



Strasbourg, 21 November 2006

Opinion no. 373 / 2006

CDL(2006)082  
Engl. only

**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**DRAFT LAW**

**ON THE ELECTIONS OF COUNTY PREFECTS,  
THE MAYOR OF THE CITY OF ZAGREB,  
MAYORS AND HEADS OF MUNICIPALITIES  
OF THE REPUBLIC OF CROATIA**

**PROPOSAL OF THE LAW ON THE ELECTIONS OF COUNTY PREFECTS, THE MAYOR  
OF THE CITY OF ZAGREB, MAYORS AND HEADS OF MUNICIPALITIES**

July 2005

**I            CONSTITUTIONAL BASIS FOR THE ADOPTION OF THE LAW**

The constitutional basis for the adoption of this Law is contained in the provision of Article 1, Paragraph 3 of the Constitution of the Republic of Croatia.

Likewise, we also deem the provisions of Chapter VI of the Constitution of the Republic of Croatia, titled "Local and Regional Self-government", which encompasses the provisions of Article 132 through to the provision of Article 137 of the Constitution of the Republic of Croatia, to be the constitutional basis for the adoption of this Law.

The above-mentioned constitutional provisions represent the basic legal framework for the adoption of regulations which stipulate issues related to the system of local and regional self-government.

**II          ASSESSMENT OF THE SITUATION AND BASIC ISSUES WHICH NEED TO BE  
REGULATED BY THE LAW, AS WELL AS THE CONSEQUENCES WHICH WILL ENSUE  
BY THE ADOPTION OF THE LAW**

The Constitution of the Republic of Croatia stipulates that the people of the Republic of Croatia exercise the authority through the election of their representatives and by direct decision-making.

Pursuant to the Constitution of the Republic of Croatia adopted in 1990, along with other fundamental and systematic regulations pertaining to the system of local self-government, the Law on the Election of Members of Representative Bodies of Local Self-government Units and Administration was adopted in 1992.

The Law on the Election of Members of Representative Bodies of Local Self-government Units and Administration regulated the election of local representatives into the representative bodies of local units and defined issues related to the procedure of nomination and conduct of the elections of members of representative bodies, the organisation of bodies which directly conduct the elections, i.e. which supervise the legality of their conduct, as well as issues relating to legal instruments for the protection of the electoral right.

Although the Law on the Election of Members of Representative Bodies was amended and novelized on several occasions (the current title of the Law is the Law on the Election of Members of Representative Bodies of Local and Regional Self-government Units), the upgrading and improvement of the concept of electoral legislation at the local level did not pertain to the manner of the election of holders of the executive authorities, i.e. the election of county prefects, the Mayor of the City of Zagreb, mayors and heads of municipalities.

Namely, at all former regular local elections, i.e. at the first regular local elections conducted in 1993, the second in 1997, the third in 2001 and the latest elections conducted in 2005, as well as at the extraordinary elections during all previous mandates, holders of the executive authorities were elected indirectly, by way of constituting representative bodies.

The Law, the adoption of which is proposed, introduces for the first time in the Republic of Croatia direct elections of county prefects, the Mayor of the City of Zagreb, mayors and heads of municipalities, unlike the current system of their indirect elections.

The proposed solution definitely represents a more precise regulation of the voters' will expressed at the elections in the sense that the voters' right to vote and their selection in the form of the electoral result is linked, as much as possible, to the person who acquired legitimacy primarily due to the confidence that was given to him/her by the domicile population of a local community and for whom, in that sense, one assumes that he/she is very well familiar with the needs and interests of the local community for the purpose of its development and sustainability.

At the same time, such an electoral model would contribute to a higher level of political stability of the representative body and, likewise, to the efficiency of the executive body, looking from the aspect of circumstances of repeating the elections in a large number of local units, in some of them even on several occasions.

**Basic issues which are proposed to be regulated by this Law:**

- introducing direct elections of county prefects, the Mayor of the City of Zagreb, mayors and heads of municipalities,
- regulating the issues pertaining to the duration of term of office of county prefects, the Mayor of the City of Zagreb, mayors and heads of municipalities,
- defining the institution of incompatibility, that is, impossibility to perform certain duties simultaneously with the duty of a county prefect, the Mayor of the City of Zagreb, mayor and head of municipality,
- regulating in more detail the nomination procedure for county prefects, the Mayor of the City of Zagreb, mayors and heads of municipalities,
- elaborating the electoral procedure,
- defining provisions which stipulate the composition, competence and powers of bodies which directly conduct elections, i.e. which supervise the legality of their conduct.

**Consequences which will ensue by the adoption of this Law:**

- regulating in more detail the voters' will expressed at the elections in the sense that the legitimacy of a county prefect, the Mayor of the City of Zagreb, mayor and head of municipality, exercised at direct elections, represents the voters' will as much as possible,
- higher degree of security and continuity in the work of the executive body,
- higher level of efficiency of the executive body.

**III ASSESSMENT OF THE NECESSARY FUNDS FOR THE IMPLEMENTATION OF THE ELECTIONS**

It is estimated that the implementation of this Law will not require the provision of separate and additional funds in the State Budget of the Republic of Croatia.

For the implementation of this Law it will be necessary to provide additional funds in the local and regional self-government units' budgets, for the following purposes: printing of electoral material, the costs of voting committees and electoral commissions in case there is a second round of the elections and the compensation of costs of the electoral campaign to the candidates who cross the electoral threshold.

It is estimated that the costs would amount to approximately HRK 50 million and they will depend on the number of local units in which the second round of the elections would be conducted and on the number of candidates who would exercise the right to the compensation of costs of the electoral campaign.

#### **IV PROPOSAL OF THE LAW WITH AN EXPLANATION**

The text of the Proposal of the Law on Election of County Prefects, the Mayor of the City of Zagreb, Mayors and Heads of Municipalities is enclosed with the proposal for the adoption of this Law.

