SIGMA

Support for Improvement in Governance and Management

A joint initiative of the OECD and the European Union, principally financed by the EU

ADMINISTRATIVE JUSTICE ON THE TERRITORY OF FORMER YUGOSLAVIA

Prof. Dr. Ivan Koprić
Faculty of Law
University of Zagreb
Croatia

This document has been produced with the financial assistance of the European Union. The views expressed herein are personal to the author, and can in no way be taken to reflect the official opinion of the European Union and do not necessarily reflect the views of the OECD and its member countries or of the beneficiary countries participating in the Sigma Programme.

I. Introduction

The idea of judicial control of the public administration developed as part of the democratic ideology of civic society. From the initial aspiration to introduce judicial review of administrative acts, this idea developed into the modern formulation of the right to administrative justice, even at global level (see Chimni, 2005). Guaranteed rights to judicial review of administrative acts are part of the "package" of democratisation measures in transition countries (Galligan, 1998; Cardona, 2005).

Administrative justice is often reduced to administrative dispute, despite the fact that these two concepts do not overlap completely (more in Krbek, 2003: 229-230). Two basic models of administrative justice differ in the type of courts that supervise public administration. The Anglo-Saxon model places the control in courts of general jurisdiction, whereas the French model has special administrative courts[1]. The organisation of the administrative justice system can comprise one instance, two instances or, rarely, three instances (for example, in Germany; see Leithoff, 2005: 4-5), and the system can be centralised or decentralised. Administrative courts can have general jurisdiction in all administrative matters or specialised jurisdiction in some administrative matters; they can be considered as part of the public administration (French or Roman model) or part of the judiciary (German model)[2], etc.

Judicial review is not only conducted in order to protect citizens' rights, but also to protect public interest and legal order (Woehrling, 2005: 2-3). Judicial review ensures the realisation of the principle of legality of administrative functioning as well as the principle of the rule of law. Subjective and objective aims of administrative justice are practically inseparable (see also Borković, 2002: 492-493), although the debate on this issue is not merely academic (Krbek, 2003: 235). However, the structure of administrative dispute often stresses the elements of subjective protection — protection of the rights of citizens and others concerned (Claro, 2005: 4-5; Jerovšek, 1996: 36; see also Krbek, 2003: 234-235).

II. Development of Administrative Justice up until 1991

In the territories that later were part of Yugoslavia, administrative justice began to develop in the second half of the 19th century. There were different legal regulations (legal regimes) and organisational solutions of administrative justice due to the state and constitutional arrangements existing at the time.

The Administrative Court in Vienna was founded in 1875 for the Austrian part of the Austro-Hungarian Monarchy. The Court began to function in 1876 and had jurisdiction over Slovenia and parts of Croatia (Istria and Dalmatia). The Court's jurisdiction was stipulated by general clause with relatively extensive negative enumeration (broad exceptions). Disputes could be instituted against individual administrative acts (decisions and rulings) that were final in administrative procedure. Decisions in police-criminal cases were never subjected to judicial review. Through its judgements, the Court established solid foundations for the codification of administrative procedure in 1925 (Medvedović, 1987: XIII-XIV; Medvedović, 2003: 310-313).

In the Hungarian-Croatian part of the Monarchy, the situation was different. The Financial-Administrative Court was founded in 1883. Its jurisdiction was stipulated by enumeration of certain financial issues only. It had jurisdiction over the entire Hungarian part of the Monarchy, including Croatia. The Administrative Court was founded in 1896 and began to function in 1897. Its jurisdiction was stipulated by wide and comprehensive enumeration. For the territory that was then Croatia and Slavonia, the Administrative Court was competent only in administrative cases that did not fall under the Croatian autonomous scope. It had full jurisdiction in some parts of today's Croatia (Međimurje, Baranja) and of today's Serbia and Montenegro (Bačka, Banat). In 1898, its jurisdiction was extended to Rijeka. In autonomous affairs of Croatia and Slavonia, there was no general administrative judicial control. Certain special administrative courts existed, and part of judicial review was performed by courts of general jurisdiction (Medvedović, 1987: XIV-XVI; Medvedović, 2003: 313-320).

