Croatian Elections Between Parties' Leaders and Voters' Decisions: Is Preferential Voting the Solution?

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Abstract—**In 2020, Croatia marked three decades of holding multi-party democratic elections for its Parliament. During this dramatic period manifested by the declaration of independence, the war for independence, the post-war period, and the entry into NATO and the European Union, Croatia used for its parliamentary elections both majority and PR electoral models, as well as their combination. This makes it unique among all transition countries in Central, East, and Southeast Europe. In 2015, the Croatian Parliament enacted into law new electoral rules according to which parliamentary elections were held last six years. The introduction of the preferential vote for parliamentary elections which has been used in Croatia for the elections to the European Parliament in 2013 seemingly has made possible a greater influence of voters on the election of candidates. In short, in the parliamentary elections, the same as in the European elections, voters can give one preferential vote to one of the candidates proposed on the electoral list of a party, a coalition, or a group of independent candidates. However, the high percentage of votes which must be won by the candidates on lists for the preferential vote to have any effect again brings to the fore political parties and their leaders, rather than individual candidates. The Croatian party system is one of the most stable ones in Europe, so the question arises how much this was affected by the electoral rules and political parties with their public and hidden incentives, respectively.**

Keywords— Croatia, elections, electoral models, preferential voting, voters, candidates, lists, political parties

I. INTRODUCTION

Is it more important for candidates running for seats in the Croatian Parliament (Hrvatski Sabor) to be preferred by voters or by their party leaders? After many years of discussions and initiatives regarding the form of voting for representatives to the Croatian Parliament, the legislative amendments which introduced the possibility of preferential voting have been finally adopted in 2015. And it is the same possibility as the one which exists for the European elections. Are certain party leaders afraid of a possible adverse electoral outcome now, in the situation where being placed first or near the top of the electoral list is no longer a guarantee of winning a parliamentary seat, as their parliamentary mandate is decided by voters? Is there any likelihood that the presidents of the strongest parties such as the ruling Croatian Democratic Union (HDZ) and the leading opposition party, i.e., the Social Democratic Party (SDP), which hopes to win the next election, will fail to win their seats, let alone the parties that are weaker in terms of potential voters? Can it really happen that the incumbent Prime Minister Andrej Plenković (HDZ) and the pretender to his office Peđa Grbin (SDP) do not win enough preferential votes and thus de facto personally lose the election? On the other hand, can someone else, someone unknown to date, leap out on the grounds of having won a great number of preferential votes and thereby in the next few years derange the current order of political parties in Croatia?

Although voters in democratic multiparty elections decide on the members of the Croatian Parliament, the Croatian electoral models have mostly been tailored in such a way as to allow electoral list proposers to decide on concrete future members of the parliament, while the voters could eventually just agree or disagree with such decisions. The decision of the proposers of electoral lists (which were usually drawn up by presidents or the narrowest leaderships of political parties) came into the greatest prominence within the proportional electoral model that has been used in Croatia since 2000 in the parliamentary elections, i.e., since 2001 in the local elections. After several legislative changes had been introduced in the 1990s, the period in which both the majority and combined models were used in the Croatian parliamentary elections, the proportional model started being used in the 2000s, and very soon after that, a key proposal for its improvement came up. It was about the introduction of preferential voting, i.e., of the legislation allowing voters to express their preferences about candidates proposed on electoral

lists. This form of voting was legally standardized for the election of the Republic of Croatia's representatives to the European Parliament and thus Croatian voters could use it the first time in the European elections in 2013.