Likewise, it is necessary to mention that, in compliance with the provision of Article 82, Paragraph 2 of the Constitution of the Republic of Croatia, the Croatian Parliament passes organic laws, meaning laws elaborating the constitutionally determined human rights and fundamental freedoms, electoral system, organisation, scope of activities and mode of operation of state bodies, as well as the organization and scope of activities of local and regional self-government, with a majority vote of all representatives.

Pursuant to the above-mentioned, the Law, the adoption of which is proposed, needs to be passed by a majority vote of all representatives of the Croatian Parliament.

### **PROPOSAL OF THE LAW ON THE ELECTIONS OF COUNTY PREFECTS, THE MAYOR OF THE CITY OF ZAGREB, MAYORS AND HEADS OF MUNICIPALITIES**

#### **I GENERAL PROVISIONS**

##### Article 1

This Law shall regulate the manner, conditions and the procedure for the election of county prefects, the Mayor of the City of Zagreb, mayors and heads of municipalities as the holders of the executive powers in local and regional self-government units.

##### Article 2

County prefects, the Mayor of the City of Zagreb, mayors and heads of municipalities shall be elected directly, by a secret ballot, for a term of four years.

County prefects, the Mayor of the City of Zagreb, mayors and heads of municipalities shall have deputies who shall be elected at the same time, in the same manner and under the same procedure.

##### Article 3

County prefects, the Mayor of the City of Zagreb, mayors and heads of municipalities shall be elected by Croatian citizens who turned 18 years of age and who have permanent residence in the territory of the unit in which the elections are held.

A Croatian citizen who turned 18 years of age and who has permanent residence in the territory of the unit in which the elections are held may be nominated for and elected a county prefect, the Mayor of the City of Zagreb, mayor and head of municipality.

##### Article 4

The term of office of county prefects, the Mayor of the City of Zagreb, mayors and heads of municipalities elected at the regular elections shall last until the election of new county prefects, the Mayor of the City of Zagreb, mayors and heads of municipalities.

The term of office of county prefects, the Mayor of the City of Zagreb, mayors and heads of municipalities may cease even before the expiry of the term to which they were elected, in compliance with the provisions of this Law, that is, under the conditions stipulated by a special law regulating local and regional self-government.

The term of office of county prefects, the Mayor of the City of Zagreb, mayors and heads of municipalities elected at the early elections shall last until the expiry of the current term of office of county prefects, the Mayor of the City of Zagreb, mayors and heads of municipalities elected at the regular elections

#### Article 5

Regular elections shall be held on the third Sunday in May, every four years, on the same day as the elections for members of representative bodies of units.

The elections shall be called by the Government of the Republic of Croatia by a special decision which determines the exact date of holding the elections.

If the term of office of a county prefect, the Mayor of the City of Zagreb, mayor and head of municipality ceased before the expiry of the regular term of office, early elections shall be held within 60 days from the day of cessation of the term of office.

#### Article 6

No less than 30 days or more than 60 days may pass from the day of calling the elections until the election day.

If the term of office of a county prefect, the Mayor of the City of Zagreb, mayor and head of municipality ceased in a calendar year in which regular elections are held but prior to their holding, early elections shall not be called and held in that unit.

#### Article 7

A county prefect, the Mayor of the City of Zagreb, mayor and head of municipality may not simultaneously be members of the representative body of the same or another unit.

A county prefect, the Mayor of the City of Zagreb, mayor and head of municipality may not simultaneously assume the posts of:

- President of the Republic of Croatia,
- Speaker and deputy speaker of the Croatian Parliament,
- Prime Minister, vice president and member of the Government of the Republic of Croatia,
- President, deputy president and judge of the Constitutional Court of the Republic of Croatia,
- Governor, deputy governor and vice governor of the Croatian National Bank,
- Chief state auditor and his deputy,
- Ombudsman and his deputy,
- Judge,
- State Prosecutor or deputy state prosecutor,
- Secretary of the Croatian Parliament,
- Secretary of the Government of the Republic of Croatia,
- Secretary general of the Constitutional Court of the Republic of Croatia,
- Secretary of the Supreme Court of the Republic of Croatia,
- Deputy secretary of the Croatian Parliament,

- Deputy secretary of the Government of the Republic of Croatia,
- State secretary,
- Ombudsman for children and his deputy,
- Ombudsman for gender equality and his deputy,
- Assistant Minister,
- Secretary of a Ministry,
- Deputy State Secretary in central state offices,
- Head of office, his deputy and assistant Head of state administration organizations,
- President and deputy president of the Croatian Privatization Fund,
- Head of office and assistant Head of the Croatian Fund for Pension Insurance,
- Director, deputy director and assistant director of the Croatian Fund for Health Insurance,
- Head of University and deputy Head of University,
- Chief state treasurer,
- Head of the office, head of the agency and of a directorate of the Government of the Republic of Croatia,
- Head of a bureau appointed by the Government of the Republic of Croatia,
- Official in the Office of the President of the Republic appointed by the President of the Republic of Croatia,
- Active military person, senior- and lower-grade civil servant in the Armed Forces of the Republic of Croatia,
- Head of office and an employee in administration bodies and services of the same unit,
- Member of the management board of a trading company which is for the most part owned by the unit,
- Head of an institution established by the unit.

A person performing any of the incompatible duties may be nominated for a county prefect, the Mayor of the City of Zagreb, mayor and head of municipality, except for an active military person and senior- and lower-grade civil servant in the Armed Forces of the Republic of Croatia. However, if elected county prefect, the Mayor of the City of Zagreb, mayor and head of municipality, he shall be obliged to resign from the incompatible duty he performs prior to assuming duty.

