CONSEIL D'ÉTAT

ACA EUROPE

Seminar organized by the Council of State of France and ACA-Europe

"The Judicial review of Regulatory Authorities"

Paris, 6 December 2021

Answers to questionnaire: Spain

Co-funded by
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ACA-Europe symposium

Disputes concerning acts by regulatory authorities

Regulatory authorities have gradually emerged as one of the new forms of State intervention. In addition to the Regal State or the State as a supplier of goods and services, the regulatory authorities, in the broad sense, cover a wide range of administrative activities: they may be authorities responsible, in a given sector or across the board, for correcting market imbalances in a context of opening up markets to competition, or for ensuring that free competition is reconciled with other general interest objectives; in the broadest sense, regulatory activities may refer to any administrative activity that seeks to reconcile interests that may be contradictory or to organise access to scarce resources in a manner consistent with general interest objectives. In this broadest sense, this notion can refer as much to the transversal authorities responsible for enforcing competition law (e.g. the French Competition Authority) as to sectoral authorities (electronic communications, transport, energy, etc.), including national data protection authorities or authorities responsible for the marketing or evaluation of health products.

The symposium planned for December 2021 should be an opportunity to examine the specific issues that disputes concerning acts taken by these regulatory authorities may raise in the administrative courts. These questions arise from certain characteristics of the acts of these authorities, characteristics over which they do not have a monopoly compared with other forms of administration, but which combine or take on a particular role. These characteristics are at least three in number: firstly, the use of a wide range of acts or intervention tools, from flexible laws and codes of conduct to more traditional regulatory acts or sanctions, via a variety of communication media (press releases, public statements, FAQs, etc.); secondly, the degree of expertise and technicality of the decisions taken in a given activity sector (energy, health, electronic communications, etc.) and/or a certain technological context (personal data protection, cyberspace, etc.); finally, integration into complex economic and social ecosystems, often with a significant European or even international dimension, and likely to have a high media profile.

In this context, from the particular object of study that is disputes concerning the acts of these regulatory authorities, the symposium planned for December 2021 will make it possible to address the important challenges that these appeals raise for the effectiveness and credibility of the court's intervention.

Courts with competence to hear disputes concerning regulatory authorities

1. Does your supreme administrative court have competence to hear appeals against acts by regulatory authorities? Yes/no

No. The Law on Administrative Jurisdiction 29/1998 establishes in its 4th additional provision that appeals against decisions issued by state-level regulatory and supervisory bodies shall be heard by the Administrative Chamber of the National High Court (*Audiencia Nacional*). Appeals in cassation may be lodged with the Supreme Court against rulings handed down by the *Audiencia Nacional*. Therefore, the Supreme Court hears this type of cases not as a Court of First Instance, but, where appropriate, as a Court of Cassation.

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If yes:

Without being exhaustive, could you present the main regulatory authorities in your country whose acts are brought before your supreme administrative court, specifying if these appeals are subject to several levels of jurisdiction? Please distinguish, if necessary, according to the nature of the acts concerned (in the event, for example, that individual acts taken by these authorities are subject to separate jurisdictions from their general acts, notably regulations).

As mentioned above, the 4th additional provision of the Law on Administrative Jurisdiction refers to the state-level regulatory and supervisory bodies, the most relevant of which are the following: the Bank of Spain, the National Securities Market Commission, the Spanish Data Protection Agency, the National Markets and Competition Commission, the Nuclear Safety Council, and the Institute of Accounting and Auditing. The acts and provisions emanating from these bodies are tried before the *Audiencia Nacional* (and in cassation before the Supreme Court).

2. In particular, can any of these authorities themselves impose sanctions (including fines)? Yes/no

The various legal rules governing the activities of these regulatory bodies generally give them the power to impose sanctions.

