

OPAL Country Reports

The Croatian Parliament and EU Affairs

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OPAL Country Report on the Croatian Parliament¹

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I. General Position of Parliament in the Constitutional Balance of the Member State: Constitutional and institutional factors	
This section looks at the role of Parliament in the political system, to help us understand the relative power position of the legislature.	
1.1	What is the type of government in the political system of your member state? (i.e. parliamentary or semi-presidential)
	Parliamentary system.
1.2	Is it a uni- or bicameral Parliament? If bicameral, is one house dominant or are both equally strong? Please briefly explain.
	Croatia has a unicameral parliament. In the 1990s Croatia had a semi-presidential system and bicameral parliament but this was changed with constitutional changes in 2000.
1.3	Is the state federal, decentralized or unitary? If applicable, is it a form of asymmetrical federalism?
	Croatia is a unitary state. It is divided into 20 regional units (counties) but these units are not as such represented in the parliament and they have very limited jurisdictions. According to art 132. of the Croatian constitution, ² citizens have a right to local and regional self-government. The right to self-government is being materialized through local and regional representative bodies which are composed of members elected by the citizens in secret ballot. According to art. 134 of the Croatian constitution regional and local units implement tasks which directly address citizens' needs in the areas such as communal services, space and urban planning, child care, primary health care, environmental and civil protection, culture etc.
1.4	Briefly describe the electoral system, if applicable, for each chamber.
	According to art. 71 of the Croatian constitution Croatian parliament has at least 100 and not more than 160 members of parliament which are being elected based on the general suffrage and by the secret ballot. The constitution

¹ This country report provides some basic data that has been collected in the context of the research for a chapter to be published in C. Heffler, C. Neuhold, O. Rozenberg, J. Smith & W. Wessels (Eds.). (forthcoming in 2014). *The Palgrave Handbook of National Parliaments and the European Union*. London: Palgrave, Macmillan.

² Official Gazette, 56/90, 135/97, 8/98, 113/00, 124/00, 28/01, 41/01, 55/01, 76/10, 85/10.

	<p>prescribes that the mandate of the MPs is four years (art. 72). The current electoral law prescribes a proportional electoral system where citizens elect 140 MPs in 10 territorial units within Croatia based on candidacy lists composed by political parties and the so called independent lists (Law on election of the members of Croatian parliament, art. 38)³. Additional MPs are elected in a special unit for Croatian citizens living abroad (currently three MPs according to the principle of non-fixed quota), as well as in the unit for ethnic minorities consisting of the entire territory of Croatia (eight MPs elected by the system of majority voting). According to art. 41 of the Law on election of the members of Croatian parliament the rights to participate in the division of parliamentary seats are obtained by lists which acquire at least 5% of valid votes.</p>
1.5	<p>What (f) actors can prevent the parliament agreeing on EU legislation and/or treaty reform? (e.g. a constitutional court, or public referenda on questions of EU integration)</p>
	<p>The constitutional court consists of 13 judges appointed by a two thirds majority in the Croatian parliament (Croatian constitution art. 125). According to art. 128. of the Croatian constitution, the Constitutional court can evaluate if laws and other legislative acts are in line with the constitution. According to art. 130. the Constitutional court can abolish any law if it finds it unconstitutional. Therefore, the Constitutional court has the power to prevent the parliament from agreeing on EU legislation and/or treaty reform.</p> <p>Article 45. of the Croatian constitution lists referenda together with elections as instrument by which citizens exercise their voting rights. The Law on referenda⁴ prescribes that Croatian parliament or the President of the republic can call upon a referendum on constitutional, legislative and other important issues (art. 3). The parliament is obliged to call upon a referendum if 10 percent of registered voters ask for it (art. 3). The Law on referenda specifically states that a referendum must be called upon on the matter of Croatia joining associations with other states (art. 3). A referendum is considered valid if a majority of enlisted voters participated in its implementation (art. 6), if not prescribed otherwise by the Constitution. Therefore a referendum on the question of EU integration can prevent the parliament from agreeing on EU legislation and/or treaty reform.</p> <p>The decision for Croatia to join the EU has been validated on the state referendum held on the 22nd of January 2012. On this second state referendum in the history of modern Croatia (the first was held in 1991 on the question of independence) the citizens have been asked if they are for or against joining the EU. According to final official results 66% of voters voted yes, 33% voted against, while the turnout has been low, only 44%.⁵ According to the Law on referenda such low turn-out (below 50% of registered voters) would automatically make this referendum invalid. Anticipating this situation in 2010, constitutional changes have been made prescribing that when deciding on the matter of</p>