#### Article 8

The term of office of a county prefect, the Mayor of the City of Zagreb, mayor and head of municipality shall cease before the expiry of the regular four-year term in the following cases:

- on the day of passing a decision on the relief of duty, upon submission of a request for the relief of duty or a submitted resignation,
- on the day of entry into force of a court decision cancelling [*a person's*] business capacity,
- on the day of entry into force of a court verdict awarding a non-suspended prison sentence of more than 6 months,
- on the day of entry into force of a court verdict by which the person was sentenced for the commission of a criminal act against the freedoms and rights of a man and citizen, of the RoC and the values protected by international law,
- on the day of de-registration of permanent residence from the territory of the unit,
- on the day of cessation of Croatian citizenship,
- due to death.

#### Article 9

Freedom of voters' choice and secrecy of voting shall be guaranteed.

No one may be held responsible because of voting or non-voting.

No one may ask from a voter to publicly state his voting preference.

## II NOMINATION

### Article 10

Candidates for a county prefect, the Mayor of the City of Zagreb, mayor and head of municipality and their deputies shall be nominated by political parties registered in the Republic of Croatia and by voters.

Political parties shall determine a candidate for a county prefect, the Mayor of the City of Zagreb, mayor and head of municipality and their deputy in a manner stipulated by the statute of a political party or by a special decision passed on the basis of the statute.

Two or more political parties registered in the Republic of Croatia may nominate a joint candidate for a county prefect, the Mayor of the City of Zagreb, mayor and head of municipality and their deputy.

### Article 11

When political parties or voters as authorized proponents nominate candidates for a county prefect, the Mayor of the City of Zagreb, mayor and head of municipality, they shall collect the following in order for their nomination to be valid:

- 100 signatures for the head of municipality,
- 200 signatures for the mayor of a town with less than 40,000 inhabitants,
- 1,000 signatures for the mayor of a big town with more than 40,000 inhabitants,
- 2,000 signatures for a county prefect, that is, the Mayor of the City of Zagreb.

### Article 12

Voters' signatures shall be collected on the stipulated form, by filling in the first and last name of the voter, address of the registered permanent residence, number of the valid ID card and the place of its issuance for each voter who supports a candidacy with his signature.

### Article 13

Proposals of candidates for county prefects, the Mayor of the City of Zagreb, mayors and heads of municipalities, together with the proposals of their deputies, shall be forwarded to the competent electoral commission of the unit within 12 days from the day of calling the elections at the latest.

### Article 14

The proposal of candidates for county prefects, the Mayor of the City of Zagreb, mayors and heads of municipalities shall contain first and last names of candidates and their deputies, nationality, address of the registered permanent residence, number of the valid ID card and the place of its issuance.

Candidates' and deputies' statements on the acceptance of candidacy shall also be forwarded along with the proposal. The statements shall be verified by a notary public or the competent electoral commission.

## Article 15

The competent electoral commission shall compile and publish through public media all validly proposed candidacies for heads of municipalities and county prefects.

The competent electoral commission shall determine and publish the joint slate of all timely and properly submitted candidacies within 48 hours from the expiration of the deadline stipulated for the candidacy procedure and the submission of candidacies.

## Article 16

Candidacies (or proposals of candidates) shall be entered into the joint slate in the alphabetical order of the surnames of candidates for county prefects, the Mayor of the City of Zagreb, mayors and heads of municipalities.

Along with first and last names of candidates for county prefects, the Mayor of the City of Zagreb, mayors and heads of municipalities, the first and last names of their deputies shall be entered, as well as the full name of the political party, that is, coalition proposing the candidate.

If a candidacy is proposed by voters, a note "independent candidate" shall be entered next to the first and last name of the candidate and his deputy.

## Article 17

All proposed candidates shall have the right to present and explain their electoral programmes and electoral campaign under equal conditions.

Electoral campaign shall start on the day of announcement of the joint slate of candidacies and last up to 24 hours before the holding of elections.

## Article 18

Local media shall provide all candidates participating in the elections with a possibility to present and explain electoral programmes, along with unhindered conduct of electoral campaign, under equal conditions.

## Article 19

Any electoral campaign as well as any publishing of preliminary results or assessment of election results shall be forbidden during the entire day preceding the election day, as well as until the closure of polling places at 19 hours on the election day itself.

## Article 20

Those candidates who receive a minimum of ten per cent of voters' votes out of the total number of voters registered on the voters' list of the unit shall have the right to compensation of electoral campaign expenditures.

The amount of compensation shall be determined by the Government of the Republic of Croatia 20 days prior to the election day at the latest.

The compensation of electoral campaign expenditures shall be paid from the unit's budget.



The Government Decision on the amount of compensation shall also apply to early elections of county prefects, the Mayor of the City of Zagreb, mayors and heads of municipalities.

#### Article 21

Electoral campaign shall be financed with one's own funds and from donations by domestic natural and legal persons.

#### Article 22

Pecuniary gifts, other gifts and services for covering the expenditures of the electoral campaign may not be received from the following:

- foreign countries, foreign political parties, foreign natural and legal persons,
- public companies, legal persons with public powers and companies in which the state is the majority owner and other legal persons in which the Republic of Croatia, that is, local and regional self-government units, are the majority owners over the stocks, that is, shares, and public and other institutions owned by the Republic of Croatia and local and regional self-government units,
- associations of workers and employers,
- associations, trust funds and foundations represented by state officials or officials of local and regional self-government, legal persons with public powers, religious communities, humanitarian and other non-profit associations and organizations,
- budgets of local and regional self-government units,
- trading companies owned or co-owned by local and regional self-government units,
- institutions founded by the state or a local and regional self-government unit.

#### Article 23

Electoral campaign funds may not be used for financing particular projects, the completion of which is conditioned by voting for a certain candidate, with the aim of receiving electoral votes.