By way of example:

- Law 10/2014, of 26 June 2014, on the regulation, supervision and solvency of credit institutions attributes to the Bank of Spain, among others, the power to "exercise the supervisory and sanctioning function over credit institutions" (art. 4);

- Royal Legislative Decree 4/2015, of 23 October, which approves the revised text of the Securities Market Act, in its art. 233 et seq. also attributes sanctioning powers to the National Securities Market Commission;

- Organic Law 3/2018, of 5 December, on the Protection of Personal Data and the guarantee of digital rights, grants sanctioning powers to the Spanish Data Protection Agency (Title IX);

- and Law 15/2007, of 3 July, on the Defence of Competition regulates the sanctioning powers of the National Commission for Markets and Competition (arts. 49 et seq.), and so does art. 29 of Law 3/2013, of 4 June, on the creation of the National Commission for Markets and Competition.

If yes:

is it possible to challenge them before your supreme administrative court?

As explained above, these sanctions can be challenged before the *Audiencia Nacional*, with a possible appeal in cassation before the Supreme Court against the *Audiencia Nacional*'s ruling.

3. Are any of these regulatory authorities subject to judicial review by civil courts, for some or all of their acts? Yes/no

These regulatory bodies are subject to Administrative Law, and therefore to control by the administrative jurisdiction when they exercise administrative powers, but with respect to their private law relationships they are subject to control by the civil jurisdiction, all in accordance with what is specifically established, for each body, in the statutes of each of these regulatory and supervisory bodies.

If yes:

Please give examples.

Article 1.2 of Law 13/1994, of 1 June 1994, on the Autonomy of the Bank of Spain states that "The Bank of Spain shall be subject to private law, except when acting in the exercise of administrative powers conferred by this or other laws".

Royal Legislative Decree 4/2015, of 23 October, which approves the revised text of the Securities Market Law, establishes in Article 16 that the National Securities Market Commission is a public law entity governed by administrative law when acting in the exercise of its public functions, but states that "The acquisitions of assets by the Commission shall be subject, without exception, to private law" (with the consequent submission, on this point, to civil jurisdiction).

4. Are the courts with competence to hear the acts of regulatory authorities:

- specifically identified by the texts in force, by way of derogation from the normal rules of territorial or material competence?

As has been indicated, the 4th additional provision of the Law on Administrative Jurisdiction attributes the prosecution of acts by the state regulatory bodies (logically, acts subject to administrative law) to the National High Court (*Audiencia Nacional*).

- or do they result from the application of the general rules on the distribution of competences?

See answer above.

Is there any specific distinction in relation to the rules of competence applicable to equivalent acts of other administrative authorities in your country? If yes: Please explain.

As a consequence of the constitutional definition of Spain as a State of Autonomous Regions, there are regulatory and supervisory bodies at the level of these territorial entities, with a scope limited to the corresponding Autonomous Region Administration, the acts of which are judged by the High Court of Justice of the respective Autonomous Region.

5. Are the remedies available against the acts of these authorities of the same nature as those available against the equivalent or similar acts of other administrative authorities? Yes/no

Basically, the system of administrative appeals against the acts of the regulators does not deviate from the general system of appeals established in the general administrative legislation (although it must comply with what is provided for in the particular governing statutes of each body).

If no:

Please explain.

Admissibility of appeals against regulatory acts

6. In your view, do disputes concerning "hard law" acts (regulatory acts, sanctions, individual authorisation decisions, etc.) of these authorities raise particular issues of admissibility? Yes/no

This kind of disputes do not raise any particular problems of inadmissibility other than those which are generally laid down for challenges to administrative acts and provisions.

If yes:

Please explain.

7. Are "soft law" acts (opinions, recommendations, warnings, position papers) of these authorities and, more broadly, their various positions on the behaviour to be adopted by the actors in their field of intervention (whatever form they take: code of conduct, guidelines, etc.) liable to be the subject of a direct action for annulment? Yes/no

Mere recommendations or position papers, insofar as they do not constitute administrative acts as such, cannot be directly challenged before the administrative jurisdiction, precisely because they are not administrative acts as such (logically, they can be challenged if, under the apparent formal name of mere recommendations, they materially contain a true administrative act because they really give a binding legal mandate).

