerged as a powerful new political player, as popular as the Bosniak Haris Silajdzic. Yet, since he is a member of the Socialist Democratic Party of B-H, his victory was widely attributed to the split in the HDZ B-H party, in which two HDZ factions split their voting body in two and enabled the SDP B-H to achieve a majority. The IRI poll also showed Komsic to be less popular among the Croats,<sup>33</sup> his own ethnic group, than among the Bosniaks.

Rather than a Bosnian Croat, it was the Croatian prime minister, Ivo Sanader, who managed to bring the HDZ factions in B-H together before the 2007 parliamentary election. Sanader's goal was to win five or six seats in Parliament by way of the HDZ Diaspora list. In order to achieve this, he drafted a list including a majority of people from Zagreb, and the rest consisting of members of two squabbling parties: HDZ B-H and HDZ 1990. Together with a three-fold increase in the number of polling stations and channeling of the state funds to Croats in B-H in the election year, HDZ secured the total of five seats (one more than in the 2003 election), from the Diaspora.

Whereas such HDZ's efforts represent political strategy, the impact on the political future of ethnic Croats in Bosnia is principally negative. They are a constituent people in Bosnia, most of whom have never lived in Croatia. Yet they continue to see their political future in Zagreb, not in Sarajevo, or even Mostar, their unofficial capital in Bosnia. This attitude is supported by the HDZ. In its party program, HDZ promotes the idea of reexamining Bosnia's territorial integrity established under the Dayton Agreement in 1995 and initiating new discussions in which Croatia (not Bosnian Croats) should participate.<sup>34</sup>

Croats in Bosnia are tacitly supported by the Bosnian Serbs who could benefit from further fragmentation of Bosnia, strengthening their case for independence. Meanwhile, the largest ethnic group in B-H, Bosnian Muslims, whom Croatia fought in the war, worry about Croatia's ambitions there. The prevalence of polling stations for Croatian voters and campaign posters of Croatian Prime Minister Ivo Sanader throughout Bosnia, as well as aggressive campaigning by his party (whose founder, Franjo Tudjman, was suspected of a secret deal with Slobodan Milosevic to partition Bosnia little more than a decade ago) do not

*"[Bosnian]  
Serbs are  
largely upbeat  
... Bosniaks  
are negative...  
Croats seem  
hopeless."  
—IRI*

*“As most  
Diaspora  
voters live in  
neighboring  
Bosnia and  
Herzegovina,  
voting there  
one day and in  
Croatia the  
next is fairly  
easy.”*

help. According to a *New York Times* article, one Muslim woman is reported to have said: "Sanader's posters are everywhere. I'd like to see how the Croats would feel if we had posters of Haris Silajdzic all over Zagreb."<sup>35</sup> Another Croatian minister, Dragan Primorac, asserted at his political rallies in Bosnia that Croats had been stripped of the right guaranteed to them by the Dayton Accord, while the Bosnian press accused him of advocating the establishment of a third federal entity.<sup>36</sup>

The impact of the Croatian Diaspora vote in Bosnia was recently described by Vesna Pusic, the president of the Croatian People's Party (HNS), in an online article. Under the suggestive title "The Diaspora that Isn't,"<sup>37</sup> Ms. Pusic asserts that those who vote in the Diaspora Constituency are not really Diaspora, but constituent people of Bosnia who should fight for broader political rights and seek to influence government in their own country. Instead, she believes that their political strength has been manipulated in order to secure votes for HDZ in Croatia, which is damaging not only to Croatia's democracy, but also to Croats in Bosnia, who are isolating themselves from the political processes of their own country.

## **5. Other Problems**

### **5.1 Voters' List and Double Voting**

According to observer reports,<sup>38</sup> one of the major technical problems related to the Diaspora vote are voters' list and double voting. Voting abroad takes place over two days, and in Croatia it is one day (the second day of external voting). As most Diaspora voters live in neighboring Bosnia and Herzegovina, voting there one day and in Croatia the next is fairly easy. Although procedures such as marking the voter by applying ink could help prevent double voting, this practice is not employed in the Croatian elections. Furthermore, there is evidence that the voters' list has been inflated and that some voters are registered in more than one constituency.

In 2005, Citizens Organized to Monitor Elections (GONG), a leading elections support group, tested the accuracy of the data on voters' list by comparing it to the 2001 census.<sup>39</sup> GONG's findings included problems with the registration as a whole and problems specific to Diaspora voters. The results showed an excess of 400,000 voters on the voters' list, and GONG concluded that the problem is directly related to residency records, which have not been updated. For this system to function, compliance with civil registration requirements is essential. Despite considerable population movements, however, many people who have changed their residence have not updated their residence status. Lacking any reliable records about changes in voters' residence, Croatia has found it difficult to delete their names in their former constituencies. This problem is compounded for Diaspora voters who also maintain a Croatian residence. The primary responsibility for compiling the lists for those voters lies with the Zagreb City Administration, and the information they use is exclusively dependent on voter self-reporting.