---

1 Ivančević believes that the model where control of public administration belongs to courts of general jurisdiction may simply be called the Belgian model, since Belgium introduced it in 1831 (Ivančević, 1989: 6)! Belgium and Italy, which opted for such a model, gave it up later on and adopted control via special administrative courts, so today we can talk about continental-European and Anglo-Saxon models (Pavlovska-Daneva, 2005: 4-5). Further discussion of the control of public administration via courts of general jurisdiction is provided in Borković, 2003.

2 The French State Council is part of French public administration, while in Austria, Germany and other countries that took over the German model administrative courts are considered part of the judiciary. However, both models produce increasingly similar effects (Cardona, 2005: 3-4).

There was no judicial review of public administration in the territory that was then Bosnia and Herzegovina (Medvedović, 1987: XVII), not even when it became part of the Austro-Hungarian Monarchy.

The Serbian State Council followed the French model. It was founded in 1805 and had an interesting development, during which it performed legislative, executive, administrative and other functions. Judicial review fell under its competence with the Constitution of 1869, although it had taken over some control of administrative acts prior to that, sometimes even beyond regulations. The Law on Internal Structure and Procedure of the State Council of 1870 contained the first definition of administrative dispute, which was stipulated by general clause with the exclusion of administrative acts based on discretionary decisions. Strengthening the position of citizens, extending the competence of opening procedures to legal entities, expanding the types of acts against which an entity could open a procedure before the State Council, and other improvements were introduced by constitutional amendments and a revision of the laws of 1888/1891 and 1901/1902 (Medvedović, 1987: XVII-XVIII; Bačić and Tomić, 2002: 15).

Judicial review in Montenegro developed along the lines of the Serbian model, with some delay. The State Council of Montenegro was given some degree of competence over ministerial decisions in controversial administrative issues at the beginning of the 20th century through the constitutional and legislative changes of 1905/1906 (Medvedović, 1987: XVIII-XIX).

After the foundation of the Kingdom of Serbs, Croats and Slovenians, the State Council of the Kingdom of Serbia continued to perform judicial review of royal orders and ministerial decisions until 1922. The Constitution of 1921 retained the State Council as an administrative court of second instance. Provisions of the Law on the State Council and Administrative Courts of 1922 enabled the foundation of administrative courts of first instance in Belgrade, Zagreb, Celje, Sarajevo, Skopje and Dubrovnik. This organisation of the administrative justice system was kept until Banovina Hrvatska was created in 1939, despite the king's dictatorship since 1929 (which resulted in a new name of the country — the Kingdom of Yugoslavia), changes in relevant regulations in 1929 and 1930, and the adoption of the Constitution of 1931. Administrative dispute was a dispute on the legality of administrative acts. The jurisdiction of administrative courts was stipulated by general clause with the exclusion of certain types of administrative acts (Medvedović, 1987: XIX-XX; Medvedović, 2003: 321-330; Bačić and Tomić, 2003: 330-336).

Based on the Decree on Banovina Hrvatska of 1939, the already existing Administrative Court in Zagreb took over the jurisdiction in administrative disputes for the territory of Banovina, previously held by the State Council. The Court was the final instance for most administrative disputes and became relatively independent from the rest of the Kingdom's administrative justice system (Medvedović, 2003: 330-336).

After World War II, general administrative-judicial control of public administration was reinstated in 1952 via the Law on Administrative Disputes (LAD of 1952, revision in 1965)[3]. Prior to that law, the political elite in Yugoslavia had shown strong resistance to submitting administrative acts to the control of relatively independent courts, as was the case in all other communist countries. Administrative disputes were mostly decided by the supreme courts of federal units (republics), the Supreme Court of Yugoslavia, and the Supreme Military Court. Trials were held by specialised court councils. Administrative disputes falling under the federal units' competence and disputes against the decisions of federal bodies were decided in one instance. Disputes against the decisions of non-federal bodies, where federal regulations were applied, were decided in two instances. The LAD stipulated the administrative acts liable to judicial review by general clause with negative enumeration. The core of the LAD was dispute on the legality of an administrative act, but it also permitted dispute of full jurisdiction (Medvedović, 2003: 343-346; Krbek, 2003: 230 and further; Bačić and Tomić, 2002: 16; Ivančević, 1983: 215).