However, the acts that may be issued on the basis of these recommendations or positions, or as a consequence of them, can be challenged.

If yes: under what conditions? Make any distinction you think useful according to the degree of normativeness of the acts.

8. Can positions taken by these authorities, possibly with little or no formality (press release, website section, FAQ, etc.) be challenged in court? Yes/no

No. Mere press releases, opinions of the members of these bodies, indications or answers to frequently asked questions contained on their website do not constitute administrative acts that can be challenged. It is a different matter if these indications, opinions or press releases express a position, related to certain issues, which may be invoked by citizens against regulators, in accordance with the principle that the administrative authorities are bound by one's own acts, as well as with the principles of good faith and legitimate expectations.

9. Who can challenge the acts of regulatory authorities? Specify the criteria for assessing the interest in bringing proceedings, making any useful distinction according to the type of act (soft law act; individual decisions of a non-repressive nature; sanction; etc.).

The acts of the regulatory authorities can be challenged by those who have legal standing to do so in accordance with the general standing conditions established in the Law on Administrative Jurisdiction, i.e., those whose legitimate rights and interests may be affected by the act in question.

The Spanish legal system does not provide for the possibility of public action against the acts of regulators.

10. Please indicate any other particularities that you consider relevant to the admissibility of appeals against the acts of these authorities (interest in bringing proceedings, time limits for appeal, specific means of appeal open to State authorities, etc.).

There are NO special particularities.

11. Can the general acts of a regulatory authority, whether "hard law" or "soft law", be challenged by way of exception in an appeal against an individual decision (sanction, follow-up to a complaint, etc.) taken by that same authority and applying that general act (for example, if a sanction imposed on an economic operator refers to previously issued guidelines or recommendations to set out the applicable legal rules and the authority's interpretation of the texts in force)? Yes/no

If yes, to what extent? Will the plea of illegality against this general act, if upheld, lead to the (retroactive) annulment of this act?

The Law on Administrative Jurisdiction establishes that when a specific act is challenged, the conformity with the law of the general provision on which that specific act is based may be questioned. Thus, Article 26 provides that "In addition to the direct challenge of general provisions, it is also admissible to challenge acts taken in application thereof, on the grounds that such provisions are not in accordance with the law"; adding that "The lack of a direct challenge to a general provision or the dismissal of an appeal lodged against it does not prevent the challenge of the implementing acts, according to what has been established in the previous paragraph".

12. Where the actions of these authorities have harmful consequences, should liability claims be brought:

- against these authorities? Yes/no

- or against the State on whose behalf they may have acted? Yes/no

Law 40/2015, on the Legal Regime of the Public Sector, establishes in Article 32 that "Individuals shall have the right to be compensated by the corresponding Public Administrations for any injury they suffer to any of their property and rights, provided that the injury is a consequence of the normal or abnormal operation of public services, except in cases of force majeure or damage that the individual has a legal duty to bear in accordance with the Law".

The same Law establishes in its article 36 (sections 1 to 3), the following:

"Article 36. Financial liability of authorities and personnel in the service of the Public Administrations.

1. In order to enforce the pecuniary liability referred to in this Act, individuals shall directly demand compensation from the corresponding Public Administration for damages caused by the authorities and personnel in their service.
2. The corresponding Administration, when it has compensated the injured parties, shall claim *ex officio* in administrative proceedings from its authorities and other personnel in its service any liability they may have incurred as a result of wilful misconduct, serious fault or negligence, following the investigation of the corresponding proceedings.

In order to claim said liability and, where appropriate, for its quantification, the following criteria, among others, shall be considered: the damages caused, the degree of culpability, the professional liability of the personnel in the service of public administrations and their relationship with the damages caused.