An additional problem was identified by GONG in relation to voters who were registered to vote in Croatia, but reside in Bosnia and Herzegovina. Persons later found to be dead were marked on the voters' list as having voted. Such instances of serious procedural violations, including multiple voting, were brought to the attention of the authorities after the 2005 presidential election.<sup>40</sup> After more than two years, the court finally determined that the suspicion of electoral fraud was founded, but as all members of polling committees denied it, it concluded that no perpetrators of electoral fraud could be identified.<sup>41</sup>

In 2007, the Venice Commission and OSCE/ODIHR provided opinion on the legal framework for the voters' list with an aim to eliminate ambiguities and inconsistencies

*“Even though the Croatian Diaspora Constituency is not a geographical constituency, and thus does not represent a typical case of gerrymandering, all electoral systems that use multiple districts are susceptible to it.”*

contained in earlier versions of the law.<sup>42</sup> While improvements were made, the Croatian electoral law remained unclear. This was especially true of the registration records of Diaspora voters. Therefore, prior to the parliamentary election in 2007, the new system of mandatory prior registration was established and the Venice Commission called it reasonable, if unclear. However, the label of ‘mandatory registration’ was not entirely accurate. Voters without residence in Croatia only had to register if they moved or changed their status within the Diaspora Constituency. In general, the system for registration of Diaspora voters was not clearly described in the law (as noted by the Commission) and there were inconsistencies in the implementation.<sup>43</sup> At the same time, voters with residence in Croatia voting for their home constituency from abroad had to register to vote, although they represented a much smaller part of the electorate. In previous parliamentary election similar instructions had been issued only to be repealed close to the election, adding to the confusion.

Observer reports for the 2007 election have not been finalized yet, but preliminary reports indicate that the election was generally free and fair, despite minor irregularities. GONG reported that at least 20% of voters on the Diaspora list are in fact deceased,<sup>44</sup> but that the situation has improved since the 2005 presidential election. Both GONG and President Mesic used the opportunity to call for an update of the voters’ list.

### 5.2 One-Party Bias

HDZ has won every seat from the Diaspora Constituency in every election. This is unusual given Croatia’s competitive political environment. First, Croatia uses a proportional system,<sup>45</sup> which has produced multiple parties in the ten geographical constituencies in every parliamentary election so far. Second, the HDZ, which benefits from the system, is also the party that designed it. Third, the fact that the HDZ continuously wins all of the seats in this constituency does not necessarily reflect the vote in Croatia. In 2000, an SDP-led coalition won a majority in most other constituencies. In the 2005 presidential election, the HDZ candidate lost in every constituency in Croatia but won overwhelmingly in the Diaspora Constituency. The votes from the Diaspora had also played a decisive role in forcing a second round. Finally, in 2007, the HDZ again won all of the seats in this constituency,<sup>46</sup> but shared seats in every other constituency in Croatia.

The division into political units which gives a special advantage to one group is known as “gerrymandering.” Even though the Croatian Diaspora Constituency is not a geographical constituency, and thus does not represent a typical case of gerrymandering, all electoral systems that use multiple districts are susceptible to it. In Croatia’s case, it is clear that the Diaspora Constituency, which represents a strong support base for HDZ, would not be able to vote in Croatia if this unusual system had not been designed.

Parliamentary election	Diaspora seats/total seats	To parties:
1992	0/124*state list	
1995	12/127	HDZ
2000	6/151	HDZ
2003	4/152	HDZ
2007	5/153	HDZ

**Table 2.** Diaspora Seats since Independence.

*“Enabling voters to practice their voting right abroad (Diaspora) should either be abolished or regulated in a way that the costs can be reduced (voting by mail).”*  
–GONG

### 5.3 Cost

The cost of conducting an external vote, setting up polling stations, hiring staff and sending materials to multiple countries—is considered high by any country’s standards. As most countries organize in-person external vote only in their embassies or consulates, it can be very difficult for those who live outside of the capital or far from the polling station to vote. Naturally, this results in a relatively low turnout of voters abroad, and a relatively high cost per voter. According to IDEA, when countries have abolished the external vote, the main reason has normally been the cost.

With legal provisions in place to provide broad enfranchisement to Croatian citizens, Croatia has also gone out of its way to make external voting more convenient in practice. In the latest parliamentary election, it established more than 200 locations in 43 different countries. But this positive effort was brought into question by the selective establishment of the polling stations. Namely, most of these polling stations -124 - were set up in B-H. Taking into consideration the number of registered voters there, this may seem logical, but at the same time little consideration has been given to the fact that many voters in Serbia, where polling stations were established in only eight cities, are refugees.