The Yugoslav Constitution of 1974 (SFRY) ceded organisation of the judiciary to the federal units. Consequently, three different models of administrative justice systems developed. Administrative dispute first instances were installed with the *Supreme Courts* of Montenegro, Macedonia, Slovenia and Kosovo, and with the *Administrative Courts* of Bosnia and Herzegovina and Croatia. The Administrative Court of Bosnia and Herzegovina was dissolved in 1986, when first-instance jurisdiction in administrative disputes was divided between county courts and the Supreme Court. A similar *division of first-instance jurisdiction between county courts* (or *higher courts) and the Supreme Court* was undertaken in Serbia and Vojvodina as well. Disputes in civil servants' issues were taken over by the Courts of Associated Labour. The new LAD, which came into force in 1977, was an improved version of the previous LAD. The list of acts

[3] Nevertheless, Courts of Social Security existed up until 1950, and some administrative acts were reviewed by courts of general jurisdiction. Control of public administration was performed by the State Control Commissions, which turned out to be rather deficient (Ivančević, 1983: 215).

excluded from review in administrative disputes was narrowed down, and court protection was extended beyond administrative dispute (dispute for the protection of constitutional rights violated by an action; court protection of constitutional rights and freedoms violated by an individual final act). Certain other innovations were introduced, together with modernisation of the LAD (Medvedović, 1987: XXIII; Medvedović, 2003: 346-350; Ivančević, 1983: 10 and further).

III. Administrative Justice in the New States

After the dissolution of Yugoslavia, the new states took over the Yugoslav LAD of 1977, with minor changes. Croatia and fYR Macedonia still use this law, while other countries passed new LADs. However, these new laws are also based on the former Yugoslav LAD, with certain innovations.

There are several legal arrangements for administrative justice in Bosnia and Herzegovina. At state level, the new LAD was adopted in 2002. It is also applied to disputes regarding administrative acts passed by the Brčko District (art. 4). Administrative disputes are decided by the Administrative Division of the Court of Bosnia and Herzegovina (art. 5). Jurisdiction of the Court is stipulated by general clause with negative enumeration. Administrative dispute is decided in one instance, against individual acts or general final administrative acts (art. 1).

The Federation of BiH passed two LADs, in 1998 and 2005[4]. Administrative disputes are decided by cantonal courts (10 cantons) without the right to appeal (one-instance administrative dispute) (art. 5 and art. 40). An administrative dispute may be brought only against a final administrative act (art. 8) if it has violated someone's right or legal interest. The Ombudsman or Public Attorney (art. 2) may also institute an administrative dispute. Jurisdiction over administrative dispute is stipulated by general clause with negative enumeration.

The Republika Srpska adopted its LAD in 1994. Administrative disputes are decided by the Supreme Court of the RS, higher courts, and the Supreme Military Court (art. 18)[5]. Appeals of first-instance judgements may be granted through special laws regulating certain administrative matters (art. 19). In the Republika Srpska, jurisdiction is also stipulated by general clause with negative enumeration. Administrative disputes may be instituted against final administrative acts if they have violated someone's right or direct personal interest based on law. The Attorney General and/or the Public Attorney may institute administrative disputes (art. 2).

Croatia took over the former Yugoslav LAD in 1991 and introduced certain revisions in 1992. Administrative disputes in one instance are decided by the Administrative Court of the Republic of Croatia. Disputes may be instituted against an individual final administrative act. In the course of an administrative dispute, the courts rule on the legality of the acts on the basis of which state administrative bodies or organisations with public competence decide on rights and obligations in administrative matters[6]. Jurisdiction is stipulated by general clause. The only case in which administrative disputes cannot be instituted is when there already exists court protection outside the administrative dispute (art. 9). Disputes may be instituted by filing a suit on behalf of an entity whose right or direct personal interest based on law has been violated. In the case of certain breaches of the law, the Attorney General may file a case. The Administrative Court also decides on demands for the protection of constitutional rights or freedoms violated by final administrative acts, unless the legislator has provided alternative ways of court protection (art. 66).

The fYR Macedonia also took over the former Yugoslav LAD of 1977. Administrative disputes are decided by the specialised Administrative Division of the Supreme Court (Pavlovska-Daneva, 2005: 5-6; Sigma, 2003 — fYR Macedonia: 22.). The new LAD, now under preparation, is expected to be adopted in 2006.