Internal organisation of the courts and hearing of appeals

13. Are cases concerning these authorities assigned, within the courts and more particularly within the supreme administrative court, to panels specifically dedicated (to the authority concerned, or more generally to regulatory litigation), in order to allow for an increase in the level of competence or a critical mass of cases? - Or is it a distributed dispute with no particular allocation rule?

If yes: please explain and give examples.

It is customary for this type of litigation to be assigned to a specialised Section of the Court, in accordance with the rules on assignment and distribution of cases within each Court, which are approved annually and published for publicity purposes in the Official State Gazette.

By way of example, litigation concerning challenges to acts and provisions of regulatory and supervisory bodies is entrusted to the Third Section of the Administrative Chamber of the Supreme Court.

Please indicate, in a more general way, any notable particularities in the internal organisation of your courts that may be relevant.

There are NO special particularities.

14. What investigative or examination techniques can you use in particular in the examination of particularly technical cases:

- oral inquiry hearing in the presence of the parties,

- expert's report,

- *amicus curiae*,

- solicitation of a reference expert administration,

- other?

Please explain, where applicable by giving some examples from your experience.

On this matter, the general rules provided for in the Law on Administrative Jurisdiction and the Civil Procedure Law with respect to the proposal and taking of evidence are applicable. In addition to allowing the parties to propose whatever evidence they consider relevant for the clarification of the facts, the Court may also order the taking of evidence *ex officio*.

Article 15 *bis* of Law 1/2000 on Civil Procedure (subsidiarily applicable to the administrative legislation) establishes that "The European Commission, the National Commission for Markets and Competition and the competent bodies of the Autonomous Regions, within the scope of their competences, may intervene in antitrust and data protection proceedings without having the status of a party, on their own initiative or at the request of the judicial body, by providing information or submitting written observations on matters relating to the application of Articles 101 and 102 of the Treaty on the Functioning of the European Union or Articles 1 and 2 of Law 15/2007, of 3 July, on the Defence of Competition. With the permission of the Court concerned, they may also submit oral observations. To this end, they may request the competent Court to transmit or ensure the transmission to them of any documents necessary for an assessment of the case in question.

Interpreting this article, the case law has stated that the Commission does not constitute a party to the proceedings as such, but intervenes in the proceedings in the capacity of *amicus curiae* assisting the Court by providing objective information on the interpretation of competition law.

Do you feel that these regulatory cases require a particular method?

If yes:

Please explain.

No.

15. What is the role of the traditional administrations (especially when the act of an independent administrative authority, distinct from the ministry concerned, is at issue) in the examination of appeals against regulatory authorities:

- are they invited to comment? No.

- or do they remain outside the case?

They remain outside the case, because the parties to the administrative proceedings are the appellant (the party affected by the regulator's decision, who challenges it before the Court) and the defendant (the regulatory body that is the author of the act). The National State Administration does not have the status of co-defendant. Since the regulatory bodies have functional autonomy with respect to the National Government and other State authorities, it is these regulatory bodies that are the defendants, and not the National State Administration.

The traditional Administrations (understood as the so-called territorial Administrations, basically the State Administration and those of the Autonomous Regions) do not intervene in appeals lodged against decisions of the regulatory bodies.

16. More generally, when examining appeals against acts with a high socio-economic impact issued by these authorities, in particular those in charge of a field of economic regulation, does the court collect (on the initiative of the court or the interested organisations) observations from other stakeholders? Yes/no

If yes:

Please explain.

The judicial body may agree on a particular case, at the request of a party or even *ex officio*, to take documentary evidence consisting of reports by public or private entities, in the same way as it may agree to take any expert evidence it deems relevant.

However, the taking of such evidence is agreed on a case-by-case basis. There is NO general rule that determines the need to obtain or not reports or observations from third parties or entities in all cases.