#### Article 24

Within 7 days prior to the election day at the latest, candidates for the election of county prefects, the Mayor of the City of Zagreb, mayors and heads of municipalities shall forward to the competent electoral commission preliminary reports on the amount and sources of funds collected for the electoral campaign expenditures.

Within 15 days from the election day, candidates shall forward data on the amount and sources of funds used for the electoral campaign to the competent electoral commission.

### **III. ELECTION OF COUNTY PREFECTS, THE MAYOR OF THE CITY OF ZAGREB, MAYORS AND HEADS OF MUNICIPALITIES**

#### Article 25

County prefects, the Mayor of the City of Zagreb, mayors and heads of municipalities shall be elected using the method of majority vote, in the manner that the entire area of a unit constitutes one electoral unit.

#### Article 26

Regardless of whether one or more candidates are standing for election, county prefects, the Mayor of the City of Zagreb, mayors and heads of municipalities shall be elected by majority vote of all voters who voted.

Candidates who have received more than 50% of votes of voters who turned out for elections shall be elected county prefects, the Mayor of the City of Zagreb, mayors and heads of municipalities.

If none of the candidates has received such majority, the elections for county prefects, the Mayor of the City of Zagreb, mayors and heads of municipalities shall be repeated after 14 days.

Two candidates who received the highest number of votes in the first round of elections shall have the right to participate in the repeated elections.

Should one or both candidates who received the highest number of votes in the first round of elections withdraw their candidacies in the second round of the elections, the candidates who are next on the list according to the number of received votes shall obtain the right to participate in the second round.

The candidate who has received the highest number of votes of voters who voted shall be elected in the repeated elections in the second round.

Should two or more candidates receive an equal number of votes, the elections shall be repeated within 14 days.

#### Article 27

Should a candidate for a county prefect, the Mayor of the City of Zagreb, mayor and head of municipality die in the period from the day of publication of the joint slate of candidates up to 48 hours prior to the election day, the proponents may propose another candidate instead, without the application of provisions of this Law pertaining to the required number of signatures for a candidacy to be considered valid.

In case of death of a candidate who has the right to participate in repeated elections in the second round in the period from the day of holding the first elections in which none of the candidates received the majority stipulated by this Law to the day of holding the repeated elections, the entire electoral procedure shall be repeated.

#### Article 28

In case elections are repeated, candidates participating in the second round of the elections shall have the right to electoral campaign, in compliance with the provisions of this Law.

### **IV. BODIES FOR THE CONDUCT OF THE ELECTIONS**

#### Article 29

Bodies for the conduct of the elections shall be the State Electoral Commission, electoral commissions in units and voting committees.

The election of a head of municipality shall be conducted by the municipal electoral commission and voting committees.

The election of a mayor shall be conducted by the town electoral commission and voting committees.

The election of a county prefect shall be conducted by the county electoral commission, municipal, that is, town electoral commission and voting committees.

The election of the Mayor of the City of Zagreb shall be carried out by the City Electoral Commission of the City of Zagreb and voting committees.

Members of electoral commissions and voting committees, as well as their deputies, may only be persons with suffrage.

Members of electoral commissions and voting committees, as well as their deputies, shall have the right to compensation for their work.

#### Article 30

The State Electoral Commission of the Republic of Croatia shall stipulate the forms in the nomination procedure and in the conduct of the elections, it shall pass mandatory instructions for the work of electoral commissions and directly monitor the work of county electoral commissions and the City Electoral Commission of the City of Zagreb.

#### Article 31

Municipal, town, county electoral commissions and the City Electoral Commission of the City of Zagreb shall have permanent and extended composition.

Permanent composition of the electoral commission of a unit shall comprise the president and two members, as well as their deputies. President of the electoral commission must be a graduate lawyer.

Extended composition of the electoral commission shall be determined according to the acceptance of nominations and determination and publication of slates for the election of a head of municipality or a county prefect in the unit in which the elections are conducted, and it is comprised by two representatives of the majority political party, i.e. coalition, and two representatives of opposition parties, i.e. coalitions, proposed pursuant to an agreement in compliance with party composition in the representative body of the unit. If no agreement on two representatives of opposition parties and their deputies has been reached, their election shall take place by the roll of the dice from among the proposed candidates.

The election of the expanded composition of the municipal and town electoral commission shall be performed before the county electoral commission, while the election of the expanded composition of the county electoral commission shall be performed before the State Electoral Commission.

All members of the electoral commission shall have equal rights and duties.

#### Article 32

The State Electoral Commission shall appoint the permanent composition of county electoral commissions and the City Electoral Commission of the City of Zagreb.

County electoral commissions shall appoint the permanent composition of municipal, i.e. town electoral commissions in their area.

#### Article 33

Municipal and town electoral commissions shall:

- take care of lawful preparation and conduct of the elections,
- appoint members of voting committees,
- determine polling stations,
- monitor the work of voting committees,
- perform all technical preparations for the conduct of the elections in their area,
- on the basis of valid nominations determine and publish slates for the elections of a head of municipality, i.e. county prefect,
- supervise the regularity of the electoral campaign in compliance with this Law,
- collect and compile voting results from polling stations in their area and, in case of the election of a county prefect, forward them to the county electoral commission,
- publish the results of the elections for a head of municipality, i.e. county prefect and also perform other tasks stipulated by this Law.

#### Article 34

The City Electoral Commission of the City of Zagreb shall:

- take care of lawful preparation and conduct of the elections for the Mayor of the City of Zagreb,
- appoint members of voting committees for the elections of the Mayor of the City of Zagreb,
- determine polling stations,
- supervise the work of voting committees,
- perform all technical preparations for the conduct of the elections in their area,
- on the basis of valid nominations determine and publish slate for the election of the Mayor,
- monitor the regularity of the electoral campaign in compliance with this Law,
- collect and compile voting results from polling stations in its area,
- publish the results of the elections for the Mayor of the City of Zagreb, also perform other tasks stipulated by this Law.