II. ELECTION CANDIDATES BETWEEN VOTERS AND PARTY LEADERS

In short, in the parliamentary elections, the same as in the European elections, Croatian voters can give one preferential vote to one of the candidates proposed on the electoral list of a party, a coalition, or a group of independent candidates. According to the present legislation, preferential votes for individual candidates are not acknowledged unless the number of preferential votes is at least 10% of the votes won by the list the candidate is placed on. Did this solution work in the European elections as well as in the parliamentary elections? No. Suffice it to say that not even one year later, in the 2013 European elections, any of the Croatian MEPs was eventually elected thanks to the fact that he or she had "skipped" someone placed higher on the electoral list by a larger number of preferential votes garnered. In the 2019 European elections, just one of the Croatian MEPs was eventually elected this way. Finally, the last parliamentary election in Croatia was held on 5 July 2020 during the pandemic crisis. In the 2020 parliamentary elections, only nine out of 140 Croatian MPs MEPs were elected thanks to the fact that they had "skipped" someone placed higher on the electoral list by a larger number of preferential votes garnered. It occurred partly because of too high a threshold (the required minimum of 10% of preferential votes), partly because the first-ranked on the electoral lists that had won some seats, gave up their mandates. This combination of reasons led to the situation where many preferential votes failed to become effective, and the final allocation of seats depended only on the order of candidates on the respective list. Will the parliamentary elections in 2024 be any different from the last elections in this respect?

Because in the parliamentary elections more representatives are elected in the first ten constituencies, specifically fourteen per constituency, as well as the fact that the proposals for introducing a lower threshold of preferential votes needed for their acknowledgment have not been accepted, we can conclude that candidates placed near the top of electoral lists are going to be in the best position again. And the order on electoral lists continues to depend on decisions taken by party leaderships, namely party leaders. Therefore, it is rather unlikely that the first-ranked on the list (certainly party leaders) will win a sufficiently small number of preferential votes to allow enough candidates placed lower on the lists to win over 10%, thus skipping the party leaders and "squeezing them out" of the Parliament. The picture would be completely different if there was no threshold for acknowledging preferential votes imposed by

legislation, or if it was just symbolic, because, in that case, each voice could be decisive. After all, the first-ranked on the list would be equally at voters' disposition as those placed at the bottom of the same list. This way, because of too high a threshold for acknowledging preferential votes, the order of candidates on the list remains crucial. Consequently, the parliamentary seats, as well as the European seats, will be allocated to the candidates preferred by party leaders, not by voters. So the real, essential preferential voting is off. Actually, the candidates who win their place among the parliamentary benches on the grounds of preferential votes will be few once more, but much more powerful in terms of their legitimacy and certainly more recognizable to the public.

Besides, the idea of preferential voting as proposed in 2015 by the then ruling SDP parliamentary group was additionally made senseless by the amendment put forward by their former coalition partner HNS. According to this amendment, a representative from the coalition list is replaced not by the candidate with the highest number of preferential votes, but by a candidate who comes from the same party as the candidate who is being replaced. If there is no such candidate, the party whose representative's parliamentary mandate is suspended or ends decides on the substitute. Ultimately, who do voters decide upon? By introducing into the parliamentary elections, the kind of preferential voting that is used in Croatia at elections for the European Parliament, it has been allowed more influence on voters on the selection of candidates. However, a high percentage of votes to be won for preferential voting to produce an effect, brings political parties and their leaders to the fore, rather than individual candidates. Therefore, if anything, it will be interesting to observe which candidate, among all of them, is going to win the highest number of preferential votes in Croatia. Maybe this will be the true decision of voters.

III. ELECTION RULES IN CROATIA: CONSTANCY OF CHANGES

In the period of about ten years that followed the first multiparty democratic elections in Croatia held in 1990, Croatian electoral legislation was characterized by rather dynamic changes of electoral models for parliamentary and local elections. Thus, majority, combined, and proportional electoral systems were used for the elections to the Croatian Parliament as

Croatia's legislature, which, in the meantime, had changed more than once its name as well as the number of chambers. Local elections underwent the same sequence of changes and out of the three most defined structural elements of electoral systems – division into constituencies, electoral competition, voting, and conversion of votes into seats (Nohlen, 1992:42) – three elements varied to some extent in terms of legislation. As for parliamentary elections, Croatia was both one single at large constituency (in the proportional segment of the combined electoral model in 1992 and

1995) and was divided into as many constituencies as required by the structure of individual parliamentary chambers/councils or the electoral model (ranging from today's 10+2 constituencies to 160 constituencies for the Council of Associated Labour in the tricameral Croatian Parliament in 1990). In parliamentary elections since 1990 up to now, both candidates and electoral lists (exclusively blocked lists) have competed, and as far as conversion of votes is concerned, both majority and proportional decision rules, as well as various prohibitive clauses, have been implemented. The only structural element of electoral systems that remained constant from 1990 to Croatia's European Parliamentary election in 2013 is – voting. Specifically, in all previous parliamentary, local, and presidential elections, with rare exceptions, Croatian voters had only one vote that they could legitimately give to only one candidate or one list on the ballot paper. We are talking therefore about a categorical ballot which, as an element of proportional elections, in this case, depersonalizes results allowing closed blocked lists proposers to have complete control over the composition and order of candidates on the lists, upon which voters have no influence.