17. What role does orality play, even before the hearing, in the investigation of complex cases, in particular those involving regulatory acts?

The administrative procedure is basically written, and so are the ordinary administrative proceedings. The application instituting proceedings and the statement of defence are written, and so are the conclusions submitted after the period for the collection of evidence. The Law on Administrative Jurisdiction allows the conclusions to be replaced by an oral hearing, but in judicial practice it is not usual to hold hearings for this type of cases.

The principle of immediacy and orality does apply to the witness evidence that may be taken during the period for the collection of evidence, and experts may also be summoned to clarify or explain their report in an appearance before the Court, where the experts may be questioned by the parties and the Court itself.

18. Do you have, in one form or another (specialisation of magistrates, continuing education, expert decision support unit to assist magistrates, etc.) internal resources in your courts enabling you, if necessary, to familiarise yourself with or master sectoral but also transversal expert subjects (technologies protecting privacy, communication technologies in the case of audiovisual or electronic communications regulators, role and architecture of social networks, etc.)? Yes/no

If yes:

Please explain and give examples.

In the administrative jurisdiction, there is a category of magistrates specialised in administrative matters, which is accessed by means of a restricted competition for judges and prosecutors, the competition syllabus of which includes some topics on regulation and competition law. Specialised magistrates are given preference over non-specialised magistrates for posts in the jurisdiction.

On the other hand, the annual training plan for the Judicial Career, organised by the General Council of the Judiciary, usually offers short courses and seminars on specific subjects related to regulation and competition.

Apart from these courses and seminars, there is no specific training plan on regulatory authorities and competition law within the judiciary.

Therefore, specialisation in these matters is acquired fundamentally through the performance of jurisdictional functions in the Sections of the Courts that are specifically assigned this type of cases by virtue of the internal rules on assignment and distribution of cases existing in each Court.

The extent of the judge's control, the court decision

19. What are the main categories of grounds that can be invoked and relied upon against the acts of regulatory authorities? Based on your experience and the case law of your country, do you find that appeals against acts of independent authorities raise particular problems (real independence in decision-making, impartiality, etc.) compared with disputes concerning acts taken by other administrative authorities? Please share any relevant analysis you may have.

When the decision of a regulatory body is appealed, any infringement of the legal order may be challenged under the same conditions and with the same scope and content as when any other administrative act is challenged.

The courts have a legal status which guarantees their independence of criteria when they judge the acts of regulatory bodies.

The difficulty of this type of litigation is due to the technical complexity of the decisions of regulators and competition authorities. These lawsuits raise technically complex issues, often of great economic or social importance, which require a thorough and careful study sometimes difficult to carry out, since the courts in charge of dealing with them are often, at the same time, burdened with a multitude of lawsuits concerning other matters that must also be studied and resolved.

20. Does your court consider itself bound by the technical or economic assessments made by the regulator? Or does it feel entitled to control them? In the latter case, is this control complete or only limited to the manifest error of assessment?)

The administrative courts have full jurisdiction to judge the decisions of the regulatory bodies, and may annul them for any infringement of the legal system. Judicial review is not limited to formal or procedural issues, but can be fully extended to substantive issues.

It is true that courts usually retain in their decisions a margin of respect for the technical assessments of the regulators, but these technical assessments can be undermined by appropriate argumentation and evidence on the part of the appellant.

21. If you receive an application against an act of a regulatory authority or against a sanction imposed by it, is your court only competent to annul the act or sanction or can it also modify the sanction imposed?

The Court may declare the act or sanction null and void, and may also assess the appropriateness of the sanction imposed according to the proportionality principle. If the Court concludes that the sanction is disproportionate in the specific circumstances of the case, it may determine in a judgment that the sanction be reduced (e.g., that the amount of the fine be reduced, or that the period of suspension or disqualification agreed in the sanctioning decision be shortened).