³ OG, 116/99, 109/00, 53/03, 69/03, 167/03, 44/06, 19/07, 20/09, 145/10, 24/11, 93/11, 120/11.

⁴ OG, 33/96, 92/01, 44/06, 58/06, 69/07, 38/09.

⁵ See: State Election Committee

http://www.izbori.hr/izbori/dip_ws.nsf/o/285B8CAADE86805FC12579920040C324/sfile/Sluzbeni_potpuni_rezultati_glasovanja_referendum.pdf

	joining associations with other states, the referendum is valid regardless of the turn-out (art. 141). This simplistic approach (adding one paragraph to the Constitution instead of changing the Law on referenda) created somewhat a paradoxical situation. Namely, on a referendum regarding possibly the most important issue (that of association) the turn-out is not important; while on referenda regarding any other issue the turn-out must be at least 50%.
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2. General Position of Parliament in the Constitutional Balance of the Member State: Political Factors

This section is about the basic political factors which might influence parliament's strength in relation to the government.

2.1	What is the type of government after the most recent elections e.g. single party, minority, coalition, oversized coalition government?		
	Since December 2011 Croatia has a centre left coalition government consisting of the Social Democratic Party, the Croatian People's Party – Liberal Democrats, the Istrian Democratic Forum and the Croatian Pensioner's Party.		
2.2	When were the most recent general elections and what were the results? Could you please give a short list of the parliamentary groups, their no. of seats in parliament and ideological position?		
	Latest election:	4 th December 2011. ⁶	
	Name of the party	No. and percentage of seats in parliament	Ideological position (e.g. Communist, left liberal, socialist, liberal, right liberal, conservative, christian democrat, extreme right, ethnic minority or regionalist party)
	Social Democratic Party of Croatia	60 seats, 39,73%	socialist
	Croatian People's Party – Liberal Democrats	13 seats, 8,61%	liberal
	Istrian Democratic Forum	3 seats, 1,98%	regionalist
	Croatian Pensioner's Party	4 seats, 2,65%	pensioners
	Croatian Democratic Union	43 seats, 28,4%	conservative
	Independent Representative	1 seat 0,66%	conservative

⁶ See: Croatian Parliament composition: <http://www.sabor.hr/Default.aspx?sec=1797> (in Croatian).

