



Association of the Councils of State and Supreme Administrative Jurisdictions of the European Union i.n.p.a.

Association des Conseils d'Etat et des Juridictions administratives suprêmes de l'Union européenne a.i.s.b.l.

ACA-Europe



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

**DUBROVNIK
26 May 2011**

(simultaneous interpretation English/French/Croatian)
Conference organised with the support of the European Commission



Presentation of the Conference by Mr. Eckart Hien

Dear colleagues, ladies and gentlemen,

This is a remarkable conference and somewhat different to many conferences about legal issues: Let's take it sporting: Croatia is in the start holes for the final spurt to become a member of the European Union. A long way had to be gone with many competitions in a large field of political, economical and legal issues. On this way the judiciary in general was a problem child for a long time – at least in the eyes of the European Commission.

Even at the beginning of March in 2011 I read in the newspaper, that the European Commission was not satisfied with the Croatian justice, though the Commission also admitted remarkable progress in this field. Only three months later the situation has changed to the better: Last week I read in the same newspaper that now the whole justice system of Croatia seems to be in line with the European principles. The famous chapter 23 of the negotiations between the EU and Croatia can be closed successfully.

My congratulations to our Croatian colleagues, who achieved an immense work on the long way.

For me it is a special pleasure to take part in this conference and even to present it, because I had the opportunity to accompany the Croatian reform process over two years as project leader of the Twinning-Project:

“Support to more efficient, effective and modern operation and functioning of the Administrative Court of the Republic of Croatia” (CARDS 2004).

In this project experts from Austria, from Croatia and from Germany worked together. After two years of work we not only filled many hundreds of pages with general considerations, but we also presented a concrete final draft of a new Law on Administrative Disputes, accompanied by comments for the better understanding of the law. And we also presented recommendations for an effective and smooth implementation of the new law.

I am glad to see here in this conference some participants of our working groups. We all remember the tough discussions and the difficulties based not only on the topics but also on the language problem: Working language was – or better should be – English, which was not the mother language of any participant. And if you think, in both Germany and Austria people speak the German language – you are right. But the legal terms in both countries are nevertheless quite different. And of course for our Croatian colleagues it was sometimes necessary to speak together in their mother language. So we got a very good impression of the fact, that the

language confusion after the tower building of Babylon was really thought as a punishment for human mankind!

The mentioned Twinning Project ended in May 2009. Afterwards the Croatian institutions formed new working groups, which revised our draft law in some points. But the main points of our recommendations were accepted.

Let me stress only the most important ones:

Till now there was only one administrative court in Zagreb for whole Croatia.

The new administrative court system will have two levels: Four administrative courts of first instance, seated in Osijek, Rijeka, Split and Zagreb, and one High Administrative Court in Zagreb.

In order to align the former Croatian law with the *acquis communautaire*, especially Art. 6 of the European Convention on Human Rights, other important changes are formulated in the new law:

- Legal protection against all administrative measures before administrative courts, including factual acts or the non-observance of administrative contracts
- Full jurisdiction on law and facts
- Mandatory oral hearings
- Reformatory instead of mere cassatory system
- Provisional court protection.

Some other innovations will also be discussed today.

But all these novelties must not lead to the conclusion, that the administrative court procedure in Croatia is something new at all.

On the contrary: The legal protection by an administrative court has a very long tradition in Croatia, which was influenced especially by Austrian law. It was changed, but kept alive during the Yugoslavian time, where also some French influence can be observed; and it was renewed again after the independence of Croatia in 1991.

So we look at many interconnections with other genuine European roots in the judicial system of Croatia. Therefore it is not only an adequate but a splendid and even compelling idea, to organize this conference with members of the European family under the roof of the Association of the Councils of State and Supreme Administrative Jurisdiction of the European Union. Like in every family – you will hardly get all members together. But all the present members are happy to have the opportunity to give our incoming new family member Croatia a good start.