



**CARDS 2004 Twinning Project**

**Support to more efficient, effective and modern operation and functioning of  
the Administrative Court of the Republic of Croatia**

**Draft Law on Administrative Court  
Procedure**

**Note: All referrals to the Law on General Administrative Proceedings are  
based on the draft from 18 September 2008.**

The draft was prepared by a working group of Austrian and German experts and submitted to the Ministry of Justice on 13 February 2009.

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# Law on Administrative Court Procedure

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**Part 1 General provisions**

**Article 1 Goals of the law**

In order to ensure judicial protection of the rights and legal interests of individuals, legal entities and other entities entitled to sue and in order to ensure the legality of administrative measures the administrative courts decide in administrative court proceedings.

**Article 2 Scope of the law**

(1) This law applies in administrative court proceedings.

(2) Administrative court proceedings comprise all proceedings concerning administrative matter unless such a matter is assigned by law to any other court than an administrative court

(3) Provisions in specific laws which deviate from provisions of this law remain unaffected

### **Article 3      General principles**

(1) Administrative court proceedings have to be conducted in conformity with the right to a fair trial.

(2) The parties are entitled to a public oral hearing before at least one court instance.

(3) Administrative courts are obliged to conclude proceedings within a reasonable time.

(4) Administrative courts are entitled and obliged to establish facts themselves, if facts are not clear or disputed.

(5) Administrative courts are not limited to cassatory decisions, but are also competent to impose obligations on state bodies, bodies of units of local or territorial self government or other public bodies which do not have the character of a legal entity and their territorial units and branches (in the following: administrative bodies).

### **Part 2            Organization of the administrative jurisdiction**

#### **Article 4      Administrative courts**

(1) Administrative jurisdiction is exercised by administrative courts. Administrative courts are administrative courts of first instance and the Supreme Administrative Court of the Republic of Croatia.

(2) Administrative courts are independent of and separated from public administration.

#### **Article 5      Composition of administrative courts**

(1) Administrative courts decide in chambers of three judges.

(2) At an administrative court of first instance the chamber can by ruling assign cases to one of its members as a single judge, if these cases do not display any particular complications of a factual or legal nature and if they are not of general importance. This ruling is non-appealable. An appeal against a judgment cannot be based on the fact that a case has not been assigned to a single judge.

(3) A case must not be assigned to a single judge if an oral hearing before the chamber has already taken place.

### **Part 3 Jurisdiction**

#### **Article 6 Jurisdiction of administrative courts of first instance**

The administrative courts of first instance adjudicate on all administrative court proceedings unless they are assigned to the Supreme Administrative Court.

#### **Article 7 Territorial jurisdiction**

(1) In proceedings regarding immovable property or a legal issue connected to a certain place, territorial jurisdiction lies with the administrative court of first instance within whose district the immovable property or the place is located.

(2) In proceedings regarding ships and aircrafts under the Croatian flag or in proceedings the reasons of which arose on such a ship or aircraft territorial jurisdiction lies with the administrative court of first instance within whose district the home port of the ship or the home airport of the airplane are located.

(3) In proceedings regarding

1. social law,
2. financial law as far as customs duties and state taxes are concerned,
3. the right of access to information,
4. civil servant law or
5. administrative measures by professional associations

territorial jurisdiction lies with the administrative court of first instance within whose district the plaintiff has his/her legal residence, his/her habitual residence or his/her seat.

(4) In all other cases, the territorial jurisdiction lies with the administrative court of first instance within whose district the first instance administrative body or the branch office of this body that has taken or refused to take or omitted an administrative measure has its seat.

(5) The Supreme Administrative Court determines the territorial jurisdiction of the administrative courts of first instance if in a particular case the court having jurisdiction under para. 1 to 4 is prevented from exercising its jurisdiction for legal or factual reasons.

#### **Article 8 Jurisdiction of the Supreme Administrative Court of the Republic of Croatia**

(1) The Supreme Administrative Court adjudicates on

1. appeals against judgments of the administrative courts of first instance,



2. complaints against rulings of the administrative courts of first instance.

(2) The Supreme Administrative Court adjudicates as a first instance court on proceedings concerning

1. the control of the constitutionality and the legality of general acts which are not comprised by the term “other regulations” in Art. 128 indent 2 of the Constitution of the Republic of Croatia,

2. decisions of the National Judicial Council on the appointment of judges,

3. decisions of the National State Attorney Council on the appointment and dismissal of state attorneys except decisions on the appointment or dismissal of the General Attorney,

4. decisions of the Minister of Justice on the appointment, the dismissal or the determination of the end of service of public notaries,

5. decisions of the Government of the Republic of Croatia on the dismissal of representative bodies of units of local and territorial self government,

6. decisions of the Central State Office for Administration on the supervision over the legality of the work of bodies of units of local and territorial self government,

7. decisions on sanctions according to the Law on the Prevention of Conflicts of Interest in Public Office.

#### **Article 9 Referral of cases between administrative courts**

(1) An administrative court addressed in administrative court proceedings for which it has no jurisdiction shall issue a respective ruling and refer the case to the competent administrative court.

(2) If an administrative court of first instance accepts its jurisdiction, it shall issue a respective ruling, if a party argues that the case falls into the jurisdiction of another administrative court.

(3) If two administrative courts of first instance do not accept their jurisdiction for administrative court proceedings, the court to which the case was referred to has to send the case to the Supreme Administrative Court which decides the conflict of jurisdiction by ruling.

(4) If two administrative courts of first instance accept their jurisdiction, the Supreme Administrative Court shall decide the conflict of jurisdiction by ruling.

#### **Article 10 Referral of cases to courts of other jurisdictions**

(1) An administrative court addressed in proceedings that are not administrative court proceedings shall issue a respective ruling and refer the case to

the competent court. The ruling can be appealed before the Supreme Court of the Republic of Croatia.