Slovenia passed its new LAD in 1997 and revised it in 2000. The organisation of the administrative justice system has been changed significantly. Instead of one-instance judicial review performed by the Supreme Court, the legislator has introduced a two-instance administrative justice system. The court of first instance is the Administrative Court, founded in 1998. It has four branch offices in Ljubljana, Celje,

4 *Official Gazette of Bosnia and Herzegovina*, No. 9/2005.

5 The Supreme Military Court has been abolished.

6 There is the question of what an "administrative matter" really is. The Law on Administrative Dispute does not provide an answer to that question. Thus it is possible that courts rule differently from case to case, passing judgements as to whether the case in question is about administrative matters or not (see also Borković, 2004: 39-40).

Maribor, and Nova Gorica. The Supreme Court remains the court of second instance, but it has certain first-instance competences as well. Court protection is guaranteed against all final acts and activities of administrative bodies, other state bodies, bodies of local self-government, and other bodies with public competence in the course of decision-making on the rights, obligations, and legal interests of individuals and legal entities. This includes acts passed in the form of regulations that concern individual rights (in spatial planning, for example). Unless there are other forms of court protection, the legality of individual actions and decisions that concern citizens' constitutional rights is also decided in administrative disputes (art. 157 of the Slovenian Constitution). The number of acts against which one can institute administrative disputes has thus been significantly increased (Jerovšek, 1996; Jerovšek, 1998; Šturm, 2002; Kerševan, 2002).

The Federal Republic of Yugoslavia applied the LAD of 1977 before passing the new one in 1996. Administrative disputes were decided by courts in its member states (Serbia and Montenegro), the Federal Court, and the Supreme Military Court (art. 3). The LAD of 1996 was applied in the whole territory of the FRY, and it is still applied in Serbia. Montenegro adopted its LAD in 2003. At federal level (the Constitutional Charter of the State Union of Serbia and Montenegro came into force on 4 February 2003), judicial review of the legality of final administrative acts is conducted according to a special procedure regulated by the Law on the Court of Serbia and Montenegro of 2003. In Serbia, administrative disputes are decided by county courts and the Supreme Court. The Law on Court Organisation of 2001 (revisions in 2002, 2003 and 2004) contains provisions for the establishment of a single Administrative Court with jurisdiction over the entire Serbian territory (on 1 January 2007 — art. 81). Administrative disputes in Montenegro were decided by the Supreme Court up until the beginning of 2005, when the Administrative Court of Montenegro began to function.[7]

According to the Yugoslavian LAD of 1996, administrative disputes may be conducted only against an individual final administrative act. Disputes may be instituted by physical or legal entities that deem that their rights or legally based interests have been violated by certain administrative acts. The Attorney General and the Public Attorney may also start administrative disputes. Jurisdiction is stipulated by general clause with negative enumeration. Parties to the dispute may appeal to the judgement in first instance if there are such provisions in the relevant law (art. 18).

The Montenegrin LAD of 2003 expanded and modernised administrative dispute. Next to the legality of administrative acts, it is now possible to dispute the legality of other individual acts. Judicial review does not apply to individual acts against which there are other forms of court protection, but not only those acts; the acts of the President of the Republic and of the Assembly are also excluded from judicial review (Lilić, 2004: 4-5; Barović, 2004; Bačić and Tomić, 2002).

IV. Between Tradition and Modernisation

There is a significant tradition of judicial review of public administration on the territory of the former Yugoslavia, which dates back to the 19th century. This tradition was present even during the socialist period, although Yugoslavia, similar to other socialist countries, abolished the administrative justice system between 1945 and 1952. After that period, the administration was subject to relatively independent judicial review, which distinguished Yugoslavia from the rest of the socialist block. Several organisational forms of judicial review have developed as a result of different historical circumstances before World War I and the federal system during the second (socialist) Yugoslavia.

However, a kind of common tradition developed between the two World Wars. Its main flaw was that it enlarged the number of cases where judicial review could not be applied. The two Laws on Administrative Dispute of 1952 and 1977 formed the real and firm basis of common tradition. The new states continued to apply the former Yugoslav LAD of 1977 for at least some time after the dissolution. Even their first new laws on administrative dispute were (or still are) largely based on the former Yugoslav model. A more significant modernisation of the LAD has begun only recently, with Slovenia leading the way. Other countries have yet to take that path.