The cost of setting up the polling stations and paying their staff can be somewhat reduced by introduction of the postal vote. This kind of vote is susceptible to fraud, vote buying, or family voting, and has not been used in Croatia so far. Also, the use of postal vote tends to make the turnout even lower. In its “Elections Package” project,<sup>47</sup> GONG proposed the postal vote as a way to reduce cost but decided not to emphasize this recommendation.<sup>48</sup>

The SEC is scheduled to publish a report on the cost of administering elections (Art. 82 of electoral law) early next year, but the report is unlikely to contain sufficient details to establish the real cost of election for Diaspora voters. The cost of conducting the electoral campaign, which is partly funded from the state budget,<sup>49</sup> was estimated by HDZ to cost only 2 million Kuna (400,000 USD) for B-H,<sup>50</sup> but Transparency International Croatia recently estimated that the HDZ expenses were at least double those estimated by the party.<sup>51</sup> To administrative and campaign costs, one could add ‘unofficial’ costs such as politically motivated assistance to Croatian communities in B-H from the state budget. Instances of the use of state funds for the campaigns of political parties have also been noted,<sup>52</sup> although this is not limited to the Diaspora.

## 6. Stakeholders’ Attitudes

### 6.1 Political Parties

Since its introduction in 1995, the Diaspora vote in a separate constituency has been the target of criticism on the part of the SDP. It was since the election of its new president, Zoran Milanovic, however, that the party has been voicing its discontent more aggressively than ever before. -In the 2007 election, the SDP decided not to present any candidates in the Diaspora Constituency, hoping to emphasize the perception of bias and garner support among voters in Croatia. In its electoral program,<sup>54</sup> SDP asserts that it would abolish this constituency if it wins the election, and even change the Constitution if Croatian people decide to do so in the referendum. Another option proposed by Milanovic was to reduce the number of seats to one reserved seat for the Croatian citizens in the B-H and one for those in the United States and Australia.<sup>54</sup> He also stressed the fact that most Croatian laws passed by the Croatian Parliament do not relate to Croatian Diaspora, and as such, they should not have their representatives in the Parliament.

*“Because the EU’s interest in Croatian accession is at least partly rooted in regional stability for the former Yugoslavia, the Diaspora Constituency is an important and relevant issue.”*

The HDZ position is to retain the current system. The party has insisted that this decision is based on the constitutional principle of equality of all Croatian citizens regardless of their place of residence. The HDZ is the party that designed the system, and the only party that has benefited from it, winning Diaspora seats in every election so far. Nevertheless, the number of Diaspora seats was reduced in 1999 from the originally fixed 12 to the current five.<sup>55</sup> This was done with HDZ’s consent despite the fact that retaining the old system would have given the party an even greater parliamentary advantage.<sup>56</sup> On the other hand, the fact that the formula for calculating Diaspora seats had already been changed once, reducing the number of seats in the Diaspora Constituency could also be seen as a demonstration that the electoral law can be changed while maintaining Constitutional guarantees.

Most of the smaller parties were also critical of the Diaspora Constituency to one degree or another and did not submit party lists in this constituency. Although the Croatian Peasants Party (HSS) did not address the issue directly, it also did not present any candidates in the Diaspora Constituency and argued that the President should give the first opportunity for forming the government to the party that wins most seats in Croatia. HNS went further, saying that it would call for a referendum on the issue if the change cannot be agreed upon in the Parliament. Of all the Croatian parliamentary parties, only HDZ and the far-right Croatian Party of Rights (HSP) submitted candidate lists in the Diaspora Constituency, the smallest number of parties in the history of Croatian elections.<sup>57</sup>

At the recently held Conference on the Western Balkans, Croatian President Stjepan Mesic noted that “the Croatian electoral law was passed long time ago when B-H was being torn apart...Croats in B-H are also citizens of Croatia and for as long as the current law is in effect, it has to be implemented, although I’m not happy about it.”<sup>58</sup>

## **6.2 Croatian Civil Society**

A number of Croatian NGOs have played an important role in building democracy and strengthening citizens’ participation. One in particular, GONG, has been instrumental to the electoral reform in Croatia. In 2003, it identified the five most important laws that required amendment or adoption to properly regulate the legal and technical aspects of the election process.<sup>59</sup> Although the package provided that “enabling voters to practice their voting right abroad (Diaspora) should either be abolished or regulated in a way that the costs can be reduced (voting by mail),” GONG decided to keep out of the debate surrounding the Diaspora Constituency. GONG’s legal advisor, Vanja Skoric, emphasized that her NGO was striving to improve the implementation of the laws and did not hold formal positions on political issues. In this vein, GONG publicly warned about two related issues: (a) that voters’ lists are not precise; and (b) that the regulations for voting abroad created the possibility for double voting.

Prior to the 2007 parliamentary election, another election observation group, Elekta, emerged. It pledged to field some 3,000 domestic observers, making the 2007 domestic observation effort the biggest to date. Elekta’s overall assessment of the 2007 electoral process was positive. However, with its short history and the fact that it was established by SDP (Croatian law does not provide for election observation by political party agents), the group has not played any part in this debate.