(2) If an administrative court accepts its jurisdiction, it shall issue a respective ruling, if a party argues that the case falls into the jurisdiction of a court from another jurisdiction. The ruling can be appealed before the Supreme Court of the Republic of Croatia.

(3) If both an administrative court and a court of another jurisdiction do not accept their jurisdiction, the court to which the case was referred to has to send the case to the Supreme Court of the Republic of Croatia, which decides the conflict of jurisdiction.

(4) If both an administrative court and a court of another jurisdiction accept their jurisdiction, the Supreme Court of the Republic of Croatia shall decide the conflict of jurisdiction.

#### **Article 11 Forwarding of cases to the Constitutional Court of the Republic of Croatia**

An administrative court addressed in proceedings falling under the jurisdiction of the Constitutional Court of the Republic of Croatia shall forward the case to this court.

#### **Part 4 Types of actions**

##### **Article 12 Types of actions**

An action may be filed to seek

1. the repeal of an administrative act (action for the repeal of an administrative act);

2. the issuance of an administrative act, which has been refused or omitted (action for the issuance of an administrative act);

3. the declaration of the unlawfulness of an administrative act which has lost its legal consequences if the plaintiff has a reasonable interest in such a declaration (action for the declaration of the unlawfulness of a ceased administrative act). If the administrative act has lost its legal consequences after the filing of an action under No 1 or 2, the plaintiff may modify his/her petition to issue such a declaration;

4. an order to act, to tolerate a measure or to omit a measure (action for performance). No 3 applies mutatis mutandis;

5. the declaration of the existence or non-existence of a legal relationship or of the nullity of an administrative act or an administrative contract, if the plaintiff has a reasonable interest in a declaration in due time (declaratory action). An action for the

declaration of the existence or non-existence of a legal relationship is inadmissible if the plaintiff could have filed an action under No 1 to 4.

### **Article 13 Subject of actions for the repeal of an administrative act and actions for the issuance of an administrative act**

The subject of an action for the repeal of an administrative act or an action for the issuance of an administrative act is

1. the first instance administrative act as amended by the decision on an objection,
2. the first instance administrative act and the decision on the objection if the former was not amended by the latter,
3. the decision on an objection if this decision contains a grievance for the first time,
4. the first instance administrative act if objection proceedings are excluded by law.

### **Article 14 Standing to sue**

(1) Actions under Art. 12 are admissible only if the plaintiff claims that his/her rights or legal interests have been violated.

(2) Para. 1 also applies for actions filed by administrative bodies. In particular such actions can be based on the claim that an administrative body's right to self government has been violated.

(3) Actions by the department of public prosecution are only admissible if authorized under a special law.

### **Article 15 Completion of administrative remedy procedure**

If an administrative objection procedure (Art. 110 of the Law on General Administrative Procedure; LGAP) or an administrative complaint procedure (Art. 134 and 136 LGAP) is foreseen by law, an action may only be filed after respective proceedings have been completed.

### **Article 16 Administrative inaction**

(1) Deviant from Art. 15, an action may be filed

1. if the decision on an application to issue an administrative act is not rendered within the deadline prescribed by law and if an administrative objection procedure is not foreseen by law or

2. if the decision on an objection is not rendered within the deadline prescribed by law.

(2) If the decision has not been rendered within the deadline for justified reasons, the court shall suspend the proceedings and set the administrative body a deadline within which the decision has to be rendered. The deadline may be prolonged, as long as justified reasons exist.

(3) If the administrative act applied for is rendered or if the objection is acceded to, the court has to conclude the proceedings and to decide on the costs by ruling. If the plaintiff is of the opinion that the administrative decision does not completely comply with his/her application or his/her objection he/she can file a motion within 30 days since the service of the ruling under sentence 1 to resume the proceedings. If the court comes to the conclusion that the application or the objection have been completely complied with, it dismisses the motion by judgment. Otherwise it has to annul the ruling under sentence 1 by a non-appealable ruling and continue with the proceedings.

(4) If the application to render an administrative act or the objection is rejected, the court has to decide on the merit provided that all other requirements for the admissibility of the action are met.

(5) If the information about the measures taken on the basis of a complaint (Art. 138 para. 2 LGAP) is not given within the deadline prescribed by law, para. 1 to 4 apply mutatis mutandis.

#### **Article 17 Deadlines for filing an action**

(1) An action for the repeal of an administrative act (Art. 12 No 1), an action against the refusal of an administrative act (Art. 12 No 2 first case) and an action on the declaration of the unlawfulness of a ceased administrative act (Art. 12 No 3) have to be filed within 30 days from the day of service of the decision on the objection or – if such a procedure is not foreseen by law – within 30 days from the day of service of the administrative act.

(2) An action for performance (Art. 12 No 4) and a declaratory action regarding the existence or non-existence of a legal relationship (Art. 12 No 5 first case) have to be filed within 30 days from the day of service of the decision on the complaint.

#### **Article 18 Procedural orders issued by administrative bodies**

(1) Procedural orders by an administrative body regardless if they were rendered in form of a conclusion or a decision may not be challenged separately, but can only be challenged with the admissible legal remedy against the decision on the merit.

(2) Para. 1 does not apply, if such orders may be enforced separately or if they are directed against non-parties.

## **Article 19 Action for the control of the constitutionality and the legality of general acts**

(1) Individuals, legal entities, other entities entitled to sue and administrative bodies may file an action for the control of the constitutionality and legality of general acts enacted by public authorities which are not comprised by the term “other regulations” in Art. 128 indent 2 of the Constitution of the Republic of Croatia.

(2) If the action is filed by an individual, a legal entity or another entity entitled to sue, the action is only admissible if the plaintiff claims that his/her rights or legal interests have been violated or will be violated in the near future.

(3) The action has to be filed within one year from the publication of the challenged general act.

