

Réponses au questionnaire sur la régulation économique  
*Responses to the questionnaire on economic regulation*

**Croatie**

**Cour administrative**

***Croatia***

***High administrative Court***

## QUESTIONNAIRE ON ECONOMIC SECTORAL REGULATION IN EUROPEAN UNION COUNTRIES

### I. Scope and purpose of economic sectoral regulation

1. Economic sectoral regulation mainly focuses on sectors submitted to European Union' secondary legislation (transport, energy, postal activities, electronic communication, audiovisual media). Are other sectors subject to such regulation in your country?

*No.*

2. Is the whole set of European Union' secondary legislation for economic sectoral regulation transposed into national law and/or practically implemented?

*Yes.*

3. Is economic sectoral regulation only aimed at introducing competition in sectors where there is State monopoly? If not, what are its other purposes (implementing an internal market, defining universal service obligations, consumer protection, etc.)?

*Sectoral regulation is only aimed at introducing competition in sectors where there is State monopoly.*

4. Is economic sectoral regulation an ex ante control, aimed at defining obligations for companies in the regulated sectors a priori, or an ex post control, aimed at upholding competition provisions in case of infringement?

*Ex ante control is possible according to competence of High Administrative Court of the Republic of Croatia for reviewing the legality of general acts which are issued by sectoral authorities. Otherwise it is ex post control regarding infringement of individual rights by concrete individual decision taken by sectoral authority.*

5. Has the implementation of an economic sectoral regulation prompted the emergence of competition in the relevant sectors? Did new entrants manage to fit in regulated markets? If not, why?

*Yes, the implementation of an economic sectoral regulation prompted the emergence of competition in the relevant sectors.*

6. Has the implementation of an economic sectoral regulation directly or indirectly lead to the total or partial privatisation of publicly owned companies?

*Yes, implementation of an economic sectoral regulation directly led to the partial privatisation of publicly owned companies.*

7. Which economic sectors would you like to address more specifically in terms of regulation?

*Electronic communication, energy.*

### II. Organisation of economic sectoral regulation

8. Is economic sectoral regulation implemented by one or several independent authorities? If so, on what grounds was this choice made and how is this independence guaranteed?

*Economic sectoral regulation is implemented by specific sectoral authority, depending on the specific sector.*

9. Are these authorities independent of the regulated economic sectors? If so, how is this independence guaranteed?

*They are independent, but their regulations must be in compliance with the law. If they are not, the High Administrative Court of the Republic of Croatia has got competence to annul an unlawful regulation.*

10. Do these authorities have a regulatory power? If so, is it a general regulatory power for the sectors concerned or a narrower regulatory power limited to certain specific aspects of regulation?

*Yes, they do have a regulatory power. Usually aspects of regulation are proscribed by law.*

11. Do these authorities take part in drafting the relevant legislation for regulated sectors, through notice procedures for instance?

*Yes.*

12. Do these authorities have a sanctioning power toward companies of the regulated sectors? If so, what kind of sanctions can they adopt and under which procedure? Do these procedures guarantee compliance with provisions of article 6§1 of the CPHRFF?

*Yes, they do have a sanctioning power toward companies. They can issue a company various administrative measures and in some cases a fine. They apply General Administrative Procedure Act but some procedural topics are proscribed by the specific law. Legality of issued individual act can be challenged before the first instance Administrative courts and in some cases directly before the High Administrative Court of the Republic of Croatia. So requirements provided by 6§1 of the CPHRFF are satisfied.*

13. Is every economic sector regulated by a specific authority, or are there some authorities exercising their powers in several sectors?

*Every economic sector is regulated by a specific authority.*

14. How are economic sectoral regulatory authorities' competences articulated with those, when appropriate, of a transverse authority in charge of assessing compliance to competition law?

*All their regulatory competences must be in compliance with law, including competition law.*

### **III. Judicial review of economic sectoral regulatory authorities' decisions**

15. Are all economic sectoral regulatory authorities' decisions subject to judicial review? If not, which decisions are not subject to such checks and why?

*All economic sectoral regulatory authorities' decisions are subject to judicial review.*

16. Which system of jurisdiction is competent to verify these decisions? When relevant, is the same system of jurisdiction competent to control the decisions of the authority in charge of assessing compliance to competition law?

*Legality of individual act issued by regulatory authority can be challenged before the first instance Administrative courts and in some cases directly before the High Administrative Court of the Republic of Croatia. The first instance Administrative court's decision is in some cases appealable before the High Administrative Court of the Republic of Croatia.*

*Jurisdiction over competition law has got only the High Administrative Court of the Republic of Croatia, and in this case it is the court of the first and last instance.*

*High Administrative Court of the Republic of Croatia is competent for reviewing the legality of general acts issued by every sectoral authority.*

17. Which kind of legal recourse is open against these decisions? What are the relevant legal proceedings in this matter?

*See: 16. Administrative dispute can be dispute of the legality or full jurisdiction dispute.*

18. Which control does the judge exercise on these decisions? Does he monitor the formal requirements, legal proceedings and/or reasons for these decisions? For which kind of decisions does he have limited control? In contrast, for which kind of decisions does he exercise thorough control?

*The judge is monitoring lawfulness of the proceeding, establishing the facts and application of the law. His control is limited in the case when sectoral authority is authorised to issue a decision using discretionary power. In that case judge is forbidden to take a full jurisdiction dispute – the judge is allowed only to review the legality of sectoral authority's decision.*

19. While exercising his power of judicial review, how does the judge keep himself informed (appointment of experts, specialised and contradictory investigation, resort to universities, international sources consultation, etc.)?

*The judge is allowed to use experts, university professors,...*

20. Which role does the administrative Supreme Court take toward these decisions? What are the major decisions of supreme administrative justice in economic sectoral regulation matters?

*The highest administrative jurisdiction in the Republic of Croatia is High Administrative Court of the Republic of Croatia.*

*The first instance Administrative court's decision is in some cases appealable before the High Administrative Court of the Republic of Croatia.*

*Jurisdiction over competition law has got only the High Administrative Court of the Republic of Croatia, and in this case it is the court of the first and last instance.*

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