Multi-member constituencies, competition of electoral lists, categorical ballot, and the D'Hondt highest averages method as a way of converting votes into seats, are structural elements of the Croatian proportional electoral model for elections to representative bodies at the national level (legally from 1999) as well as at the regional and local levels (legally from 2001). In this regard, within the professional community and, generally, in terms of public opinion, it has been mostly discussed about personalization of choice in the sense that voters could choose individual candidates, not only electoral lists. This did not occur

originally through various changes of legislation for parliamentary and local elections, but only for the European elections in which Croatia has participated since 2013. The Republic of Croatia European Parliamentary Elections Act of 2010 (as amended in 2013) postulates the following structural elements of the proportional electoral system: Croatia as one single constituency (there are twelve constituencies in parliamentary elections), competition between electoral lists, preferential voting (as an option) and a two-stage process of conversion of votes into seats. It is exactly preferential voting used in European elections to be the biggest novelty in Croatian electoral legislation since 1990 and has been a new structural element in parliamentary elections since 2015 (it is not used for the local elections). In this respect, it has to be emphasized that preferential voting is not an unambiguous concept in the professional literature and that it varies terminologically from the dominant characteristic of individual electoral models which are exclusively considered preferential through the content this type of voting necessarily includes (expressing preference in one or more lists, type, and number of preferential votes, etc.) to the unquestionable fact that any expression of attitudes by voters towards proposed candidates and lists about others is an expression of preference. In principle, preferential voting is a voting modality as a structural element of the electoral system in which voters have several votes (one or more) at their disposal and express preferences for particular candidates over other candidates from the same or other lists. In Croatia, parliamentary elections were held ten times between 1990 and 2020, that is, nine times after the country declared independence in the context of the break-up of the former Yugoslavia in 1991. The elements of the current electoral system are as follows:

TABLE I.   CROATIAN ELECTORAL SYSTEM

Electoral system type	Proportional representation with multi-member constituencies (the exception being the plurality system in Constituency XII)
Division into constituencies	Ten large and equal constituencies with 14 seats ($10 \times 14 = 140$ seats), a distinct constituency for voters without permanent residence in the Republic of Croatia (3 seats) and one special constituency for members of ethnic minorities (8 seats: one three-member and five single-member constituencies)
Electoral competition	Closed unblocked lists with prominent bearers (constituencies I-XI) and individual candidatures in Constituency XII
Form of voting	The preferential ballot in which each voter has one vote for the constituency and one vote for the candidate (I-XI) or just one vote for the candidate (XII); the voting by members of the Serbian ethnic minority, who can elect three representatives (since 2003), makes an exception
The rule for translating votes into seats	D'Hondt highest average method (I-XI) and plurality rule (XII)
Out-of-country voting	The voting right is granted even to the citizens who find themselves outside state borders at the election time so that they can vote even in the countries where they are located or in any other way specified by law. A distinct constituency (XI) is provided for voters without permanent residence in the Republic of Croatia, whose number of seats, by applying the fixed quota (3 seats)

IV. Preferential voting: Continuum of solutions

With this common denominator – expressing preferences for particular candidates on the lists – preferential voting is a sort of continuum of solutions both in technical terms and in terms of content, within whose range voters influence on personalization of election results in different ways. It is primarily about the number of votes at voters' disposal when expressing their preferences as well as about their type. Voters can have only one vote that they use to express their preference for a particular candidate, or they can have more votes that are distributed in different ways, e.g., by giving all available votes to one candidate, or by dividing these votes among different candidates in equal or different amounts or by ranking candidates. In certain forms of preferential voting, voters can express preferences within a single list (closed unblocked), or in the case of multiple votes, they can choose candidates from different lists (open lists which are typical of panache as a special method of voting). Furthermore, preferences for individual candidates and lists can be expressed on the same ballot paper or on different ones, whereby voters select, following legal provisions, among the candidates whose names are already written on the proposed electoral list or they have to write the name of the candidate of their choosing. Preferential voting itself can be compulsory, so the ballot paper will not be valid if the voter has not expressed his or her preference for a particular candidate apart from opting for a particular list.