(4) In suitable cases, the court may ask public authorities which are not a party to the proceedings to submit written statements. The court may also summon representatives of these public authorities to the public oral hearing.

(5) Art. 46 does not apply.

## **Part 5 General provisions on procedure**

### **Article 20 Capacity to be a party and procedural capacity**

(1) Capacity to be a party extends to

1. individuals,
2. legal entities,
3. groups of persons joined by a common interest (other entities entitled to sue) to the extent that they can be a party in administrative proceedings (Art. 4 LGAP),
4. administrative bodies.

(2) Procedural steps can be taken by

1. adult individuals with unlimited legal capacity or persons authorized to represent them
2. individuals with limited legal capacity if they are granted limited legal capacity in the administrative matter which is the subject of the proceedings on the basis of a separate law or provision or persons authorized to represent them,
3. persons authorized to represent legal entities or representatives appointed by them,

4. the heads of administrative bodies or representatives appointed by them or
5. representatives of other entities entitled to sue (para. 1 No 3).

### **Article 21 Parties**

Parties in administrative court proceedings are

1. the plaintiff,
2. the defendant and
3. any third individual, legal entity, other entity entitled to sue or administrative body who has been summoned to join the proceedings (third parties).

### **Article 22 Summons to join the proceedings**

(1) The court may summon ex officio or on a respective motion third individuals, legal entities, other entities entitled to sue or administrative bodies, who have rights or legal interests connected to the subject of the proceedings, to join these proceedings. The motion may be submitted by any party as well as by the third individual, legal entity, other entity entitled to sue or administrative body itself.

(2) The court must summon third individuals, legal entities, other entities entitled to sue or administrative bodies to join the proceedings, if the decision of the court would directly interfere with their rights or legal interests (mandatory summons).

(3) If an administrative measure necessitates the approval of another administrative body, the court must summon this body.

(4) If the court is of the opinion that the granting of a social benefit or a comparable right may fall into the jurisdiction of another administrative body than the defendant, the court must summon this body. If the court holds that the summoned body is competent and that the claim is founded, the court may order this body to grant the requested social benefit or comparable right.

(5) Summoned parties may submit both petitions on the merit and procedural motions. Petitions on the merit may not go beyond the petitions of the main parties (Art. 21 para. 1 No 1 and 2).

(6) The ruling on the summons has to be served on all parties. The court informs the summoned party about the reasons for the summons and about the state of the proceedings. A summons to join the proceedings is non-appealable.

### **Article 23 Actions against public authorities**

(1) Actions against public authorities have to be directed against the first instance administrative body that has taken or refused to take or omitted an administrative measure. In the case of Art. 13 No 3 the action has to be directed against the administrative body that has taken the decision on the objection.

(2) Actions for the control of the constitutionality and legality of general acts have to be directed against the public authority which rendered the challenged act.

(3) Administrative bodies are represented by civil servants working for the respective administrative body. Administrative bodies may authorize lawyers or civil servants working for other administrative bodies to represent them.

#### **Article 24 Service of documents**

(1) Decisions and court orders by which a deadline is actuated, the fixing of the date of a hearing and summonses are to be served. If one of these measures has been pronounced in court, service is only necessary if explicitly ordered by law.

(2) Art. 57 and 61 to 68 LGAP apply *mutatis mutandis*.

#### **Article 25 Deadlines**

(1) Deadlines are actuated on service or if service is not required on notification or pronouncement.

(2) If an administrative decision (administrative act, decision on an objection, decision on a complaint) or a court decision has not been duly served on a party, an action or a legal remedy against court decisions has to be filed within three months from the day, on which this party had or should have had knowledge of the decision. The same applies, if service is not required and the decision has neither duly been notified nor pronounced to a party.

(3) If an administrative decision (para. 2) or a court decision does not contain information on legal remedies or if this information is incomplete or wrong, an action or a legal remedy against court decisions has to be filed within three months upon service, notification or pronouncement of the decision. If the information states a longer deadline than provided by law, the longer deadline applies. If the information wrongly states that a legal remedy is not available, an action or a legal remedy against court decisions has to be filed within three months from the day on which the party had knowledge of the possibility to file an action or a legal remedy.

#### **Article 26 Reinstatement**

(1) For the reinstatement in case of failing to meet a deadline or to appear in a public oral hearing Art. 117 to 122a of the Civil Procedure Act (CPA) apply *mutatis mutandis*.

(2) A motion for reinstatement is only admissible within one year since the date of the hearing or the expiry of the deadline respectively.

#### **Article 27 Electronic communication**

(1) Parties may transmit electronic documents to the court. The court may transmit electronic documents to a party, if he/she consents with it. The consent can

be revoked any time. The Minister of Justice shall regulate the start of electronic communication as well as the technical specifications for the transmission of electronic documents by decree. By this decree, electronic communication may be restricted to certain courts, certain kinds of proceedings or certain kinds of documents.

(2) If under this law a document has to be handed in written form, this requirement is met by an electronic document that is provided with a qualified electronic signature according to the Law on Electronic Signatures.

(3) If under this law a document has to be signed by a judge or a court official, this requirement is met by an electronic document that contains at its end the first and last name of the competent judge or court official and is provided with a qualified electronic signature according to the Law on Electronic Signatures.

(4) An electronic document which is transmitted in the format defined by the decree under para. 1 is considered to be submitted to the court in the moment it has been recorded by the device dedicated to receive such documents. The court immediately has to issue a notification of receipt to the sender.

(5) If an electronic document cannot be read by the recipient, he/she immediately has to notify the sender. The notification sent by the court has to inform the sender about the technical specifications for the transmission of electronic documents.

(6) If an electronic document is transmitted to the court in another format than defined by the decree under para. 1, para. 5 applies *mutatis mutandis*.