Elements traditionally present in judicial review of public administration are primarily those extensively applied in other European countries. Thus, this review includes protection from the silence of administration. It is provided under certain circumstances, and has been known as a special legal

[7] The Law on Administrative Dispute (*Official Gazette of Montenegro*, No. 60/2003) and Sigma, 2003 - Montenegro: 44.

institution on this territory since the end of the 19th century[8]. There is also the stipulation of judicial review jurisdiction by general clause. The list of negative enumeration was rather long at the beginning, but has been narrowed down ever since. Another traditional element is subsidiarity of administrative court protection — the protection in an administrative dispute is excluded if the law provides another form of court protection. Subsidiary application of the rules of *civil* process law is yet another traditional element to be added to the list, and so forth.

Although in some parts of the former Yugoslav territory administrative courts have existed since the beginnings of administrative justice (or at least during some periods), they have seen their full affirmation as separate courts only recently. In socialist Yugoslavia, trials in administrative disputes were mostly conducted by courts of general jurisdiction. Nevertheless, even in such cases, judgements were passed by specialised divisions of these courts. Separate administrative courts have recently been established in Slovenia, Montenegro and Serbia (Croatia has had its Administrative Court since 1977). The fYR Macedonia has been considering the establishment of such a court (Pavlovska-Daneva, 2005)[9]. In Bosnia and Herzegovina, judicial review is still conducted by courts of general jurisdiction.

The introduction of a two-instance administrative-court procedure is an important feature of modernisation. Although such control existed during earlier periods, today one-instance control stands as a rule. The debate on two-instance administrative disputes is stimulated by the ratification of the European Convention for the Protection of Human Rights and Fundamental Freedoms and by the practice of the European Court of Human Rights in Strasbourg. Slovenia has made the greatest progress towards two-instance control[10]. Nevertheless, there have been suggestions regarding that issue in other countries, particularly in Croatia (Šturm, 2002; Garašić, 1998; Jerovšek, 1998; Borković, 2004: 46-44).

The character of administrative dispute is directly related to the above-mentioned issue of two-instance control. Traditionally speaking, administrative dispute is a dispute on the legality of an administrative act (Krbek, 2003: 230). The possibilities for instituting a dispute of full jurisdiction[11] are limited, in accordance with the traditional opinion that the judiciary should not take over and decide on administrative cases (Ivančević, 1983: 214; Jerovšek, 1996: 34). Even when the law contains such provisions, they are seldom applied, i.e. only when such application is inevitable (e.g. in the case of a demand for making a decision that replaces an administrative act)[12].

Courts have always been reluctant to conduct oral contradictory hearings in administrative disputes. They were not even bound to do so by previous laws. Oral hearings were stipulated as a possibility, not as an obligation for the court. This is contrary to article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (see also Jerovšek, 1996 and Garašić, 1998). Some recent LADs already contain provisions for obligatory oral hearing if the plaintiff demands it (in Slovenia, Montenegro, and the Federation of BiH), and the others will eventually have to introduce such provisions as well.

The scope of judicial review has been widening continuously. At the beginning, the list of negative enumeration was long and sometimes rather vague. It was particularly visible in the provisions that excluded judicial review by means of special law, which is nowadays quite rare.

An administrative dispute is traditionally instituted against a certain administrative act. Such an act may be defined formally (act of public administration) or substantively (act of public administration in a particular

---

8 The Royal Hungarian Administrative Court, founded in 1896, provided that type of judicial review in some cases.

9 One of the main advantages of such separation is the possibility of specialisation, necessary because the courts have to rule on an ever-increasing number of specific cases. Even if a country has specialised administrative courts, judges may be lacking the expertise necessary for such cases. Thus, demands for better education and in-service training of judges are often heard (Jurić Knežević, 2004: 51).

10 However, the possibility of narrowing the right to appeal against first instance judgements of the Slovenian Administrative Court is under discussion.

11 There is a difference between a dispute of non-real full jurisdiction and a dispute of real full jurisdiction. In the first case, a court will competently decide on an administrative matter after the annulment of an unlawful administrative act, but based on the state of facts established in an administrative procedure. In the dispute of real full jurisdiction, the court itself establishes the state of facts and passes judgement on the substance of the administrative matter (Jerovšek, 1996: 47).