On the other hand, preferential voting can be just an opportunity at voters' disposal and the ballot paper will be equally valid if a voter has circled only the list without expressing preferences for candidates as in the case, he or she has used the legal possibility of preferential voting. Preferential votes polled by individual candidates on one list are usually added together to obtain the total number of votes for the list. Ultimately, it is crucial whether preferential votes are the only criterion of the final order of candidates on the lists or expressing preferences for candidates is conditioned by the extent of its use. Specifically, in determining which candidates have been eventually elected from a list for which voters could express their preferences, the only criterion can be the number of garnered preferential votes in their absolute value and the order of candidates depends only on the number of preferential votes they have polled individually. However, legislators can specify a minimum percentage of obtained preferential votes necessary for candidates to qualify for the right to be awarded a parliamentary seat at all. The eligibility threshold can be either the number of preferential votes garnered by a particular candidate, or the percentage of all votes garnered by the list as a whole (e.g., 5.000 for a candidate out of 100.000 for the list or 5% of all votes cast for the list). Legislators can also prescribe a threshold as the percentage of preferential votes for all candidates about all the votes cast for the list, which is needed for preferential voting to be activated as a way of ranking candidates (e.g. if less than 20% or 30% of voters exercised their legal possibility of preferential voting, in the end only the order of candidates on the list will be effective, not the number of preferential votes polled).

Different electoral models that allow preferential voting give voters a different scope of impact on the composition of elected lists and the selection of candidates. For that matter, the most important thing is whether voters express their preferences within one single list or in more of them and which and what kind of several preferential votes they have at their disposal. In addition to this, legal facilitating or impeding the use of preferential voting should be taken into consideration: it does matter whether there are substantial (prohibition clauses, i.e. electoral thresholds) or technical (their number of ballot papers, their supplements) restrictions. Among the forms of voting which are deemed stimulating in the sense of the effectiveness of expressing electoral preferences, there are panache, the alternative vote, the single transferable vote, the Borda count, and cumulative voting. For that matter, the basic criterion is the freedom of voters to express the broadness and content of their preferences. The more votes to be allocated in different ways a voter has, the more multilayered and effective voting is in a preferential sense.

V. Preferential voting in Croatia as a last novelty or a change without a change?

On the other hand, within the aforementioned continuum, how far or close to the poles of the weak and strong influence of voters on the composition of electoral lists, is the preferential voting that Croatian voters can use in the elections? As for the rules, the Croatian model implies competition of closed unblocked lists (parties, coalitions, groups of independent candidates) with a predetermined order of candidates. Voters vote for only one list in which they are allowed to mark only one candidate that they prefer over others, but do not have to mark any candidate at all. This means that preferential voting is an option, not an obligation. In the two-stage procedure of conversion of votes into seats, first, it must be established which lists are entitled to be allocated some seats based on the legal threshold of at least 5% of all votes cast. At this stage, the well-established D'Hondt highest averages method is used (series of divisors as integers 1,2, 3... up to 11, i.e., 14. During the second stage, it is established which candidates have polled at least 10% of preferential votes in their respective lists about the votes their entire list has won, as a precondition for acknowledgment of preferential votes awarded by voters (eligibility threshold). The candidates with the largest number of preferential votes are elected and if there are not enough candidates with the required percentage of preferential votes, their election is determined by the order on the list, the same in the case where two or more candidates have the same number of preferential votes.