*“As Croatia comes closer to European Union (EU) accession, the EU may have important leverage to assist in the resolution of this problem.”*

### 6.3 International Community

In April 1996, the Organization for Security and Cooperation in Europe (OSCE) opened an office in Croatia to assist and advise the Croatian Government and other stakeholders on democratization, human rights, and the rule of law. The OSCE Office for Democratic Institutions and Human Rights (ODIHR) has observed elections in Croatia since 1995 and contributed significantly to the improvement of electoral law and standards. In the 2003 election,<sup>60</sup> a number of concerns were noted, particularly with regard to election-related legislation, the accuracy and transparency of voter registers, media coverage of elections, and the participation of national minorities in elections. However, the OSCE has not always provided consistent guidance across electoral cycles. For example, it recommended that “the citizenship law should be amended in line with European practice. An amended law should create equal conditions for applicants; it should not discriminate between those from different ethnic groups nor base citizenship entitlement on ethnic criteria alone,”<sup>61</sup> Yet the same recommendation was not repeated in subsequent observation reports despite a failure to change the law. Likewise, in its 2007 pre-election assessment report,<sup>62</sup> ODIHR noted that its interlocutors considered the Diaspora vote as “presenting challenges and needing enhancement,” but it did not reiterate its previously expressed concerns on the same issue. As there are plans for the closure of the OSCE Mission to Croatia soon after the election, its role is likely to diminish further.

As Croatia comes closer to European Union (EU) accession, the EU may have important leverage to assist in the resolution of this problem. Although the EU has not typically been involved in new members’ electoral policies as a part of the accession process,<sup>63</sup> the Diaspora Constituency in Croatia is a special case. As argued above, it affects not only Croatian politics, but also Bosnian politics. Because the EU’s interest in Croatian accession is at least partly rooted in regional stability for the former Yugoslavia, the Diaspora Constituency is an important and relevant issue. In fact, this has already become an issue in regional politics. A recently held conference about the future of the western Balkans was marked by an argument between the Vice President of the Serb government, Bozidar Delic and the Croatian President, Stjepan Mesic concerning B-H and Kosovo.<sup>64</sup> Delic criticized Croatia precisely for its Diaspora vote by saying that “Belgrade does not tell Bosnian Serbs what to do whereas Bosnian Croats vote for the Croatian Parliament and President.”

The National Democratic Institute for International Affairs (NDI) played an important role in the observation of early elections, including support for GONG. The International Republican Institute (IRI) continues to conduct opinion polls in cooperation with local partners in Croatia, which has proven extremely valuable in bolstering the credibility of domestic polling.

## 7. Potential for Electoral Reform

Both domestic and international observer reports indicate that Croatia has come progressively closer to free and fair elections. In terms of following the rules and laws, Croatia’s record has been fairly good. However, it is the rules themselves that can often be obstacles to free and fair elections. The election system has changed repeatedly since 1990. Most recently, a political finance law was adopted in December 2006, and the voter registration law was amended in February 2007, as described above.

The process for changing election laws has been somewhat haphazard and has not always led to improvements. GONG has warned that the government is passing laws in a non-transparent manner (without any debate) and publishing acts only after they have been

*“The process for changing election laws has been somewhat haphazard and has not always led to improvements.”*

passed.<sup>65</sup> An example of this problem is the amendments to the 2006 Law on the State Election Commission in February 2007, which saw a return to the practice of appointing the president of the Supreme Court as chair of the State Election Commission and two Supreme Court judges as deputies, replacing the earlier provision, which stipulated the appointment of a full-time SEC chair. The OSCE stated that “the return to a system that directly involves Supreme Court judges in highly political matters runs contrary to governmental judicial reform efforts, intended to free judges of non-judicial duties.”<sup>66</sup>

Several laws passed in the election year were aimed specifically at improving the system of voting for Croatians abroad. These laws have similarly failed to resolve the underlying problems. As described above, changes in the registration law for Diaspora voters have not proven to be an effective solution to the problems identified by observers, such as double voting.

It may not seem surprising that the Diaspora vote has seen little reform, considering that it helps the party that has been in power for all but four years of Croatia’s existence and that it is an emotional issue linked to the War of Independence. However, Croatia’s attitude and that of its Diaspora have changed on more emotional and politically controversial issues, such as cooperation with the International Crimes Tribunal for former Yugoslavia (ICTY), which led to the extradition of what were considered Croatian war heroes.

Given the importance of this issue in Croatian governance and regional affairs, and given Croatia’s ambition to serve as a democratizing model for the region, Croatia should start to explore models for changing the system gradually and in a way that better reflects the democratic values to which it subscribes, even in the absence of outside influence or better models. Robert A. Pastor has noted that “even in advanced countries, democracy is a work in progress; it is nowhere perfect. As an electorate becomes better informed and a country’s norms change, the rules of elections need to be adjusted.”<sup>67</sup>