12 Out of 69,940 administrative disputes resolved by the Croatian Administrative Court between 1 January 1995 and 30 June 2002, only 316 (0.45%) were demands for making a decision that replaces an administrative act (Jurić Knežević, 2004).

administrative matter). Where the provision for formal definition of an administrative act existed, courts tried to define it restrictively[13]. Not even the substantive definition of an administrative act has improved the situation, since it has not provided any definition of an "administrative matter" other than court practice. The lack of such a definition thus constitutes yet another opportunity to narrow the extent of judicial review without any justification (see also Borković, 2004: 39-40).

Despite these continuing problems of interpretation of legal norms and court practice, the scope of judicial review is expanding. As a recent tendency, review now encompasses almost all individual administrative acts, even administrative actions and operations, as well as certain general acts (for example, in Slovenia). The former Yugoslav LAD and the new LADs stipulate that administrative courts must protect citizens and other entities from administrative acts and administrative actions that have violated their constitutional rights and freedoms if no other legal protection is provided.

Such developments are an important component of democratisation, acquiring high standards of the rule of law and good governance. However, extended judicial review, insistence on the possibility of oral contradictory hearings, establishment of two-instance administrative dispute , as well as other measures that should ensure access to courts, inevitably prolong the time required for passing legally valid judgements and overburden administrative courts[14]. New dangers have appeared: inefficiency of administrative courts, delayed or late court protection of citizens from administrative acts and actions, etc. The experiences of administrative justice systems in western European countries shows the same trend (Germany, France, etc. — Tratar, 2001).

Therefore, it is necessary to find solutions in order to reduce the workload of administrative courts. The establishment of additional courts may help, as well as the introduction of two-instance administrative courts[15]. Some countries have introduced the possibility, sometimes even obligation, of preliminary procedures before administrative bodies prior to instituting an administrative dispute, which serves as a kind of administrative "self-control" (for example, in Germany).

Other ways of resolving disputes outside administrative courts, such as out-of-court settlement, arbitration, etc., have been developed as well (Tratar, 2001). In this context, it is important to mention the function of inspection, which should be given sufficient competence, capacity and opportunity to conduct internal control of administrative decisions and actions in order to decrease the number of administrative lawsuits.

In addition, and partly in an effort to relieve administrative courts, other bodies that can perform external control of public administration have appeared, such as the ombudsman, mediator (French: *médiateur*)[16] and the like. Their actions facilitate and strengthen the work of administrative courts by relieving them of their heavy workload and enabling them to concentrate on those disputes that cannot be resolved in any other way.

V. Final Remarks

Harmonisation and structuring of the European Administrative Space can be seen at work in the domain of administrative justice. This tendency is supported by the basic principles of European administrative law (the rule of law, openness and transparency; accountability; efficiency and effectiveness) and by the

---

13 Particularly in the Kingdom of Yugoslavia. See Medvedović, 2003: 325-326.

14 Three years after two-instance administrative disputes were introduced in Slovenia, the Administrative Court resolved 3,000 cases a year, and there were appeals against 33% of all judgements. The Administrative Division of the Supreme Court has the largest backlog of all court divisions. As many as 80% of all appeals are rejected (Breznik, 2002: 17; Tratar, 2001: 213-215).

The frequent exclusion of appeal in the process of administrative decision-making (Koprić, 2005), generally poor performance of the bodies and institutions that decide on administrative procedures, and occasional arbitrariness of the executive branch contribute to this problem. In seven and a half years, beginning with 1995, the Croatian Administrative Court received 89,114 lawsuits, and resolved 69,940 cases. A total of 49% of all administrative suits were successful. During the same period, 27,704 disputes were instituted because of silence of the administration, 92% (25,574) of which referred to the refusal of certain administrative bodies to make necessary decisions on pension adjustments after the ruling of the Constitutional Court (Jurić Knežević, 2004). This particular problem was caused by a conscious decision of the Croatian Government (i.e. not by administrative bodies) not to apply the pension regulations that were in effect at the time.

15 Borković made this suggestion for Croatia (Borković, 2004: 43-45). Similar reasons led to the establishment of lower administrative courts in France in 1953 and in 1987.

16 The French *médiateur* was established in 1973 as an independent administrative body and has gradually become very influential.