It should be borne in mind, however, that Article 71.2 of the Law on Administrative Jurisdiction establishes that "Courts may not determine the form in which the provisions of a general rule are to

be worded to replace those they annul, nor may they determine the discretionary content of the annulled acts".

22. Have you been confronted with the problem of an independent authority in your country taking into account a foreign element such as an opinion given by an authority in another country or a decision by a European authority (for example, in the context of the mechanisms set up by the GDPR between the European data protection authorities, which lead these authorities to submit some of their decisions to the European Data Protection Committee for approval)? Yes/no

If yes: what kind of legal treatment? Please explain and give examples.

Article 122 *ter* of the Law on Administrative Jurisdiction establishes the following:

"Article 122 *ter*. Procedure for judicial authorisation to assess the conformity with the law of a European Commission's decision on the international transfer of data.

1. The procedure for obtaining the judicial authorisation referred to in the fifth additional provision of the Organic Law on the Protection of Personal Data and the Guarantee of Digital Rights shall commence with a request of the data protection authority addressed to the competent court to rule on the conformity with European Union law of a European Commission's decision on the international transfer of data. The request shall be accompanied by a copy of the file pending before the data protection authority.

2. In addition to the data protection authority, the parties to the proceedings shall be those who were parties to the proceedings before the said authority and, in any event, the European Commission.

3. The decision on the admissibility or inadmissibility of the request shall confirm, modify or lift the suspension of the proceedings for possible infringement of data protection law before the data protection authority, from which this judicial authorisation procedure originates.

4. Once the application has been admitted for processing, the competent Court shall inform the data protection authority in order that it may notify those intervening in the proceedings before it, so that they may appear within a period of three days. The European Commission shall also be notified to the same effect.

5. At the end of the period mentioned in the previous paragraph, the request for authorisation shall be forwarded to the parties to the proceedings so that, within a period of ten days, they may submit any arguments they consider appropriate, at which time they may request the taking of any evidence they deem necessary.

6. When the period for the collection of evidence has finished, if either party has so requested and the Court considers it appropriate, a hearing shall be held. The Court may decide the scope of the issues on which the parties are to focus their arguments at that hearing.

7. After the conduct of the formalities referred to in the three preceding paragraphs has been completed, the competent Court shall, within ten days, take one of the following decisions:

(a) If it considers that the decision of the European Commission is in accordance with European Union law, it shall give judgment declaring it to be so and refusing the authorisation applied for.

(b) if it considers that the decision is contrary to European Union law, it shall issue an order for a preliminary ruling under Article 267 of the Treaty on the Functioning of the European Union, referring the validity of that decision to the Court of Justice of the European Union.

Said authorisation may be granted only if the decision of the European Commission in question is declared invalid by the Court of Justice of the European Union.

8. The system of appeals shall be as provided for in this Act."

23. Are these cases a particular field of preliminary questions to the Court of Justice of the European Union? Yes/no

If yes: Please explain and give examples.

In the legal disputes derived from challenges to decisions of regulatory bodies, not only Spanish domestic law is often interpreted and applied, but also European Union law.

For this reason, there is no shortage of cases in which questions have been referred for preliminary rulings, especially by the Supreme Court, which is the highest court in the Spanish judicial system. By way of example, we can cite an order of the Third Section of the Administrative Chamber, of 9 July 2019 (appeal no. 960/2014), which raises the following question before the CJEU:

"1/ Whether, in accordance with the doctrine established by the Court of Justice of the EU – *inter alia*, in its judgments of 20 April 2010 (Case C-265/08, *Federulity*) and 7 September 2016 (Case C121/15, *Anode*) – a national regulation such as that established in Article 45. 4 of Law 24/2013, of 26 December, later developed in articles 2 and 3 of Royal Decree 968/2014, of 21 November, in which the financing of the social bonus is made by certain agents of the electricity system (*parent companies or, where appropriate, companies that simultaneously carry out the activities of production, distribution and commercialisation of electricity*), is compatible with the requirements established in article 3.2 of Directive 2009/72/EC. According to this regulation, some of those entities bound to finance the social bonus have very little specific weight in the sector as a whole, while other entities or business groups that may be in a better position to assume the cost are exempt from this burden, either because of their turnover, their relative importance in one of the sectors of activity or because they carry out two of these activities simultaneously and in an integrated manner.