#### Article 35

The County Electoral Commission shall:

- take care of lawful preparation and conduct of the elections for the county prefect,
- monitor the work of municipal and town electoral commissions,
- on the basis of valid nominations determine and publish slate for the election of a county prefect,
- monitor the regularity of the electoral campaign in compliance with this Law,
- publish the results of the elections for a county prefect,
- also perform other tasks stipulated by this Law.

#### Article 36

Voting committees shall be appointed for each polling station for the purpose of direct conduct of voting and ensuring regularity and secrecy of voting.

A voting committee shall be comprised by the president and his deputy and two members and their deputies. One member and deputy are selected by the majority political party or coalition, while one member and deputy are selected by the opposition political parties or coalitions in compliance with party composition in the representative body of the unit.

Political parties shall be obliged to select members of individual voting committees and forward their names to the competent electoral commissions not later than 8 days prior to the day of holding the elections. Should they fail to determine them, i.e. if the proposals do not reach the competent electoral commissions, the competent electoral commissions shall independently determine members of voting committees.

Members of a voting committee may not be candidates in the elections.

President of the voting committee and his deputy may not be members of any political party and, as a rule, they shall have a degree in law. President of the voting committee and his deputy shall sign a statement that they are not members of any party under material and criminal responsibility before the competent electoral commission.

Voting committees for all polling stations shall be appointed by the electoral commissions competent pursuant to the provisions of this Law, not later than five days prior to the day of holding the elections.

#### Article 37

When the elections for county prefects, mayors, the Mayor of the City of Zagreb and heads of municipalities are taking place simultaneously with the elections for members of representative bodies of local and regional self-government units, the electoral activities shall be carried out by the same electoral bodies.

### **V. CONDUCT OF THE ELECTIONS**

#### Article 38

Voting shall take place in polling stations in the area of a municipality, town and the City of Zagreb.

Competent electoral commissions shall publish which polling stations have been designated with an annotation which voters are entitled to cast their votes in a particular polling station, not later than eight days before the elections.

Competent electoral commissions shall designate polling stations depending on the number of voters, i.e. distance, in such a manner that the number of voters in one polling station enables the voting of all voters within the time frame anticipated for the voting. Each polling station shall be designated an ordinal number.

A special room for voting, arranged and equipped in a manner which ensures the secrecy of voting, shall be designated for each polling station.

Each polling station shall have all nomination slates visibly placed with clearly indicated names of all candidates for a county prefect, the Mayor of the City of Zagreb, mayor and head of municipality who may be voted for.

### Article 39

Political parties and voters who proposed candidates, as well as NGOs and international organizations, shall have the right to select monitors who would supervise the conduct of the elections throughout the electoral process.

A monitor shall have the right to be present at the voting and the counting of votes, to warn about noticed irregularities and request their removal and to place his/her remarks in the minutes of the electoral body. A monitor shall be entitled to receive a copy of the minutes of the electoral body the work of which he/she has observed.

The State Electoral Commission shall regulate in more detail the rights and duties of monitors, as well as the manner of supervising the conduct of the elections by mandatory instructions.

## **VI VOTING AND DETERMINATION OF VOTING RESULTS**

### Article 40

Voting shall take place personally in the polling station, by way of casting a ballot.

A ballot shall be printed in the state-owned printing company under direct supervision of the State Electoral Commission and shall be marked by a serial number.

### Article 41

A ballot on which a vote for a candidate is cast shall comprise:

- name and family name of a candidate,
- name of the political party or coalition which nominated the candidate or an annotation from which it is evident that it is an independent candidate,
- serial number.

Candidates on a ballot shall be listed in the same order in which they are listed on the joint slate of candidates for a county prefect, the Mayor of the City of Zagreb, mayor and head of municipality.

Ordinal number shall be placed before the name and family name of the candidate.

### Article 42

Only the candidates listed on a ballot shall be voted for.

A ballot shall be filled out by encircling the ordinal number in front of the name of the candidate for whom the vote is cast.

### Article 43

A valid ballot shall be the one from which it is possible to determine, in a certain and unambiguous manner, for which candidate a voter had cast his vote.

An invalid ballot shall be:

- a blank ballot,

- a ballot filled out in such a manner that it is not possible to determine with certainty for which candidate a voter had cast his vote,
- a ballot on which a voter cast votes for two or more candidates.

#### Article 44

Voting shall take place uninterruptedly from 07:00 to 19:00 hours, when polling stations shall be closed. Voters who were at the polling station at 19:00 hours shall be allowed to cast a vote as well.

All members of the voting committee or their deputies must be present at the polling station throughout the voting.

#### Article 45

No one shall come to the polling station armed.

President of the voting committee shall take care of maintaining peace and order during the voting and, in case of need, he shall be authorized to order a voter who disrupts peace and order or renders impossible, i.e. renders difficult the voting of other people, to leave the polling station.

President of the voting committee shall be authorized to request assistance from the police. Official police personnel, from whom assistance has been requested, may carry weapons as an exception to Paragraph 1 of this Article.

#### Article 46

Before a voter approaches the voting, president of the voting committee or a member authorized by the president shall check in the voters' list if the voter who approached the voting has been registered.

If it has been determined that the voter is not registered in the voters' list, he shall not be allowed to cast a vote unless the voter proves with a confirmation issued by the body competent to keep the voters' list that he is entitled to approach the voting in that unit.

The voter shall be obliged to hand over the confirmation referred to in Paragraph 2 of this Article to the voting committee and this confirmation shall comprise an integral part of the electoral material.

