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With The collaboration of the Administrative Court of the Republic of Croatia

The New administrative jurisdiction system of Croatia in the perspective of the accession to the European Union: Exchange of European experiences

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Certain Issues Related to Reviewing the Legality of General Acts, Arising upon the Promulgation of the New Administrative Disputes Act

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CONCLUSION

The principles of constitutionality and legality, their adoption, implementation and safeguarding, make one of the most important prerequisites, particularly from the legal and constitutional aspect, for establishing the rule of law, protecting human rights and fundamental freedoms, as well as other democratic and universally accepted individual and collective rights and social values. Their implementation is as equally important as their constitutional and legal regulation. It is carried out in a number of ways; here we emphasize the most important ones:

- a) Consistent normative elaboration of these principles when adopting general regulations for the purpose of development and enforcement of legal and constitutional provisions (if permitted under the Constitution) on the part of executive and administrative authorities, and other bodies vested with public authority, particularly the local and regional self-government units, and legal persons performing their activity or a part thereof as a public service, i.e. with public authority.
- b) Consistent adherence to the principles when applying laws and other regulations to concrete cases related to exercising rights, meeting obligations or establishing responsibilities of natural and legal persons.
- c) Consistent safeguarding of the principles of constitutionality and legality by initiating and conducting the assessment of constitutionality and legality of laws and other regulations or pertaining by-laws.

Increasing the number of institutions, creating new forms and aspects of safeguarding the principle of constitutionality, directly or indirectly, will bring the principles to a higher level in terms of their content, efficiency, logical structure and functional organization. Such expectations are supported by the enactment of the new Administrative Disputes Act that includes in the sphere of activity of the High Administrative Court the assessment of legality of general acts of the local and regional self-government units and legal persons who are vested with public authority and provide public services. It is evident that the Constitution provides grounds for *diferentia specifica* between the regulations regulating social relations in a general way, referred to as 'other regulations', and those referred to as general acts of the local and regional self-government units with public authority. The very fact that the Constitutional Court has so far treated both of them (as well as the implementing regulations of the Government of the Republic of Croatia) as general normative acts corresponding to 'other regulations', results more from the past constitutional/legal structure according to which the assessment of the constitutionality of law and the assessment of the constitutionality and legality of other regulations, i.e. their individual provisions, lies within the jurisdiction of the Constitutional Court of the Republic of Croatia. Hence the Constitutional Court considers these general acts as 'other regulations'. It is clear that the first motion of the Constitutional Court, High Administrative Court or some other court (e.g. the Supreme Court of the Republic of Croatia) will be sufficient to prompt a discussion on the legal nature and differences between general acts and 'other regulations' the basis for which is already provided in the Constitution and laws. This brings to the conclusion that there are two kinds of general normative acts regulating the social relations in a general way. In my view, it is likely that the Constitutional Court will take such a (new) standpoint on this matter, which would definitely leave no room for doubt as to whether the High Administrative Court may assess the legality of general acts of the local and regional self-government units and legal persons

who are vested with public authority and provide public services; if it may do so, it should be indicated to which general acts this applies. We are rightfully expecting such a course of events, as it would bring numerous significant changes that will contribute to a more efficient application of the principles of constitutionality and legality.