European Convention for the Protection of Human Rights and Fundamental Freedoms, especially through the actions of the European Court of Human Rights in Strasbourg. Citizens thus acquire better court protection with regard to the actions of public administration. Court protection is becoming more and more uniform in various countries, with some organisational and other particularities remaining. Education, knowledge exchange, and professional assistance may significantly contribute to the development of new quality solutions.

On the territory of the former Yugoslavia, there is a trend towards strengthening and widening court protection, with stronger procedural rights of citizens in relation to public administration. All countries in the region have established, are establishing, or are preparing to establish separate administrative courts, sometimes even two instances of administrative courts. Court protection covers a wider number of administrative acts and administrative actions. Parties to administrative procedure are given the right to contradictory oral hearing. In some cases and countries, it is possible to appeal against decisions of the court of first instance.

Extended court protection requires advanced educational level of judges. In Croatia, there is a lack of specific professional knowledge and skills among the judges who decide in more and more specific administrative disputes (market competition, local self-government, etc.) The situation is similar in other countries described in this paper. Along with providing education for judges, it is important to ensure a quality basic legal education, which should contain disciplines such as administrative process law, European administrative and administrative process law, public services (including European regulation of public services), as well as courses on the European Administrative Space,, etc.

In most countries (FRY until 2003, Croatia, fYR Macedonia, Montenegro, Slovenia — Maučić, 2000: fn. 17; Šturm, 2002: 1100-1104), it is possible to file a suit with the constitutional court (referred to as a constitutional suit) against a decision of an administrative body, after having exhausted court protection in an administrative dispute. Such protection may be sought if a citizen's constitutional right has been violated in the course of an administrative-court procedure, for example. Needless to say, such provisions strengthen the citizens' position and complete the system of legal protection. However, they also throw open such issues as the duration of the procedure for the protection of citizens' rights and court overload.

Bibliography:

Bačić, Vera and Zoran R. Tomić (2002), *Komentar Zakona o upravnim sporovima,* Službeni list SRJ, Belgrade.

Barović, Miomir M. (2004), *Upravni spor s komentarom Zakona o upravnim sporovima i sudskom praksom,* Službeni glasnik, Belgrade.

Borković, Ivo (2003), "Kontrola uprave putem redovnih sudova" in : Dragan Medvedović (ed.), *Hrestomatija upravnog prava,*. Društveno veleučilište u Zagrebu, Zagreb, and Pravni fakultet u Zagrebu, Zagreb.

Borković, Ivo (2004), "Upravno sudovanje i upravni spor u Hrvatskoj u vremenu od 1990. do danas" in: *Zbornik odluka Upravnog suda Hrvatske 1977.-2002,* Narodne novine, Zagreb.

Breznik, Janez (2002), "Odprta vprašanja postopka v upravnem sporu" in: *VIII. dnevi javnega prava,* Inštitut za javno upravo pri Pravni fakulteti v Ljubljani, Portorož.

Cardona, Francisco (2005), "Converging Judicial Control of the Administration in Europe", *Sigma Update*, Issue No. 7: Judicial Reform and Administrative Justice, February 2005. [available on Sigma website: www.sigmaweb.org]

Chimni, B. S. (2005), *Global Administrative Law: Winners and Losers*. http://www.iilj.org/global_adlaw/documents/ChimniPaper.pdf

Claro, João Martins (2005), *Administrative Justice: The Portuguese Case*, paper prepared for Sigma Regional Workshop for Senior Officials and Administrative Judges from the CARDS Region on "Public Administration Reform and EU Integration", Budva, Montenegro, 4-6 December 2005. [available on Sigma website: www.sigmaweb.org]

Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, 4. XI. 1950).

Galligan, D. J. (1998), "Administrative Law in Central and Eastern Europe" in: Denis J. Galligan, Richard H. Langan II and Constance S. Nicandrou (eds.) *Administrative Justice in the New European Democracies,* COLPI, Budapest, and University of Oxford, Oxford.

Garašić, Jasna (1998), "O upravnom sporu pred Upravnim sudom Republike Hrvatske u svjetlu", čl. 6., Europske konvencije za zaštitu ljudskih prava i temeljnih sloboda, *Zbornik Pravnog fakulteta u Rijeci*, Supplement, 967-1004.

Ivančević, Velimir (1983), *Institucije upravnog prava*, Pravni fakultet u Zagrebu, Zagreb.