#### Article 47

A voter, who could not vote independently due to a physical handicap or because of illiteracy, may come to the polling station with another person who is literate and who would encircle the ordinal number in front of the name of the slate upon his authorization and according to his instruction.

A voter, who is not in a position to approach the polling station due to serious illness, physical handicap or lack of capacity, shall inform the voting committee about it. The president of the voting committee shall designate at least two members of the voting committee or two deputies who will visit the voter in the place where he is located and enable him to vote, whereby they shall take into account the secrecy of voting.

The president of the voting committee shall be obliged to state by name the voting of voters with a physical handicap, of illiterate voters, as well as the voting outside the

polling station upon previous notification of the voter in the minutes on the work of the voting committee.

#### Article 48

Upon the completion of the voting, the voting committee shall first count non-used ballots and put them in a special envelope which shall be closed.

After that, the voting committee shall determine, according to the voters' list, i.e. the excerpt from the voters' list and on the basis of the minutes, the total number of voters who cast their votes and then it shall approach the opening of the ballot box and counting the votes.

If, during the counting of the votes in the polling station, it has been determined that the number of votes according to the voters' list exceeds the number of votes according to the ballots, the result of the voting according to the ballots shall be valid.

If, during the counting of the votes in the polling station, it has been determined that the number of voters who voted is smaller than the number of votes in the ballot box, the voting committee shall be disbanded and a new one shall be appointed, while the voting in that polling station shall be repeated after 15 days. In case of repetition of voting, its result in that polling station shall be determined within 24 hours after the voting has been repeated.

#### Article 49

Once the voting committee has determined the voting result in the polling station, it shall record in the minutes on its work:

- number of voters according to the voters' list, i.e. the excerpt from the voters' list,
- how many voters approached the voting according to the list and how many with confirmation,
- total number of voters who cast their votes,
- number of votes each candidate received, and
- how many ballots were declared invalid.

The minutes on the work of the voting committee shall also include all other facts of importance for the voting.

Each member of the voting committee, as well as deputies, may provide remarks on the minutes.

The minutes shall be signed by all members of the voting committee.

#### Article 50

The voting committee shall forward the minutes on its work and other electoral material to the municipal, i.e. town electoral commission within 12 hours from the closing of the polling stations, at the latest.

#### Article 51

The electoral commission of a municipality, town or the City of Zagreb shall determine the voting results in the polling stations in its area within 24 hours from the closing of the polling stations, at the latest.



In case of elections for a county prefect, the electoral commission of a municipality, i.e. town, shall forward electoral results in its area, along with the minutes on its work, to the competent county electoral commission, in a manner and within the deadline determined by the latter.

#### Article 52

The electoral commission of a municipality, town or the City of Zagreb shall keep the minutes on its work in which it shall record:

- number of voters registered in the voters' list, i.e. the excerpt from the voters' list in its area,
- number of votes and the number of ballots which were declared invalid,
- number of votes each candidate received in the territory of the unit.

Each member of the electoral commission of a municipality, town or the City of Zagreb, as well as deputies, may provide remarks on the minutes. The minutes shall be signed by all members of the electoral commission of a unit.

#### Article 53

Results of the elections for a county prefect, the Mayor of the City of Zagreb, mayor and head of municipality shall be determined by the competent electoral commission of the unit on the basis of the voting results in all polling stations in the unit.

#### Article 54

Once the electoral commission of a unit, i.e. the City of Zagreb, has determined the voting results for a county prefect, the Mayor of the City of Zagreb, mayor and head of municipality, it shall immediately publish:

- number of voters registered in the voters' list of the unit,
- number of votes each candidate received,
- number of invalid ballots,
- name and family name of the candidate who was elected county prefect, the Mayor of the City of Zagreb, mayor and head of municipality.

### **VII EXPENDITURES FOR THE CONDUCT OF THE ELECTIONS**

#### Article 55

Funds for the conduct of regular and early elections of a county prefect, the Mayor of the City of Zagreb, mayor and head of municipality shall be provided for in the budget of the unit.

Funds for the conduct of the elections shall be managed by the electoral commission of that unit. The electoral commission shall be authorized to determine the mode of expenditure of the funds, conduct supervision over its allocation and use and allocate necessary funds to voting committees.

## VIII PROTECTION OF THE ELECTORAL RIGHT

### Article 56

The Constitutional Court of the Republic of Croatia shall perform general supervision over the constitutionality and legality of elections for a county prefect, the Mayor of the City of Zagreb, mayor and head of municipality and shall resolve disputes in compliance with the provisions of this Law.

### Article 57

The objection due to irregularities in the nomination procedure, as well as the objection due to irregularities in the election procedure may only be submitted by the candidates, i.e. their deputies who participated in the elections.

Candidates, i.e. their deputies, shall submit an objection personally.

### Article 58

Objections to irregularities in the procedure of nomination and election of heads of municipalities and mayors shall be resolved by the county electoral commission.

Objections to irregularities in the procedure of nomination and election of mayors and the Mayor of the City of Zagreb shall be resolved by the State Electoral Commission.

### Article 59

Objections to irregularities in the procedure of nomination and election of county prefects, Mayor of the City of Zagreb, mayors and heads of municipalities shall be submitted to the competent electoral commission within 48 hours counting from the expiration of the day when the activity to which the objection pertains took place.

The competent electoral commission shall be obliged to pass a decision on the objection within 48 hours from the day it has received the objection, i.e. from the day it has received the electoral materials to which the objection pertains.

### Article 60

If the competent electoral commission, while deciding on the objection, determines that there were irregularities which significantly affected the outcome of the elections, it shall annul the activities in that procedure and order that those activities are repeated within the time frame which would render it possible for the elections to be held on the day for which they were called.