---

## **7.1 Assigning External Votes in Parliamentary Elections**

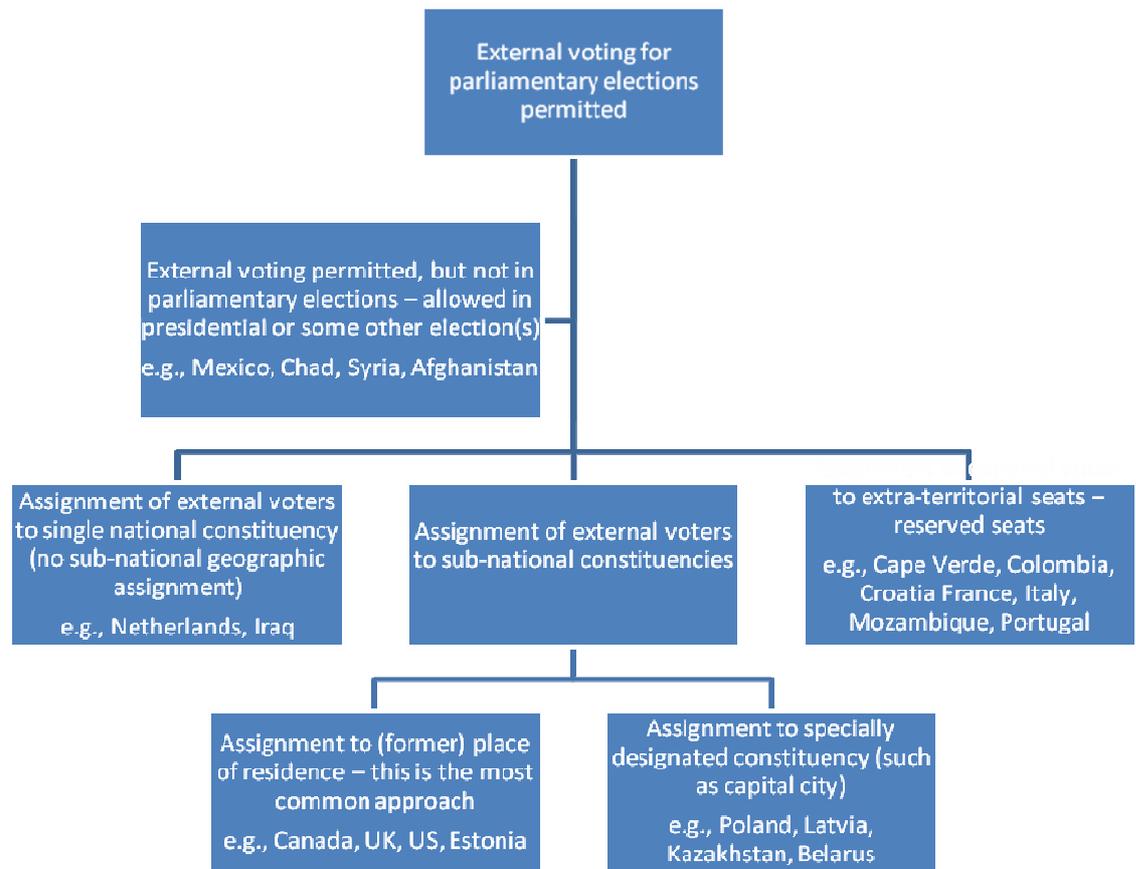
This section was contributed by Lisa Handley.

How external votes are translated into parliamentary seats, and ultimately the extent to which external votes influence domestic policies, depends on the structure of the parliament and two additional factors:

- how many external votes are cast and where these votes are assigned geographically;
- how many seats external voters are granted if extra-territorial seats are a component of the parliamentary system.

The diagram below is a means of organizing the alternatives for incorporating external votes into parliamentary elections:

*“In countries where electoral constituencies are delimited, external voters are usually assigned to a sub-national constituency.”*



**Diagram:** Alternatives for Assigning External Voters in Parliamentary Elections

External votes in parliamentary elections can be assigned in one of three ways<sup>68</sup>:

- 1) to a single, national constituency;
- 2) to sub-national constituencies;
- 3) to extra-territorial seats reserved for this purpose.

In a country in which parliamentary elections occur within the context a single national constituency, such as the List Proportional Representation system of the Netherlands, then there is no need to assign any voter, external or otherwise, to a sub-national constituency. In the 2005 parliamentary election in Iraq, the ballots of out-of-country voters counted towards the 45 nationwide “compensatory” seats, but not towards the other 230 parliamentary seats apportioned to the 18 governorates.<sup>69</sup>

In countries where electoral constituencies are delimited, external voters are usually assigned to a sub-national constituency. The most common approach in this context is to assign voters to their (former) place of residence. This is the practice in the United States, Canada, and the United Kingdom, for example.

Another possibility adopted by a few countries that delimit parliamentary constituencies is to assign external voters to a specially designated geographically-defined constituency, such as the capital city. In Poland, for instance, all external votes are assigned to the central Warsaw constituency. This same approach is used in Latvia and Kazakhstan. In Belarus, external votes are assigned to domestic constituencies with lower than average turnout – but the

*“Only one of the 11 countries that reserve extra-territorial seats for external voters does not have a fixed number of seats assigned to these voters.”*

decision as to precisely what domestic constituencies is discretionary and has been manipulated for political purposes.

Eleven countries have chosen another alternative:<sup>70</sup> separate, extra-territorial parliamentary seats are reserved for external voters in these countries. The table below indicates the number and percentage of parliamentary seats these countries have reserved for external voters.<sup>71</sup> The majority of these 11 countries have reserved 2 percent or less of their parliamentary seats for external voters. Only one country reserves more than 5 percent of its seats for external voters: Cape Verde.