## **Article 28 Service of electronic documents**

(1) In order to serve an electronic document to a party, the court has to inform the party that the document is available for retrieval on a server designated by the court. To retrieve the document the party has to identify himself/herself immediately before he/she retrieves the document. The Minister of Justice shall regulate the start of electronic service as well as the organizational and technical details, including encryption, by decree.

(2) The document is presumed to be served upon retrieval from the server. If the document is not retrieved within three days since the party has been informed under para. 1 sentence 1 the court has to inform the party again. If the document is not retrieved within three days since the second information, the court has to serve the document in paper form (Art. 24 para. 2).

## **Article 29 Electronic files**

(1) Court files and files submitted to the court may be kept electronically. The Minister of Justice shall regulate the start of electronic filing as well as the organizational and technical details regarding the keeping and the storage of electronic files by decree. By this decree, the keeping of electronic files can be



restricted to certain courts, certain kinds of proceedings or certain kinds of documents.

(2) Documents submitted to the court that do not correspond to the modality of file-keeping have to be transformed. If a paper document is transformed into an electronic document, the latter has to contain a memo when and by whom the transformation was done. If an electronic document is transformed into a paper document, the latter has to contain a memo which states

1. the result of the integrity check of the electronic document,
2. the first and last name of the person who owns the signature as reported by the signature check, and
3. the date and time the signature was attached as reported by the signature check.

(3) The original of a transformed document has to be kept with the court files at least until the moment the decision of the court has become final.

(4) Documents that were transformed according to para. 2 are to be used in court proceedings as long as no doubts regarding their correspondence with the handed in documents exist.

### **Article 30 Access to electronic files**

(1) The court has to provide the necessary technical means to read electronic files.

(2) Access to electronic files can be granted via the internet. To get access, the applicant has to identify himself/herself immediately before he/she is granted access. The Minister of Justice shall regulate the start of access to electronic files via the internet as well as the organizational and technical details, including encryption, by decree. Art. 42 applies mutatis mutandis.

## **Part 6 First instance proceedings**

### **Article 31 Filing of an action**

- (1) Administrative court proceedings are instituted by an action.
- (2) An action has to be filed with the competent court in writing or by fax.
- (3) If an action is sent by registered mail it is considered to be filed on the day it was submitted to the post office.
- (4) A case becomes pending on the day the action is filed with the court.
- (5) The deadline to file an action is presumed to be kept, if the action is not

filed with the competent court but within the deadline with another administrative court, a Croatian consulate or an administrative body that decided on the challenged administrative measure.

### **Article 32 Actions from abroad**

(1) A party who does not have his/her seat, legal residence or habitual residence in the Republic of Croatia, is obliged upon the filing of the action to authorize a person who has his/her seat or legal residence in the Republic of Croatia to receive mail from the court. This does not apply if the party has a representative who has his/her seat or legal residence in the Republic of Croatia.

(2) If a party fails to fulfill its obligation under para. 1, Art. 33 para. 3 and Art. 51 para. 2 apply *mutatis mutandis*.

### **Article 33 Content of the statement of claim**

(1) The statement of claim must include

1. the name and the address of the plaintiff,
2. the name and the address of the defendant, and
3. the aim of the action.

The statement of claim has to be signed.

(2) The statement of claim should include

1. an explanation of the claim and a specific petition,
2. the original or a copy of the challenged act or decision (first instance administrative act, decision on an objection or decision on a complaint),
3. one copy of the action and the enclosures for each of the other parties, except if the enclosures are already known to another party or if they are very voluminous.

(3) If the statement of claim does not meet the requirements under para. 1, the presiding judge or the reporting judge has to instruct the plaintiff about the insufficiencies and has to set him/her a deadline to complete the statement. The court also has to inform the plaintiff about the legal consequences if he/she fails to complete the statement of claim within the set deadline.

(4) If the plaintiff does not complete the statement of claim within the set deadline, the action is considered to be withdrawn.

#### **Article 34 Service of the statement of claim**

(1) If the court does not dismiss the action immediately as evidently inadmissible, the statement of claim including all enclosures has to be served to all other parties. If the enclosures are already known to the other party or if they are very voluminous, the exact specification of the enclosures together with the offer to grant access to court files is sufficient.

(2) The presiding judge or the reporting judge have to set a deadline to respond to the statement of claim that may not be shorter than eight days nor longer than 30 days. For the response, Art. 31 para. 2, Art. 33 para. 2 No 3 and para. 1 sentence 2 of this article apply *mutatis mutandis*.

#### **Article 35 Right to be heard**

(1) The court has to give the parties the opportunity to be heard before any decision.

(2) Court decisions may be based only on facts and evidence as to which the parties were given the opportunity to be heard.

#### **Article 36 Inquisitorial principle**

The court investigates the facts *ex officio*. The parties are obliged to assist on request. The court is bound neither by the parties' pleadings nor by their motions to take evidence.

#### **Article 37 Binding effect of the plaintiff's claim**

The court may not go beyond the plaintiff's claim, but is neither bound by the plaintiff's reasoning nor by the wording of his/her petition.

#### **Article 38 Duty to advise the parties**

The presiding judge or the reporting judge has to ensure that the ignorance of a party or any other person participating in the proceedings does not affect their rights. In particular it has to be ensured that formal defects are removed, incomprehensible petitions are explained, appropriate petitions are filed and that all relevant declarations are submitted.

#### **Article 39 Preparation of the oral hearing**

(1) In order to prepare the oral hearing, the presiding judge or the reporting judge has to take all measures that are necessary to enable the court to possibly decide the case based on one oral hearing. In particular the court may

1. summon the parties to a preliminary hearing to discuss factual and legal aspects of the case and to try to reach an amicable settlement; the personal appearance of parties (Art. 48) can be ordered,

2. request the parties to complement or explain their previous pleadings, submit documents, electronic documents or movable objects,

3. make inquiries,

4. order administrative bodies to perform complex calculations according to the specifications of the court; Art. 41 para. 2 applies mutatis mutandis.