If there is no possibility to repeat the annulled activities referred to in the previous Paragraph or if the irregularities relate to the voting procedure and they significantly affected the outcome of the elections, the competent electoral commission shall annul the elections and set a deadline within which repeated elections shall take place.

### Article 61

Submitter of the objection shall have the right to file an appeal against the decision passed by the competent electoral commission with the Constitutional Court of the Republic of Croatia if he is dissatisfied with passed decision.

The appeal referred to in the previous Paragraph shall be submitted with the Constitutional Court of the Republic of Croatia through the competent electoral commission within 48 hours, counting from the day when the disputed decision was received.

The Constitutional Court of the Republic of Croatia shall be obliged to pass a decision on the appeal within 48 hours from the day of receipt of the appeal.

#### Article 62

Submitted objection, i.e. appeal in the procedure of protection of the electoral right shall not delay the performance of electoral activities stipulated by this Law.

#### Article 63

No fees shall be paid for written submissions and decisions in the procedure conducted pursuant to the provisions of this Law.

### **IX PENAL PROVISIONS**

#### Article 64

A fine of HRK 3,000.00 for an offence shall be imposed on:

- a natural person for the breach of electoral silence (Article 20).

A fine of HRK 10,000.00 to 30,000.00 for an offence shall be imposed on:

- a candidate in the elections for the breach of electoral silence (Article 20).

A fine of HRK 100,000.00 to 500,000.00 for an offence shall be imposed on:

- a legal person for the breach of electoral silence (Article 20).

A fine of HRK 10,000.00 to 30,000.00 for an offence shall be imposed on:

- responsible person within the legal person for the breach of electoral silence (Article 20).

### **X INTERIM AND FINAL PROVISIONS**

#### Article 65

This Law shall enter into force on the day of its publication in the Official Gazette and it shall be applied on the next regular local elections.

## EXPLANATION

### **With Chapter I GENERAL PROVISIONS (Articles 1-10)**

These provisions stipulate the content of the Law, i.e. direct elections of a county prefect, the Mayor of the City of Zagreb, mayor and head of municipality.

Basic issues pertaining to the exercise of active and passive suffrage at the elections for a county prefect, the Mayor of the City of Zagreb, mayor and head of municipality are defined.

Duration of mandate, i.e. cessation of mandate of elected county prefects, the Mayor of the City of Zagreb, mayors and heads of municipalities and the time when the elections are held are regulated in more detail.

The institute of incompatibility, i.e. impossibility to simultaneously perform certain duties and the duty of a county prefect, the Mayor of the City of Zagreb, mayor and head of municipality is defined.

### **With Chapter II NOMINATION (Articles 10-24)**

The nomination procedure is regulated.

The obligation of collecting signatures for political parties and voters as authorized proponents of candidates is proposed, whereby the number of signatures and the manner of collecting signatures of voters, which are necessary for a nomination to be valid, are regulated in more detail.

The deadline in which proposals of candidates must be forwarded to the competent electoral commission of a unit and the contents of the proposal of candidates are regulated in more detail.

The manner of adding candidates' slates to the joint slate for the election of a county prefect, the Mayor of the City of Zagreb, mayor and head of municipality is regulated in more detail.

The duration of the electoral silence is stipulated and the right to compensation of expenses of the electoral campaign is proposed.

The manner of collecting funds for financing the electoral campaign is stipulated, as well as the candidates' obligation to forward a report on the expenses of the electoral campaign to the competent electoral commission.

### **With Chapter III ELECTION OF COUNTY PREFECTS, THE MAYOR OF THE CITY OF ZAGREB, MAYORS AND HEADS OF MUNICIPALITIES (Articles 25-28)**

The electoral model is anticipated pursuant to which county prefects, the Mayor of the City of Zagreb, mayors and heads of municipalities are elected using the method of a majority vote, in such a manner that the entire area of a unit represents one constituency.

It is stipulated that the elections will be repeated if none of the candidates has received more than 50% of votes of voters who participated in the elections, which is the amount of votes he needs in order to be elected.

**With Chapter IV BODIES FOR THE CONDUCT OF THE ELECTIONS  
(Articles 29-37)**

In this Chapter, [the provisions of this Law] are harmonized with the provisions of the Law on the Election of Members of Representative Bodies of Local and Regional Self-government Units, which stipulate the composition of bodies for the conduct of the elections.

It is proposed that members of electoral commissions and voting committees, as well as their deputies, should have the right to compensation for their work.

It is stipulated that, in a situation that the elections for county prefects, mayors, the Mayor of the City of Zagreb and heads of municipalities are taking place simultaneously with the elections for members of representative bodies of local and regional self-government units, the electoral activities would be carried out by the same electoral bodies.

**With Chapter V CONDUCT OF THE ELECTIONS  
(Articles 38-39)**

The manner of arranging polling stations is defined more precisely.

A possibility for political parties and voters who proposed candidates, as well as for NGOs and international organizations, to assign monitors who would supervise the conduct of the elections is anticipated and their basic rights are determined.

**With Chapter VI VOTING AND DETERMINATION OF VOTING RESULTS  
(Articles 40-54)**

The obligatory content of a ballot, conditions necessary for a ballot to be valid, conditions at a polling station and the voting procedure itself are stipulated.

It is stipulated that the results of the elections for a county prefect, the Mayor of the City of Zagreb, mayor and head of municipality will be determined by the competent electoral commission of a unit on the basis of the voting results from all polling stations.

**With Chapter VII EXPENDITURES FOR THE CONDUCT OF THE ELECTIONS  
(Article 55)**

It is stipulated that funds for the conduct of regular and early elections of a county prefect, the Mayor of the City of Zagreb, mayor and head of municipality are provided for in the budget of the local unit.

Likewise, it is stipulated that the same funds are managed by the electoral commission of the local unit which is authorized to determine the mode of their expenditure and to conduct supervision over their allocation.