<i>Country</i>	<i>Number Reserved Seats</i>	<i>Total Number of Seats</i>	<i>Percent Reserved Seats</i>	<i>Comments</i>
Algeria	8	389	2.0	
Angola	3	220	1.4	External voting not yet implemented
Cape Verde	6	72	8.3	3 multimember districts with 2 each: one for the Americas, one for Africa and one for Europe and the rest of the world
Colombia	1	166	.6	One district to ensure the representation of citizens residing abroad
Croatia	No fixed number, up to 14	160 maximum		See section on Delimitation.
Ecuador	6	130	4.6	
France	12	331	3.6	Senate only (elected through the Electoral College), designed to represent the approx. 2 million French citizens resident abroad (French residents abroad vote for the electoral college, but do not directly elect senators)
Italy	12	630	1.9	One constituency each for Italians abroad in (a) Europe; (b) South America; (c) North and Central America; (d) Africa, Asia, Oceania and Antarctica (Senate has 6 seats reserved for external voters)
Mozambique	2	250	.8	One constituency for Africa and one for the rest of the world
Panama	6	130	4.6	External voting not yet implemented
Portugal	4	230	1.7	2 districts, both of which elect 2 representatives if number of voters exceed 55,000 (otherwise only 1 representative is granted): one district for Portuguese citizens in Europe, the other for Portuguese citizens everywhere else

**Table 3:** Number and Percentage of Extra-Territorial Seats Reserved for External Voters

Only one of the 11 countries that reserve extra-territorial seats for external voters does not have a fixed number of seats assigned to these voters: Croatia has adopted a formula by which the number of seats assigned varies depending on the voter turnout among both in-country and external voters. The percentage of seats reserved has varied, but in 1995 the percentage of reserved seats was almost 10 percent. Although this percentage decreased in subsequent elections, it is possible that it could be as high as 10 percent – or even higher – in future elections.

*“Even in advanced countries, democracy is a work in progress; it is nowhere perfect. As an electorate becomes better informed and a country’s norms change, the rules of elections need to be adjusted.”*

*- Robert A. Pastor*

*“Whatever the solution may be, it is imperative that all stakeholders participate and that the issue does not disappear from the public agenda until the next election.”*

## 8. Recommendations

1. OSCE/ODIHR and other international actors should follow up on their earlier recommendations, which have so far not been implemented, especially those on **citizenship law** and the **accuracy of voters’ list**.
2. The EU should include, as a part of its accession process for Croatia, **electoral law reform** on the issue of the Diaspora vote. Croatia should move closer to the external voting practice of other EU members.
3. Domestic civil society groups with an electoral focus, such as GONG, should follow up and expand on their earlier recommendations, as well as **organize forums for discussion** of the issue by neutral actors, such as political scientists, academics, and relevant local and international organizations. They could also conduct research about international best practices in the area of electoral law and systems of representation, to include expatriate vote. Recommendations should be incorporated into the new—or annexed to the old—package of proposed electoral reforms.
4. Political parties, especially the two largest parties, HDZ and SDP, should continue to **discuss the issue after the election** in a transparent manner, allowing media and civil society organizations to participate. The debate should include facts, statistical data, and international best practices.
5. The newly established State Electoral Commission should **dedicate substantial time to addressing implementation problems** with the Diaspora vote. Recommendations made by relevant bodies over the years can form the basis for drafting a plan of action. Complaints addressed to the SEC which do not fall under its competencies, but which pertain to elections should be passed to relevant bodies, and addressed in the interest of transparency and improvement of the overall electoral process.
6. The Zagreb State Administration should **conduct voter registration of all Diaspora voters prior to the next election**. Croatian Diplomatic Missions abroad should inform Diaspora voters about registration by way of its websites, newsletters, e-mail lists, and other available means in timely and consistent manner. This should begin early enough to avoid the implementation problems encountered in the last two elections.
7. The Constitutional Court of Croatia should **clarify its decision about the Diaspora vote in referenda**, especially as it pertains to Article 45 of the Constitution and the impact the decision could have for other elections.
8. The Diaspora vote is unlikely to be resolved without addressing underlying issues such as entitlement to citizenship and voters’ list update. However, solutions not requiring constitutional amendments are possible: for example, further reduction in the number of seats allocated to the Diaspora, as has been done in the past.
9. As shown in this report, the president of Croatia, most parliamentary parties, Croatian civil society and relevant international groups have all recommended some level of change, so serious discussion and reforms should not be delayed. Whatever the solution may be, it is imperative that all stakeholders participate and that the issue does not disappear from the public agenda until the next election.