	Jadranka Kosor		
	Party of Democratic Centre	1 seat, 0,66%	conservative
	Croatian Citizen's Party	2 seats, 1,32%	conservative, regionalist
	Independent List Don Ivan Grubišić	2 seats, 1,32%	Christian conservative (the list headed by a Catholic priest)
	Croatian Peasant's Party	1 seat, 0,66%	conservative
	Croatian Party of the Right Dr. Ante Starčević	1 seat, 0,66%	conservative (more to the right from Croatian democratic union)
	Croatian Democratic Party of Slavonija and Baranja	6 seats, 3,97%	extreme right, regionalist
	Croatian Labour Party	6 seats, 3,97%	socialist (more to the left from Social democratic party of Croatia)
	Ethnic Minorities	8 seats, 5,30%	minorities (3 seats for the Serbian minority the rest divided between other ethnic minorities)
	Total	151 seats	
2.3	How polarized was parliamentary debate over ratification of the Lisbon Treaty? Which parliamentary party groups supported and which opposed ratification?		
	<p>Although the Lisbon Treaty ratification was not discussed in Croatian parliament (Croatia is not yet an EU member state), the future of the EU's founding treaties was discussed after the French and the Dutch "No" to the European Constitution within the Joint Parliamentary Committee EU-Croatia. This Committee as a working body of the Croatian parliament. Since 2005 it represents a means to promote contacts and discussions between the European Parliament and the Croatian parliament, focusing especially on the democratic dimension to the negotiation process (it meets twice a year).</p> <p>Although not discussed in parliament, the Lisbon Treaty and its ratification were discussed by Croatian media, politicians and by academics. There was an intensive academic debate on the Lisbon Treaty in light of its potentials to reduce the EU's democratic deficit (role of the national parliaments, strengthening of the European Parliament, European Citizens Initiative etc.). After the EU member states agreed some minor changes to the Lisbon Treaty in October 2010, the debate started (especially in the media) on the possibility that these changes could be ratified in parallel with the Croatian Accession Treaty. In the end, these two processes have not been united.</p> <p>It is not possible to evaluate how particular parliamentary party groups reacted over the Lisbon Treaty ratification since such discussion didn't take place in Croatian parliament as Croatia is not yet a member of the EU. However, an idea</p>		

on how parliamentary parties stand towards the EU can be gained from examining their positions on the occasion of the referendum on the EU membership (January 2012). The majority of the above listed parliamentary parties and groups expressed their unreserved support for the EU membership and instructed citizens to vote for the EU. Clear opposition to EU membership was expressed only by the Croatian Party of the Right Dr. Ante Starčević. The Croatian Democratic Party of Slavonija and Baranja and the Croatian Labour Party both stated that they support the process of EU integration but that they oppose the pace of this process which is too fast. These two parties instructed their supporters to vote in accordance with their own consciousness.

On the 14th of April 2013 Croatia held its first elections for twelve of its members in the European Parliament. In these elections the whole territory of Croatia represented one electoral unit and there were altogether twenty-eight lists which competed for votes of Croatian citizens. The elections were proportional and preferential meaning that for the first time in the history of Croatian elections, voters had the right to choose a particular candidate regardless of its numerical position on the list. Only three lists obtained more than 5% of valid votes. The first was the coalition list of the Croatian Democratic Union, the Croatian Party of the Right dr. Ante Starčević and the Block Pensioners Together which obtained 32,86% of votes or six representatives (Dubravka Šuica, Andrej Plenković, Davor Ivo Stier, Ivana Maletić, Zdravka Bušić, Ruža Tomašić). Second was the ruling coalition of the Social Democratic Party, the Croatian People's Party, the Liberal Democrats and the Croatian Pensioner's Party which obtained 32,07% of votes or five representatives (Tonino Picula, Biljana Borzan, Marino Baldini, Oleg Valjalo Sandra Petrović Jakovina). Finally, the Croatian Labour Party obtained 5,77% of votes or one representative (Nikola Vuljanić). These representatives will replace Croatian observers in the EP on the 1st of July 2013 when Croatia is set to become an EU member state. The elections were characterised by a record low turnout (20,84%) and a large number of invalid votes (5,77%). Although the campaign could have been designed around the implications of the Lisbon Treaty for parliamentary democracy after joining the EU, this was not the case. Instead, the competing coalitions and parties insisted on domestic issues and some less important topics related to the EP, such as salaries of the EMPs.

See: State Election Committee

<http://www.izbori.hr/2013EUParlament/rezult/rezultati.html>

3. New Provisions of the Lisbon Treaty on Direct Contact with EU Institutions

The Lisbon Treaty provides national parliaments with new opportunities for direct contact with the EU institutions. This section addresses the incorporation of the new Lisbon provisions into national law and concrete procedures. Questions 3.3 to 3.5 investigate in how far these procedures have been used.