The court has to inform the parties about every measure taken.

(2) If an expert opinion is necessary, the court should obtain such an opinion before the oral hearing.

(3) In order to speed up the proceedings, the court may authorize a member of the chamber or a judge from another court to take specific evidence in a preliminary hearing if this is suitable to simplify the proceedings and if it can be assumed that the court can evaluate the evidence properly without its direct perception in the oral hearing.

(4) Preliminary hearings are open to the parties.

#### **Article 40 Decisions by the reporting judge**

Until the beginning of the oral hearing, the reporting judge decides by ruling on the following issues:

1. withdrawal of the action, settlement and acknowledgement, including the decision on legal aid,

2. suspension of proceedings,

3. costs,

4. value of the matter in dispute.

#### **Article 41 Obligation to forward documents and files and to provide information**

(1) All public authorities are obliged to forward documents, files and electronic documents and to provide information requested by the court. The public authorities have to name those parts of a document, file or electronic document as well as information which in their opinion have to be kept secret and therefore should be excluded from access to files (Art. 42).

(2) If a public authority does not fulfill its obligations under para. 1 on a second request, the court may

1. summon the head of the public authority or his/her deputy to the court in order to demand an explanation why obligations under para. 1 are not met, or

2. by ruling impose a fine between 500,- and 10.000,- kuna on the public authority or its head, provided that it has issued a respective warning beforehand. Both the warning and the imposition of the fine may be repeated.

#### **Article 42 Access to files**

(1) Regarding access to court files and files submitted to the court and regarding the taking of copies from these files, Art. 150 CPA applies *mutatis mutandis*. Draft versions of court decisions and texts drafted during their preparation are not part of the court files.

(2) Access to court files does not extend to the minutes on deliberations and voting.

(3) Access to files has to be denied to the extent that documents, files, electronic documents or information contained in the files have to be kept secret because this is required by law or because of overriding public interest, overriding interests of one of the parties or overriding interests of third persons.

(4) Access to files is, as a rule, granted by the presiding judge. If an objection to granting full access to files is raised or if the presiding or the reporting judge are of the opinion that para. 3 applies, the chamber decides by ruling. A complaint against such a ruling has suspending effect.

(5) If a case has been transferred to a single judge (Art. 5 para. 2), access to files is granted by the single judge, who also takes decisions by ruling according to para. 4 sentence 2. A complaint against such a ruling has suspending effect.

#### **Article 43 Exclusion of late pleadings**

(1) The presiding judge or the reporting judge may set the plaintiff a deadline to state all facts which in his/her opinion should have been considered by the administrative body or which he/she thinks are incorrectly or insufficiently established.

(2) The presiding judge or the reporting judge may set a party a deadline

1. to answer specific questions concerning facts,

2. to specify means of evidence or

3. to submit documents, electronic documents or movable objects, unless the party has a right to refuse their submission.

Sentence 1 does not apply if the facts of the matter may be investigated with little effort without the cooperation of the party.

(3) The court may reject any statement or means of evidence submitted after the deadline set under para. 1 and 2 has expired and may decide the case without conducting further enquiries, if

1. their admission would delay the decision of the court, and
2. the party has not brought forward a reasonable excuse for the delay, and
3. the party has been instructed about the consequences of failing to observe the deadline set under para. 1 and 2.

#### **Article 44 Amendment of the action**

(1) Regarding amendments of the action Art. 190 to 192 CPA apply mutatis mutandis.

(2) The decision that an action was not amended or that such an amendment is admissible cannot be appealed separately.

#### **Article 45 Principle of public oral hearing**

(1) Unless otherwise stated in this law, the court decides on the basis of a public oral hearing. Art. 306 to 309 CPA apply mutatis mutandis.

(2) With the consent of all parties the court may issue a judgment without hearing.

(3) Rulings may be issued without hearing.

#### **Article 46 Judgment without public oral hearing without consent of the parties**

(1) Without the consent of the parties the court may decide by judgment without public oral hearing if the case does not display any particular complications of a factual or legal nature and if the facts of the case have been established. The parties have to be heard in advance.

(2) Within 30 days of service of a judgment under para 1, parties may choose whether to lodge the admissible legal remedy or to request a public oral hearing before the court which has issued the judgment under para. 1. If both a legal remedy is lodged and a hearing is requested, the court has to hold a hearing.

(3) If a hearing is requested within the deadline under para. 2 of this article, the judgment under para. 1 is presumed not to have been issued.

(4) The judgment issued on the basis of a hearing does not require further substantiation to the extent that the court follows its reasoning in the judgment under para. 1.

#### **Article 47 Summons to hearings**

(1) The presiding judge determines the date of the hearing and summons the parties to the hearing. The summons has to be served at least 15 days before the date of the hearing. In urgent cases the presiding judge may shorten this deadline.

(2) The summons has to state that the case may be heard and a decision may be taken even if the party fails to appear.

(3) The court may request an administrative body to send a civil servant to attend the oral hearing who is authorized to represent the body and who is familiar with the factual and legal aspects of the case.

#### **Article 48 Appearance in person**

(1) The court may order a party to appear in person. If the party does not appear without valid excuse or if he/she leaves the hearing without the court's permission, the court by ruling may impose a fine between 500,- and 10.000,- kuna, provided that it has issued a respective warning in the summons. Both the warning and the imposition of the fine may be repeated.

(2) If the party is a legal entity, another entity entitled to sue or an administrative body, the fine has to be threatened to and imposed on the person(s) entitled under law or statute to represent this entity or administrative body.

#### **Article 49 Procedure at hearings**

(1) The presiding judge opens the hearing, calls the case and presides the hearing.