## Notes

1. Ellis, Andrew, et al., *Voting from Abroad: The International IDEA Handbook*, p. 8 (Stockholm: International Institute for Democracy and Electoral Assistance, November 2007).
2. Refugees are excluded from this category, as they can vote either as Diaspora or in their home constituency.
3. The category of “constituent people” was introduced for Croats, Serbs and Bosniaks by the Dayton Agreement in 1995.
4. The International IDEA Handbook on External Voting, p. 28.
5. Constitution of the Republic of Croatia, Article 45, Official gazette no. 41, 2001 (in Croatian).
6. Based on the Law on Citizenship of the Socialist Republic of Croatia, Official gazette no. 32, 1977 (in Croatian).
7. Law on Citizenship, Article 16, Official gazette no. 53, 8 October 1991 (in Croatian).
8. The phrase “member of the Croatian people” has been interpreted to mean an ethnic Croat.
9. HINA news agency, “Dragan Primorac at election rally in Bugojno,” 12 November 2007 (in Croatian).
10. In 2003, Croatian State Electoral Commission ([www.izbori.hr](http://www.izbori.hr)) reported 28,573 voters in Serbia and Montenegro. In 2007, according to the Serbian Commissariat for Refugees, around 76,546 exiles from Croatia had refugee status in Serbia, while around 100,000 have become Serbian citizens. However, most of the Serb voters – 49,893 – were registered in the 9th Constituency in Croatia, which includes areas in Croatia where the majority of ethnic Serbs lived.
11. Joint Opinion by the Venice Commission and OSCE/ODIHR on the Draft Law on Voters Lists of Croatia, 16 July 2007, Op. 419/2007.
12. Croatian Parliament, Decision 01-95-1567/1, Official gazette no. 68, 21 September 1995 (in Croatian).
13. Otvoreno, Croatian radio television (HRT), October 2007, [www.youtube.com/watch?v=qfcdeubLEqs](http://www.youtube.com/watch?v=qfcdeubLEqs).
14. Law on the Election of Representatives to the Croatian Parliament, Article 44, Official gazette no. 116, 5 November 1999 (in Croatian).
15. This number is obtained by dividing the total turnout in Croatia by the 140 seats in the ten geographical constituencies.
16. In the 2000, 2003, and 2007 elections, the number of Diaspora representatives was 6, 4, and 5 respectively.
17. Constitution of the Republic of Croatia, Article 71, Official gazette no. 41, 2001 (in Croatian).
18. Constitutional Court, Decision U-1/2051/2007, Official gazette no. 69, 5 June 2007 (in Croatian).
19. Law on Referendum, Official gazette no. 33, 30 April 1996 (in Croatian).
20. Law on Amendments to the Referendum Law, Official gazette no. 92, 17 July 2001 (in Croatian).
21. In their assessment of the Croatian voters’ list, the Venice Commission and the OSCE/ODIHR stated that “the practical accessibility of out-of-country voting facilities had been very different according to the type of voter involved.” Joint Opinion on the Draft Law on Voters Lists of Croatia, 16 July 2007, Op. 419/2007.
22. Croatian Referendum on Independence.
23. A potential solution to this problem would be to interpret total number of voters in such a way that does not include Diaspora voters, or at least those who do not vote.
24. Law on Election of Representatives to the Croatian Parliament, Article 40, Official gazette no. 69, 23 April 2003 (in Croatian).
25. *Ibid.*, Article 36.
26. SEC official results at [www.izbori.hr/2003Sabor/index.htm](http://www.izbori.hr/2003Sabor/index.htm).
27. SEC issued a statement about the size of constituencies two weeks after the 2007 election, providing the number of voters per constituency both before and after the election. However, even when the minorities are taken into account, the size of constituencies varies by more than 5% (see Table 1).
28. Party of Croatian Defenders (SHB), “Complaint about breaches of [electoral] law and irregularities in the electoral process”, 9 December 2007 (in Croatian).
29. SEC Decision no. 507-07-02, 27 November 2007 (in Croatian).
30. N. Bozic and S. Barilar, “Elections illegal because of the difference in number of voters”, *Jutarnji list*, 12 December 2007 (in Croatian).
31. Croatian Diaspora consists mainly of people who have never lived in Croatia.
32. IRI, Attitudes of Residents of Bosnia and Herzegovina, September 2007.
33. He is staunchly opposed by some nationalist Bosnian Croats in Bosnia and Herzegovina who are supporters of HDZ. In 1997, his request for Croatian citizenship was rejected on the grounds that he could not prove that he had, on any occasion as an adult, declared himself a Croat before 1990.
34. HDZ Program, Relations with Bosnia and Herzegovina, [www.hdz.hr](http://www.hdz.hr) (in Croatian).