3-1	<p>Have there been any regulations adopted by your member state to incorporate the new powers that are entrusted to the national parliaments by the Treaty of Lisbon? If so, please list the regulations in their appropriate categories:</p> <ul style="list-style-type: none"> a. Constitutional provisions b. Legal provisions - Statutory provisions c. Parliamentary Standing Orders d. Other (please specify) <p>Is this process complete or ongoing?</p>
	<p>In 2010, section VII entitled “European Union” was added to the Croatian Constitution for the purpose of adapting the Constitution to the upcoming EU membership. Article 141.b of that section indicates that the Croatian parliament participates in the EU legislative process in accordance with the EU treaties. It further states that government is obliged to inform the parliament on legislative proposals and its decisions in the area of EU affairs. However, whether such parliamentary resolutions create an imperative mandate for the Government remains unclear. Finally, the article 141.b stated that parliamentary surveillance over government actions regarding EU affairs will be regulated by a special law.</p> <p>Right before Croatia joined the EU on the 1 July 2013 the Croatian Parliament adopted the Law on Cooperation between Parliament and the Government on EU Affairs (LCPGEA) as well as new Standing Orders which further elaborate certain processes in the area of parliamentary scrutiny. This legislative framework incorporates the new powers that are entrusted to the national parliaments by the Treaty of Lisbon.</p>
3-2	<p>What exactly are the rules (i.e. parliamentary bodies involved, procedure, regional parliament’s involvement, cooperation in bicameral systems) for...</p>
3.2 i	<p>The “Political Dialogue“ with the Commission</p>
3.2 ii	<p>The Early Warning Mechanism (EWM)</p>

	In terms of compliance with the subsidiarity principle (also known as the Early Warning Mechanism, EWM), the LCPGEA (art. 13) prescribes that the procedure for surveillance should be implemented by the European Affairs Committee (EAC). The procedure is explained in greater detail in the Standing Order of Croatian Parliament (art. 158). All MPs, groups of MPs and working bodies of parliament or the government have the right to initiate the surveillance procedure. A proposal to initiate needs to be filed with the President of the Croatian Parliament within two weeks of receipt of a draft legislative act from an EU institution, although this time period can be exceeded by the EAC. The President then delivers the proposal to the EAC, which has seven weeks to implement the procedure. If the EAC finds that the draft legislative act is in breach of the subsidiarity principle, it composes a reasoned opinion and submits it to the President who then sends it to the government, the President of the EP, the President of the European Commission and Presidency of the Council.
3-2 iii	The "Passarelle clause"
	Application of the passarelle clauses is clarified in article 12 of the LCPGEA. A proposal for a decision by the European Council providing for the Council to act by a qualified majority instead of unanimity in a given area or case (TEU 48 (7)) can be subject to a parliamentary veto within a period of six months. Within a similar time period, the Croatian Parliament can object to a European Commission proposal for the Council to use the ordinary legislative procedure for certain aspects of family law which has cross-border implications (TFEU 81 (3)).
3-2 iv	The action of annulment before ECJ on breach with the subsidiarity principle

	(What quota of MPs is needed to enforce the action of annulment?)
	Majority of the EAC members.
3-2 v	Accession of new member states to the EU
	Regarding changes to the fundamental EU treaties, the LCPGEA notes that a government representative must present the government's position on the proposed changes to a plenary session of parliament (art. 9). The Croatian Constitution requires parliament to decide on such matters by a two-thirds majority (art. 139).
3-3	How actively does the parliament engage in the political dialogue and "early warning mechanism" with the Commission?
	Croatian Parliament so far has not been very active in the EWS but it was somewhat more active in the area of political dialogue.
3-4	Has parliament ever threatened to bring a legislative act to the ECJ because of subsidiarity concerns?
	No.

3.5	<p>If applicable to your member state, how does parliament proceed on the ratification of:</p> <ul style="list-style-type: none"> a. Treaty Establishing the European Stability Mechanism, signed 2 Feb 2012 b. Treaty on Stability, Coordination and Governance in the Economic and Monetary Union, signed 2 March 2012