2/ Whether or not this national regulation – in which the obligation of financing the social bonus is not of an exceptional nature nor has a time limit, but it is indefinite in time and without return or any compensatory measure – is compatible with the requirement of proportionality established in the aforementioned Article 3.2 of Directive 2009/72/EC ".

24. Does the drafting of court decisions raise particular issues related to the technical nature or media exposure of some of these cases? Yes/no

If yes:

Please explain and give examples.

The drafting of court decisions on this matter does not present any major problems other than those arising from the technical complexity of these issues. There is a determined effort on the part of the Spanish courts to draft their judgments in a way that is accessible to the public, but in technically complex matters such as these, it is not easy to simplify the arguments without undermining the technical accuracy of the judicial decision.

The potential impact of these decisions in the media has no effect on the court's decision or its expression.

The judge in the regulatory framework

25. Are judgments on such appeals subject to any particular publicity or accompanying measures (press release)? Yes/no

If yes:

Please specify.

All rulings are made public and generally accessible to the citizens on the case law database website *poderjudicial.es*

In addition, information notes on the most far-reaching and important judgments are usually published on this website in order to make them widely available for the public at large. These information notes are drafted in a way that is accessible to citizens.

26. Are regulatory authorities entitled to challenge acts or decisions taken by other public persons on the grounds that they impinge on their competence?

Regulatory authorities may challenge the acts of other persons or entities, including public ones, which they consider to be contrary to law and which affect their area of legislation on legitimate interests.

A peculiar case of legal recognition of the entitlement to challenge acts is that established in art. 127 *bis* et seq. of the Law on Administrative Jurisdiction, which regulates the so-called "Procedure for the guarantee of market unity". Article 127 *bis* establishes that "When the National Commission for Markets and Competition considers that a provision, act, action, inactivity or deed originating from any public administration is contrary to the freedom of establishment or movement under the terms set out in Law 20/2013, of 9 December, on the guarantee of market unity, it may file an administrative appeal according to what is regulated in this Chapter."

27. Independently of a particular case, do your court or its members regularly participate in general exchanges bringing together professionals (regulatory authorities, operators, doctrine, ministries, etc.) from the regulatory sectors concerned? Yes/no

If yes:

Please specify.

There are no general or regular meetings, encounters or exchange sessions of this nature between judges and the authorities and employees of regulatory bodies. It should be borne in mind that magistrates must not take part in forums or meetings where matters that may be *sub iudice* are discussed.

It is common for the annual training plan approved by the General Council of the Judiciary to include stays of a limited number of judges in certain regulatory bodies in order to gain a better understanding of their activities.

28. Are the judges in your courts, or more generally the staff of your investigating and registry departments, sometimes led in their careers to take up activities in regulatory authorities, and are such careers encouraged where appropriate? Yes/no

If yes:

Please explain.

This question has already been answered above.

Quantitative data

29. What is the number of cases concerning regulatory authorities registered before your supreme administrative court in 2020?

30. What is the number of cases concerning regulatory authorities settled by your supreme administrative court in 2020?

31. What is your estimate of the percentage of cases concerning regulatory authorities in the total number of cases registered before your supreme administrative court in 2020?

32. What is your estimate of the percentage of cases concerning regulatory authorities in the total number of cases settled by your supreme administrative court in 2020?

33. What percentage of applications against the acts of regulatory authorities were annulled, in whole or in part, by your supreme administrative court in 2020?

These questions on statistical data cannot be answered with due accuracy, as the statistics of the Supreme Court do not break down the cases with such a level of precision.