**With Chapter VIII PROTECTION OF THE ELECTORAL RIGHT  
(Articles 56-63)**

It is determined who is authorized to submit an objection, i.e. appeal, as well as the procedure performed by the competent bodies upon the objection, i.e. appeal.

**With Chapter IX PENAL PROVISIONS  
(Article 64)**

Offence fines are stipulated for the breach of electoral silence.

**With Chapter X INTERIM AND FINAL PROVISIONS  
(Article 65)**

The entry into force of the Law is stipulated.

## **Croatian Parliament – Sessions of working bodies 1/05**

### **Report of the Committee for Local and Regional Self-government from a discussion on the Proposal of the Law on the Election of County Prefects, the Mayor of the City of Zagreb, Mayors and Heads of Municipalities (P.Z. No. 330) – first reading**

Subject: Report from a discussion on the Proposal of the Law on the Election of County Prefects, the Mayor of the City of Zagreb, Mayors and Heads of Municipalities (P.Z. No. 330) – first reading

The Committee for Local and Regional Self-government of the Croatian Parliament, at its 31<sup>st</sup> session held on 13 July 2005, discussed the Proposal of the Law on the Election of County Prefects, the Mayor of the City of Zagreb, Mayors and Heads of Municipalities, which the Government of the Republic of Croatia submitted to the Speaker of the Croatian Parliament by its act dated 8 July 2005.

In the sense of Article 140 of the Standing Orders of the Croatian Parliament, the Committee discussed the above-mentioned act in the capacity of an interested working body.

The Committee conducted a joint discussion on the Proposal of this Law and the Law on the Election of Members of Representative Bodies of Local and Regional Self-government Units and the Election of Heads of Municipalities, Mayors, County Prefects and the Mayor of the City of Zagreb (P.Z. No. 311).

In the introductory presentation by the representative of the proponent, it was emphasized that this Proposal of the Law regulates direct elections of county prefects, the Mayor of the City of Zagreb, mayors and heads of municipalities and other issues related to direct elections of holders of the executive authority in local and regional self-government units.

During the discussion, members of the Committee supported the Proposal of this Law, whereby it was assessed that the proposed solutions, apart from more precise exercise of the voters' will expressed at the elections, would also contribute to a higher level of political stability of the representative body and the efficiency of the executive body.

Having conducted the discussion, the Committee unanimously decided to propose to the Croatian Parliament the adoption of the following

### **CONCLUSION**

1. The Proposal of the Law on the Election of County Prefects, the Mayor of the City of Zagreb, Mayors and Heads of Municipalities (P.Z. No. 330) is hereby accepted.
2. Opinions, remarks and proposals expressed in the discussion will be forwarded to the proponent to take them into consideration when drafting the Final Proposal of the Law.

Mr. Zvonimir Mrsic, Chairman of the Committee, was determined to be a rapporteur at the session of the Croatian Parliament.

CHAIRMAN OF THE COMMITTEE

Zvonimir Mrsic

**Croatian Parliament – Sessions of working bodies 1/05****Report of the Committee for the Constitution, Standing Orders and Political System from a discussion on the Proposal of the Law on the Election of County Prefects, the Mayor of the City of Zagreb, Mayors and Heads of Municipalities, P.Z. No. 330**

Subject: Report from a discussion on the Proposal of the Law on the Election of County Prefects, the Mayor of the City of Zagreb, Mayors and Heads of Municipalities, P.Z. No. 330

The Committee for the Constitution, Standing Orders and Political System of the Croatian Parliament, at its 38th session held on 12 July 2005, discussed the Proposal of the Law on the Election of County Prefects, the Mayor of the City of Zagreb, Mayors and Heads of Municipalities, which the Government of the Republic of Croatia submitted to the Speaker of the Croatian Parliament by its act No. 5030109-05-3, dated 8 July 2005.

Pursuant to its scope of activities referred to in Article 57 of the Standing Orders of the Croatian Parliament, the Committee discussed the Proposal of the Law as a parent working body.

During the discussion, the Committee supported the solutions contained in the Proposal of the Law.

However, the Committee emphasised that the adoption of this Law would require amendments to the Law on Local and Regional Self-government with regard to regulating relations between directly elected heads of the executive authorities and representative bodies of local and regional self-government units, in compliance with constitutional provisions.

The Committee also deems that the number of signatures for supporting nominations for an individual head of the executive authority should be increased.

The Committee also deems that the manner of participation of candidates in the repeated elections should be clarified.

In the introductory presentation by the representative of the proponent, it was emphasized that this Proposal of the Law regulates direct elections of county prefects, the Mayor of the City of Zagreb, mayors and heads of municipalities and other issues related to direct elections of holders of the executive authority in local and regional self-government units.

During the discussion, the Committee emphasised that the issue stipulated by the Proposal of the Law should be regulated upon consideration of the comprehensive concept of the electoral legislation, on which the Committee, on the basis of the valid electoral legislation, will conduct a thematic discussion prior to the drafting of the Final Proposal of the Law.

Having conducted the discussion, the Committee proposed to the Croatian Parliament, by a majority vote (7 votes "IN FAVOUR" and 1 vote "AGAINST"), the adoption of the following



## **CONCLUSION**

The Proposal of the Law on the Election of County Prefects, the Mayor of the City of Zagreb, Mayors and Heads of Municipalities is hereby accepted.

All remarks, proposals and opinions expressed in the discussion on the Proposal of the Law at the session of the Croatian Parliament and its working bodies will be forwarded to the proponent for the purpose of drafting the Final Proposal of the Law.

MP Drazen Bosnjakovic, Chairman of the Committee, was determined to be a reporter at the session of the Croatian Parliament.

CHAIRMAN OF THE COMMITTEE

Drazen Bosnjakovic