(2) After the case has been called, the presiding judge establishes who is present and whether all summoned persons have appeared. The reporting judge then summarizes the content of the files. Subsequently parties have the right to speak in order to file and to substantiate their petitions.

(3) The court has to discuss the factual and legal aspects of the case with the parties. The presiding judge has to give the other members of the chamber and the parties the opportunity to ask questions. If an objection against a question is raised, the court decides on the admissibility of the question.

(4) After the discussion the presiding judge closes or adjourns the hearing. The court can decide to reopen the hearing.

(5) Minutes of the hearing have to be kept. Art. 123 to 128 CPA apply *mutatis mutandis*.

#### **Article 50 Taking of evidence**

(1) The court takes evidence during the public oral hearing. Art. 39 para. 2 and 3 remain unaffected.

(2) The parties have to be informed about all hearings for the taking of evidence and about the means and the subject of evidence. The parties have the right to attend and to put expedient questions to witnesses, experts and other parties. If an objection against a question is raised, the court decides on the admissibility of the question.

(3) The deadline under Art. 47 para. 1 sentence 2 does not apply to the summons of witnesses and experts.

(4) In addition to para. 1 to 3, Art. 219 to 276 CPA apply mutatis mutandis on the taking of evidence.

### **Article 51 Withdrawal of the action**

(1) The plaintiff may withdraw the action right up to the moment a court decision becomes final.

(2) If the plaintiff does not respond to a court order within a set deadline, the court may repeat its order. If the plaintiff does neither fulfil the order nor pursue the action in any other way within 60 days since the service of the repeated order, the action is presumed to have been withdrawn. In the repeated order the court has to inform the plaintiff about the legal consequences if he/she fails to fulfil the order and about his/her duty to bear the costs of the proceedings in this case (Art. 97 para. 1).

(3) If an action is withdrawn or presumed to be withdrawn, the court by ruling has to conclude the proceedings and decide on the costs. If the plaintiff is of the opinion that he/she has not withdrawn the action or that the requirements under para. 2 have not been fulfilled he/she can only file a motion within 30 days since the service of the ruling under sentence 1 to resume the proceedings.

(4) If the court deciding on a motion under para. 3 comes to the conclusion that the action has been withdrawn or that the requirements under para. 2 have been fulfilled, it dismisses the motion by judgment. Otherwise it has to annul the ruling under para. 3 sentence 1 by a non-appealable ruling and continue with the proceedings.

### **Article 52 Acknowledgement of the claim**

To the extent the defendant acknowledges the claim and the plaintiff accepts the acknowledgement the proceedings are concluded. Art. 51 para. 3 and 4 apply mutatis mutandis.

### **Article 53 Amendment of the administrative act**

(1) If the challenged administrative act is amended or substituted by another one in favour of the plaintiff while court proceedings are pending, the court has to request the plaintiff to state within 30 days whether he/she accepts the new administrative act or whether and with which aim he/she wants to continue the proceedings.



(2) If the plaintiff does not answer the request under para 1, Art. 51 para. 2 to 4 apply mutatis mutandis. If the plaintiff states that he/she does not want to continue the proceedings, the court by ruling will conclude the proceedings and decide about the costs. If the plaintiff states that he/she does not accept the new act or that he/she wants to continue the proceedings according to Art. 12 No 3, the court proceedings are continued. In the first case, the new act is automatically included in the pending proceedings.

(3) If the challenged administrative act is amended or substituted by another one to the detriment of the plaintiff while court proceedings are pending, the new act is automatically included in the pending proceedings.

(4) The parties are obliged to forward the new administrative act to the court.

#### **Article 54 Court settlement**

(1) The court is obliged to examine at any point of the proceedings, whether the dispute can be settled amicably. The court can make respective proposals.

(2) A settlement can only be concluded to the extent that the parties are able to dispose of the subject matter of the settlement. A settlement can comprise the whole claim or only a part of it.

(3) The settlement has to be recorded by a judge of the court. A settlement is also concluded, if the parties in writing accept a written proposal (Para. 1 sentence 2). Art. 51 para. 3 and 4 applies mutatis mutandis.

#### **Article 55 Mediation**

(1) The presiding judge or the reporting judge can propose to the parties to refer the case to an external or to a court mediator. If all parties agree, the court refers the case to the mediator and suspends the proceedings by ruling. The ruling is non-appealable. The proceedings have to be continued on demand of one of the parties.

(2) If the parties agree on a settlement, Art. 54 para. 3 apply mutatis mutandis.

(3) At each administrative court at least one judge should be trained as a mediator.

#### **Article 56 Suspension of proceedings**

(1) The court has to suspend the proceedings by ruling if plaintiff, defendant and parties summoned under Art. 22 para. 2 to 4 file a respective motion. The ruling is non appealable. The proceedings have to be continued on demand of one of the above mentioned parties.

(2) The court may suspend the proceedings by ruling

1. until a preliminary issue has been decided if proceedings regarding this issue are already pending before a court or an administrative body, or

2. until the Supreme Administrative Court has decided on an action to review the constitutionality and legality of a general act that has to be applied in the proceedings.

### **Article 57 Pilot proceedings**

(1) If the legality of the same administrative measure or the same legal question is subject of more than twenty first instance proceedings, the chamber by ruling may choose one or several of these proceedings as pilot proceedings and suspend the other proceedings. The ruling is non-appealable.

(2) After the judgments on the pilot proceedings have become final and after hearing the parties of the suspended proceedings the chamber may decide the suspended proceedings by judgment without public oral hearing without consent of the parties (Art. 46), if it is of the unanimous opinion that these proceedings do not differ significantly on matters of fact and law from the decided pilot proceedings and if the facts of each respective case have been established.

(3) The chamber may introduce evidence that has been established in pilot proceedings into proceedings under para. 2. The chamber may deny motions to take evidence relating to facts which were already established in pilot proceedings, if it is of the unanimous opinion that the taking of evidence would not lead to the establishment of new relevant facts.

