



**EUROPEAN UNION**  
DELEGATION TO THE REPUBLIC OF CROATIA

**Operations Section**

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## **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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Speech by Jean-Marie Moreau

Dear Secretary General, dear participants, I am very pleased to address you with some introductory words on this very interesting conference. The European Commission supports your association, ACA (Association of the Councils of State and Supreme Administrative Jurisdiction of the European Union) which in our opinion contributes to transfer knowledge and to build trust among its members. This is the inevitable result of the concrete exchange of views and experience of its members on matters concerning their own "core business", the management of the administrative justice.

This is true also for any observer members and especially for Croatia who is preparing to be the next country acceding the European Union. Your association has a key role in the European integration process by supporting a natural process of increasing EU standards on the organisation and functioning of administrative jurisdiction bodies and in strengthening of their performance in judicial and/or advisory functions, particularly with regard to EU Law. Relevant energy is also rightly focussed from your association on the jurisprudence generated by its members.

Today's initiative arrives at a good timing. In fact the new administrative justice system in Croatia will enter into force in 6 months (as of 1 January 2012). The selected issues of discussions at the conference are extremely appropriate as they are touching some of the most significant aspects of the reform, and mainly the introduction of a two-tier system with the creation of a High Administrative Court with review, appeal and exclusive competences.

As of 2012 Croatia will indeed count on a new system of full jurisdiction in the meaning of Art. 6 of the European Convention of Human Rights - ECHR ("... everyone is entitled to a fair and public hearing...") within the framework of the Council of Europe, and the Art. 47 of the European Union's Charter of Fundamental rights (Right to an effective remedy and to a fair trial). Moreover, the last focus issue of the day will be dedicated to the organization of the first instance tribunals (Administrative Courts) of Croatia. Indeed management and organisational aspects will be of major relevance.

However, even if as said, this initiative is of major relevance and arrives at a crucial timing, I would like to encourage the Croatian competent bodies, mainly the Ministry of Justice, the Supreme Court, the current administrative jurisdiction and State judicial Council, to keep the momentum high and to concentrate all efforts in this remaining 6 months in order to guarantee a proper preparation to the reform. In concrete terms, Croatia could already take into consideration all suggestions and recommendations to be reached at the end of this

conference while preparing the reform. I am confident that today's conference will bring new ideas which will enrich tomorrow's work. This can be considered as another form of support that comes from European initiatives.

On this field I would like to underline how the European Union contributed concretely on the Croatian reform process. Back in 2008/2009 a CARDS (2004) project analysed the administrative justice system and provided concrete suggestions and recommendations to the Croatian competent authority. We are now happy to see that in a constructive way this work had been taken into consideration while defining the final reform of administrative jurisdiction

I believe that the adopted reform is a step forward for Croatia especially because it includes:

- A full jurisdiction of the administrative court on facts and law
- Oral hearings that will be conducted by the Administrative court
- Faster and more efficient court procedure
- Better legal protection against administrative measures
- More efficient cases handling and cost effectiveness
- Proper enforcement measures for court decisions
- Better access to justice with the creation of first instance administrative courts

In more general terms this reform is key for the improvement of the Croatian judiciary for the following reasons:

- It contributes to a further democratization of the system introducing a system in line with fundamental rights international standards
- Better serving the citizens and the public interest
- Contribute to strengthen the judiciary system increasing its capacity to serve the society
- Brings Croatia a step closer to the EU

This reflection allowed the European Commission to state on the February Interim report on reforms in the field of Ch.23 (Judiciary and Fundamental Rights) that "Croatia has improved access to justice, including by taking steps to ensure that, by the time of accession, the Administrative Court is made a court of full jurisdiction". By stating this the European Commission gave a positive opinion on the fulfilment of one part of the closing benchmark related to the protection of human rights.

Regarding these more general aspects I would like to remind that the role of the Administrative justice is to make sure that public administration respects the Law and compensate possible damages that wrong decisions might have caused.

The importance of a functioning administrative judiciary also for the economic development of a country should not be underestimated. For instance, almost every investment-decision as well as most infrastructure projects have to pass through a licensing process which is conducted by state authorities and therefore subject to judicial review by the administrative courts.

The legal review of administrative decisions by independent courts is part of the EU standard and an important contribution to ensure the Rule of Law. Administrative court is not only

responsible for the practical implementation the law and has to ensure the efficient enforcement of judicial decision in sectors like pensions, health insurance, construction and residential law, residence permit.

Next step for Croatia will be finalising the preparation of the reform and its effective implementation. The attention has now to be focussed on finalising the appointment of judges, finalising the preparation of the infrastructure, continue with the support of the Judicial Academy the training of judges especially with regard to the new competences included by the reform (i.e. asylum appeals, appeals on judicial appointments), appropriate awareness of judges, members of the legal profession, public officials and citizens,... . Together with the novelties I mentioned before (oral hearings, new procedures), you will understand that these things need to be adequately prepared. Administrative courts will be confronted for the first time with them.

I trust that Croatia will succeed on this task and that the new administrative jurisdiction system of Croatia will be a successful development within the more comprehensive judicial reform. The impact assessment which had been made on the draft legislation within the earlier stated EU financed project had been considered accurate also by an independent expert which recently came to evaluate the status of the preparation of the reform. We believe that the recommendations from the assessment had been followed accurately.

As a conclusion, I would like to wish you an excellent work and to suggest you to focus on specific and concrete recommendations which may give to Croatia an additional support in this crucial phase of finalisation of preparation of the reform and on the soon to start implementation of the reform.

I am confident that the Croatian counterpart will make treasure of these recommendations and will be ready at the day of accession (I hope the sooner!) with a well structured and functioning administrative jurisdiction system, efficient and accessible to any citizen and other interested parties.

Thank you