35. Nicholas Wood, "Croatia's Prime Minister Looks for Votes from Croats living in Bosnia", *New York Times*, 24 November 2007.
36. Robert Bajrusi, "Squabbling B-H HDZ factions on Sanader's Diaspora slate", *Nacional*, 15 November 2007, [www.nacional.hr/en/articles/view/39932/](http://www.nacional.hr/en/articles/view/39932/).
37. Vesna Pusic, "The Diaspora that Isn't", 31 October 2007 (in Croatian), [www.net.hr/vijesti/izbori/page/2007/10/31/0169006.html](http://www.net.hr/vijesti/izbori/page/2007/10/31/0169006.html).
38. For detailed reports see GONG archive ([www.gong.hr](http://www.gong.hr)) and OSCE/ODIHR ([www.osce.org/odihr-elections](http://www.osce.org/odihr-elections)).
39. For details see [www.gong.hr/news.aspx?newsID=233&pageID=48](http://www.gong.hr/news.aspx?newsID=233&pageID=48).
40. HINA news agency, "GONG filed a criminal complaint for alleged election fraud in B-H", *Veernji list*, 13 January 2007.
41. GONG, "Electoral fraud in B-H committed – perpetrators can not be identified", October 2007, [www.gong.hr/news.aspx?newsID=440&pageID=1](http://www.gong.hr/news.aspx?newsID=440&pageID=1) (in Croatian).
42. Venice Commission and OSCE/ODIHR, Joint Opinion on the Draft Law on Voters Lists of Croatia, Op. 419, 16 July 2007.
43. Several polling station staff stated that they were not given clear instructions on how to treat those who did not register until the last moment. Also, confusion among both polling staff and voters was obvious throughout polling.
44. HINA news agency, "At least 20% dead on Diaspora voters' list", 12 December 2007 (in Croatian).
45. Except for minority representatives, where first-past-the-post system is used.
46. This constituency was apportioned five seats in 2007 in accordance with the 'non-fixed quota', while the geographical constituencies each had 14 fixed seats.
47. GONG, "Elections Package" project, April 2002 – May 2003, [www.gong.hr/news.aspx?newsID=234&pageID=48](http://www.gong.hr/news.aspx?newsID=234&pageID=48).
48. E-mail exchange with GONG, 25 October 2007.
49. According to the Law on the Financing of Political Parties, Independent Lists and Candidates adopted on 15 December 2006, parties that field their candidate lists in at least one constituency, as well as minority and independent candidates, are entitled to compensation of their political campaign from the state budget.
50. Croatian radio television (HRT), "The biggest spend most", 1 November 2007 (in Croatian).
51. HINA news agency, "TIH and GONG: HDZ spent most in the campaign", 11 December, 2007 (in Croatian).
52. HINA news agency, "Primorac at election rally in Bugojno", 12 November 2007 (in Croatian).
53. SDP, "New power", [www.sdp.hr/ljudi\\_i\\_politike/nase\\_politike/izborni\\_program\\_sdp\\_a\\_nova\\_snaga](http://www.sdp.hr/ljudi_i_politike/nase_politike/izborni_program_sdp_a_nova_snaga) (in Croatian).
54. Otvoreno, Croatian radio television (HRT), October 2007, [www.youtube.com/watch?v=qfcdubLEqs](http://www.youtube.com/watch?v=qfcdubLEqs).
55. Based on the 'non-fixed quota' for calculating Diaspora seats.
56. If the votes cast in 2007 were turned into seats in accordance with the earlier electoral law, all except one would go to HDZ, giving it an even greater advantage in the Parliament.
57. 13 parties, ten less than in the 2003 election, submitted their lists in the Diaspora Constituency in 2007.
58. HINA news agency, "Bosnian Croats should seek their happiness in their homeland", *Veernji list*, 4 December 2007 (in Croatian).
59. These include voters' list, campaign financing, political parties, the technical organization of elections, and the establishment of the State Electoral Commission as a permanent body.
60. For details see ODIHR website at [http://www.osce.org/odihr-elections/item\\_12\\_14404.html](http://www.osce.org/odihr-elections/item_12_14404.html).
61. OSCE/ODIHR Final Report, Parliamentary Elections 2000 (House of Representatives), 25 April 2000.
62. OSCE/ODIHR Needs Assessment Mission Report, Parliamentary Elections 2007, 11 October 2007.
63. In some newly acceded EU countries, electoral and political participation have not been affected by their recent accession. For one example, see Berndt Rechev, "State Control of Minorities in Bulgaria", *Journal of Communist Studies and Transition Politics*, Vol.23, No.3, September 2007, pp.352–370.
64. HINA news agency, "Bosnian Croats should seek happiness in their homeland", *Veernji list*, 4 December 2007 (in Croatian).
65. GONG, "We object to the hyper-production of laws in the Croatian Parliament", <http://www.gong.hr/news.aspx?newsID=355&pageID=124> (in Croatian).
66. Status Report no. 18 on Croatia's Progress in Meeting International Commitments since June 2006, 19 July 2007.
67. Schedler, Diamond, Plattner, eds. *The Self-Restraining State*. Boulder, CO: Lynne Rienner, 1999.
68. In a number of countries, particularly African and Asian countries with presidential systems, external

voting is permitted, but only for the office of president – not for parliamentary elections.

<sup>69</sup>. Out-of-country voters for the 2005 parliamentary elections in Iraq were provided with a “National Ballot,” which listed the names of all political entities and coalitions that submitted candidates for any of the governorate elections across Iraq. These ballots did not count towards the 230 parliamentary seats apportioned to the governorates; but they did count towards the allocation of the 45 compensatory seats of the 275-member Council of Representatives.

<sup>70</sup>. The International IDEA Handbook on External Voting.

<sup>71</sup>. Ibid.