Ivančević, Velimir (1989), "Odlučivanje u upravnim sporovima nakon ustavne reforme", *Zbornik Pravnog fakulteta u Zagrebu* 39(1): 1-26.

Jerovšek, Tone (1996), "Udeleženci upravnega spora glede na obseg sodne kontrole", *Javna uprava* 32(1): 33-49.

Jerovšek, Tone (1998), "Evropsko pravo in kontrola zakonitosti uprave v upravnem sodstvu", *Javna uprava* 34(1): 53-73.

Jerovšek, Tone (2002), "Sodna kontrola posamičnih neupravnih aktov v upravnem sporu" in: *VIII. dnevi javnega prava,* Inštitut za javno upravo pri Pravni fakulteti v Ljubljani, Portorož.

Jurić Knežević, Dunja (2004), "Primjena Zakona o upravnim sporovima — neka zapažanja na temelju novije prakse Upravnog suda Republike Hrvatske", in: *Zbornik odluka Upravnog suda Hrvatske 1977-2002,* Narodne novine, Zagreb.

Kerševan, Erik (2002), "Odločanje v upravnem sporu na II. stopnji" in: *VIII. dnevi javnega prava*. Inštitut za javno upravo pri Pravni fakulteti v Ljubljani, Portorož.

Koprić, Ivan (2005), *Administrative Procedures on the Territory of Former Yugoslavia*, paper prepared for Sigma Regional Workshop for Senior Officials and Administrative Judges from the CARDS Region on "Public Administration Reform and EU Integration", Budva, Montenegro, 4-6 December 2005. [available on Sigma website: www.sigmaweb.org]

Krbek, Ivo (2003), "O upravnom sporu" in: Dragan Medvedović (ed.), *Hrestomatija upravnog prava,* Društveno veleučilište u Zagrebu, Zagreb, and Pravni fakultet u Zagrebu, Zagreb.

Leithoff, Ralf (2005), *Public Administrative Jurisdiction in Germany*, paper prepared for Sigma Regional Workshop for Senior Officials and Administrative Judges from the CARDS Region on "Public Administration Reform and EU Integration", Budva, Montenegro, 4-6 December 2005. [available on Sigma website: www.sigmaweb.org]

Maučić, Arne (2000), "Razvoj ustavnega sodstva v državah nove demokracije" in: *VI. dnevi javnega prava,* Inštitut za javno upravo pri Pravni fakulteti v Ljubljani, Portorož.

Medvedović, Dragan (1987), "Razvoj upravnog sudstva u Jugoslaviji" in: *Zbornik odluka Upravnog suda Hrvatske 1977-1987,* Informator, Zagreb.

Medvedović, Dragan (2003), "Upravno sudstvo u Hrvatskoj — prilog za povijesni pregled" in: Dragan Medvedović (ed.), *Hrestomatija upravnog prava,* Društveno veleučilište u Zagrebu, Zagreb, and Pravni fakultet u Zagrebu, Zagreb.

Pavlovska-Daneva, Ana (2005), "Alternatives to Litigation between Administrative Authorities and Citizens: Macedonian Experience", paper prepared for seminar of the Venice Commission on "Administrative Justice and Inter-Ministerial Communication within Public Administration", Trieste, Italy, 14-18 March 2005.

Sigma (2003) — fYR Macedonia, *Public Management Profiles of Western Balkan Countries: former Yugoslav Republic of Macedonia*, Sigma, Paris. [available on Sigma website: www.sigmaweb.org]

Sigma (2003) — Montenegro, *Public Management Profiles of Western Balkan Countries: Serbia and Montenegro — Republic of Montenegro*, Sigma, Paris. [available on Sigma website: www.sigmaweb.org]

Šturm, Lovro (ed.) (2002), *Komentar Ustave Republike Slovenije,* Fakulteta za podiplomske državne in evropske študije, Ljulbjana.

Tratar, Boštjan (2001), "Oblike razbremenjevanja upravnega sodišča na primeru francoskega prava", *Javna uprava* 37(2): 213-228.

Woehrling, Jean-Marie (2005), *Judicial Control of Administrative Authorities in Europe: Toward a Common Model*, paper prepared for Sigma Regional Workshop for Senior Officials and Administrative Judges from the CARDS Region on "Public Administration Reform and EU Integration", Budva, Montenegro, 4-6 December 2005. [available on Sigma website: www.sigmaweb.org]