## **Part 7 Decisions**

### **Article 58 Types of decisions**

(1) The court decides by judgment or ruling.

(2) The decision on an action is taken by judgment. This also applies if an action is inadmissible. All other decisions are taken by ruling.

### **Article 59 Basis of decisions**

The court decides according to its free conviction, based on the overall result of the court proceedings.

### **Article 60 Composition of the bench**

(1) If a decision is based on a public oral hearing, it has to be taken by the judges who attended the hearing.

(2) Art. 13 para. 1 to 3 CPA do not apply in administrative court proceedings.

## **Article 61 Deliberation and voting**

(1) Decisions are taken by a majority vote.

(2) Separate minutes of the deliberations and the voting are kept. These minutes are signed by all members of the chamber and the recording secretary.

(3) Apart from the judges that take the decision, only court advisors assigned to the chamber may be present at the deliberations and voting. The presiding judge may allow the presence of court trainees and other persons for training purposes.

## **Article 62 Issuing of decisions**

(1) Decisions based on a public oral hearing as a rule are pronounced at the session in which proceedings are closed. Decisions are pronounced in the name of the Republic of Croatia.

(2) As an exception the court may postpone the pronouncement of the decision for up to 15 days from the day of the closing of the hearing. The date for the pronouncement has to be announced immediately after the hearing has been closed.

(3) If all parties agree, the pronouncement of a decision may be replaced by its service upon all parties.

(4) Decisions based on a hearing have to be served to the parties within 30 days after the closing of the hearing. On a respective motion of a single judge or the presiding judge the president of the court may prolong the deadline by another 30 days.

(5) If a decision is not based on a hearing, its pronouncement is replaced by service upon all parties.

(6) Decisions are served upon the parties as authenticated copies.

## **Article 63 Content of decisions**

(1) Decisions contain an introductory part, the operative part of the decision, the statement of reasons and information on legal remedies.

(2) The introductory part of the decision contains

1. the clause that the decision is pronounced in the name of the Republic of Croatia,

2. the name of the court,

3. the first and last name of the single judge or the presiding judge and the additional judges and the recording secretary,

4. the first and last name or the name of the entity as well as the address of the parties and their legal representatives and agents,

5. a brief characterisation of the subject of the proceedings (key word) and

6. the date of the decision.

(3) The operative part of the decision contains the holding of the court.

(4) The statement of reasons contains a concise summary of the claim and the main legal arguments of the parties, the relevant facts, the relevant legal provisions and the legal reasoning of the court.

(5) The legal reasoning may be replaced by a reference to the reasoning of the challenged administrative act or the respective decision on an objection or complaint if the court follows this reasoning. The same applies, if the court follows the legal reasoning of another court decision on the same legal issue; the decision to which the court refers has to be attached.

(6) The information on legal remedies has to state the admissible legal remedy, the applicable time limit and the court, at which the remedy has to be filed. If no legal remedy is given, the information has to state that the decision is final.

(7) The original of the decision is signed by the presiding judge and the recording secretary.

#### **Article 64 Correction of obvious errors**

(1) The court may by ruling correct errors in names and numbers, spelling and calculation errors as well as other obvious errors at any time. The parties should be heard in advance.

(2) A reference to the ruling has to be made at the end of the original decision and on each authenticated copy of this decision. If a decision is stored in electronic form, the reference has to be stored as separate electronic document. Both electronic documents have to be linked permanently.

#### **Article 65 Complementations of decisions**

(1) If the court has not decided on all petitions filed by the parties, a party may within 15 days from the day of service of the incomplete decision file a motion to complement the decision. The decision on the complementation has to be taken in the same form (Art. 58) as the decision to be complemented. Art. 45 and 46 apply *mutatis mutandis*.

(2) If the court has not decided on the costs, a party may within 15 days from the day of service of the incomplete decision file a motion to complement the decision. The decision on the complementation is taken by ruling. Art. 94 applies *mutatis mutandis*.

(3) Art. 341 CPA applies mutatis mutandis.

**Article 66 Operative part of the judgment – action for the repeal of an administrative act**

(1) To the extent that an administrative act is unlawful and violates the rights or legal interests of the plaintiff, the court shall repeal the administrative act as well as a decision on an objection.

(2) If the administrative act has already been implemented, the court on a respective petition of the plaintiff shall order the administrative body how and to what extent to reverse the implementation, provided that this is possible and proportional.

(3) If due to the repeal of an administrative act the plaintiff has the right to demand a performance, the court on a respective petition of the plaintiff shall order the performance together with the decision to repeal the administrative act.

**Article 67 Operative part of the judgment – action for the issuance of an administrative act**

(1) To the extent that the plaintiff is entitled to demand the issuing of an administrative act, the court shall order the administrative body to issue the requested administrative act.

(2) If an administrative body is authorized to exercise discretion, and if the refusal or omission of an administrative act is unlawful and violates the plaintiff's rights or legal interests, the court shall order the administrative body to issue a new administrative act observing the court's decision.

**Article 68 Operative part of the judgment – action on the declaration of the unlawfulness of a ceased administrative act**

To the extent that an administrative act which has lost its legal consequences was unlawful and violated the rights or legal interests of the plaintiff, the court shall issue a respective declaration.

**Article 69 Operative part of the judgment – action for performance**

To the extent that the plaintiff is entitled to demand a measure, the toleration of a measure or the omission of a measure the court shall order the defendant to act respectively.

**Article 70 Operative part of the judgment – declaratory action**

To the extent that the plaintiff is entitled to a declaration of the existence or non-existence of a legal relationship or of the nullity of an administrative act or an administrative contract, the court issues a respective declaration.