In short, the Croatian form of preferential voting in European and parliamentary elections is in the lower part of the spectrum when it comes to the scope of voters' influence on the election of candidates from the list because it is limited to one preferential vote on one list under the condition of crossing the eligibility threshold of 10%. It is obvious that this norm of at least 10% of votes to be polled by a candidate about the list, ensuring thus the eligibility for contesting a seat thanks to the preferential votes garnered – is too high. Preferential voting is indeed one of the positive novelties in the structuring of Croatian electoral models, but after the experiences with the European and parliamentary elections, it turns out to be insufficiently elaborated with political premeditation. And this is to the detriment of the proclaimed right of voters to influence substantially the election of candidates. Because if it is still more important to be placed on top of a party or coalition list than to gain the confidence of voters then the elected candidates do not have the kind of

legitimacy that the introduction of preferential voting was aimed at.

However, in the context of all Croatian electoral models for representative bodies that are currently in force, we are talking about a possibility of the most substantial influence on the composition of lists from which some proposed candidates will be elected. If the legislators intended to personalize proportional elections and stimulate profiling of candidates based on voters' preferences as well as of perception of their work and public appearances, rather than by their party identity, then the Croatian contribution to preferential voting is a necessary first step. It is unlikely that the next parliamentary election could be corroboration for that, despite the limitations of the model itself and regardless of the party leaders' decisions about the order of candidates on electoral lists. Moreover, preferential voting in parliamentary elections can indirectly lead to the beginning of a partly different party and – intraparty configurations in Croatia. Namely, compared with all transition countries in Central, Eastern and South-eastern Europe, Croatia has one of the most stable party systems where the two strongest parties from the beginning of a transition in 1990, have remained the strongest ones even today, twenty-five years later, such a phenomenon recorded only in Albania and Macedonia. These are the aforementioned HDZ, as the winning party of the first democratic multiparty elections in 1990, whose victory back then was ensured by opposing the then ruling communists and – the SDP which transformed successfully from the former communist party into the present social democratic party.

VI. Conclusion

Therefore, even today, just as in 1990, the two strongest political parties in Croatia are the HDZ and the SDP, with the difference that the HDZ has been in power more often (1990-2000, 2003-2011, 2015-today) and with fewer oscillations of voter support. The HDZ is undoubtedly the most successful Croatian political party when it comes to gaining the support of voters even in very different political circumstances, with different leaderships, and in a completely changed domestic and foreign context. Among the European countries that in the same period grew from one-party systems to more or less consolidated democracies, there are significantly more examples in which leading political parties and coalitions from the beginning of the multiparty system do not exist at all today, than those where they have remained to be first or second in terms of popularity. The HDZ managed to do it for three reasons. The first one is the fact that at the beginning of the process of Yugoslavia's disintegration, this party set the goal of Croatia's independence in the clearest way, which was recognized by Croatian voters as a barrier against the Serbian policy spearheaded by Slobodan Milošević, regardless of the subsequent contacts with him.

The second reason is the fact that it led the country during the war, which was awarded by the solidarity of most voters with President Franjo Tuđman and his party, regardless of all the internal problems the country was going through. The third one is the fact that even in opposition the HDZ appeared to be a more convincing political actor than the SDP and its coalitions, despite the privatization and corruption scandals the party's leadership had been involved in. Partly because of a dramatic democratic transition accompanied by the disintegration of the former Yugoslavia and the 1991-1995 war, partly because of political culture which "conserved" the most important elements of political preferences from the beginning of that transition, Croatia's politics has been more often determined by the collective, rather than by the individual. For this reason, the political parties, especially the most important ones, have always managed to impose their solutions easily and it was often more important to be a "party man" than a strong individual in the elections.

In every new election, this depersonalization of elections that have been occurring continuously since 1990 will be confronted with preferential voting as a fundamental personalizing element of elections. Who will prevail? It seems that in an often exacerbated political situation in Croatia, where there are two opposing blocs headed by the HDZ and the SDP, the well-known principle of party sign might triumph. However, surprises are always possible, especially when it comes to the popularity of certain candidates from the same political bloc. For this reason, the party leaders are more afraid of the rivals from their parties, than of those coming from the opposing ones. It just so happens because preferential voting in parliamentary elections might become a guideline for intra-party elections.

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