## **Article 71 Operative part of the judgment – complementary provisions**

(1) If the right to a payment of money as such is disputed the court may restrict its decision to the decision whether the plaintiff is entitled to the benefit or the payment. After this judgment has become final the administrative body has to decide on the amount of the payment.

(2) If an action is aimed at the payment of money or the issuance of an administrative act that is aimed at the payment of money, the disputed amount, provided it is due for payment, bears interest beginning with the pendency of the claim. The interest rate amounts to five per cent above the discount rate of the Croatian National Bank per year.

(3) If the annulment of an administrative act constitutes an obligation for the payment of money, para. 2 applies mutatis mutandis

## **Article 72 Control of discretion**

To the extent that an administrative body is authorised to exercise discretion, the court has to examine whether an administrative measure or its refusal or omission is unlawful because the administrative body

1. failed to exercise its discretion,
2. exceeded the statutory limits of its discretion or
3. did not exercise its discretion in accordance with the spirit and the purpose of the authorisation.

The administrative body may amend the reasoning for its exercise of discretion during court proceedings.

## **Article 73 Violation of procedural rules in administrative proceedings**

The success of an action must not be based solely on a violation of procedural rules by the administrative body, if it is obvious, that the violation of the procedural rules has not influenced its decision on the merits.

## **Article 74 Operative part of the judgment – action for the control of the constitutionality and legality of general acts**

(1) To the extent that a general act violates the constitution or statutory law the court shall declare this act null and void. The judgment has to be published in the same way as the respective act.

(2) Unless otherwise regulated by law, judgments which are based on a general act that has been declared null and void under para. 1 and which have become final remain unaffected by this declaration. However, these judgments must not be enforced anymore.

(3) On a respective petition, the court may issue a temporary injunction if this is indispensable to avoid grave and irreparable consequences.

#### **Article 75 Res judicata effect**

(1) Judgments that have become final have binding effect upon the parties of the proceedings (Art. 21) and their legal successors.

(2) Judgments on an action for the control of the constitutionality and legality of general acts have erga omnes effect to the extent that the act is declared null and void.

#### **Article 76 Rulings**

(1) Rulings must contain a statement of reasons if they can be appealed or if they decide on a legal remedy. Rulings in provisional proceedings and rulings based on Art. 97 para 1 and 2 must always contain a statement of reasons.

(2) Rulings which decide on a legal remedy do not require further substantiation to the extent that the court follows the reasoning in the challenged ruling.

### **Part 8 Legal remedies**

#### **Article 77 Right to appeal**

(1) Judgments of administrative courts of first instance may be appealed, if

1. serious doubts regarding the lawfulness of the judgment exist,

2. the case is of general importance,

3. the challenged judgment deviates from a decision or a legal opinion of the Supreme Administrative Court or the Constitutional Court provided the judgment is based on this deviation, or

4. the challenged judgment may be based on a procedural deficiency.

(2) An appeal has to be lodged at the court of first instance which has rendered the challenged judgment within 30 days of the service of this judgment. Art. 31 para. 2 and 3 apply mutatis mutandis. The deadline to lodge the appeal is presumed to be kept if the appeal is lodged at the Supreme Administrative Court within the deadline.

(3) The appeal should contain the file number of the challenged judgment and should state the reasons for the appeal.

(4) If the appeal is inadmissible the Supreme Administrative Court takes a respective decision by ruling. Such a ruling should be rendered within six months.

(5) If the appeal is admissible, the Supreme Administrative Court decides by judgment.

### **Article 78 Complementary provisions**

(1) Unless otherwise provided for in this part, the provisions of the other parts of this law, except for Art. 46, apply *mutatis mutandis*.

(2) Within the limits of the appellant's claim the Supreme Administrative Court establishes facts, takes evidence, examines the lawfulness of the challenged measure and decides on the merits of the case in the same way as a court of first instance. New facts or evidence have to be considered according to Art. 80.

(3) The Supreme Administrative Court may refer the case back to the court of first instance if the latter court's decision is repealed and the case cannot be decided without an extensive establishment of facts. In this case, the court of first instance is bound by the legal opinion of the Supreme Administrative Court.

### **Article 79 Public oral hearing in appeal proceedings**

(1) The Supreme Administrative Court may as a rule decide on appeal proceedings without public oral hearing.

(2) A hearing has to be held,

1. if new facts or new means of evidence which are not rejected under Art. 80 are submitted or

2. if new legal issues arise

which may influence the outcome of the case. Art. 45 para. 2 remains unaffected.

### **Article 80 Exclusion of late pleadings in appeal proceedings**

(1) The Supreme Administrative Court has to reject new facts and evidence which were not submitted to the court of first instance within a set deadline (Art. 43 para. 1 and 2) if

1. their admission would delay the decision of the court, and

2. the party has not brought forward a reasonable excuse for the delay, and

3. the party has been instructed about the consequences of failing to observe the deadline set under Art. 43 para. 1 and 2.

Sentence 1 does not apply if the facts of the matter may be investigated with little effort without the cooperation of the party.



(2) The Supreme Administrative Court has to reject new facts and evidence which were rightly rejected by the court of first instance court.

### **Article 81 Complaint**

(1) Unless otherwise provided for by this law, rulings by administrative courts of first instance can be challenged by complaint.

(2) Rulings on the course of proceedings are non-appealable.

(3) A complaint has to be lodged at the court of first instance which has rendered the challenged ruling within 15 days of the service of this ruling. Art. 31 para. 2 and 3 apply mutatis mutandis. The deadline to lodge the complaint is presumed to be kept if the complaint is lodged at the Supreme Administrative Court within the deadline.

(4) The complaint should contain the file number of the challenged ruling and should state the reasons on which it is based.

(5) Rulings by a judge from another court (Art. 39 para. 3) are presumed to be taken by the administrative court which requested the help of this judge.

(6) The Supreme Administrative Court decides on the complaint by ruling.

### **Article 82 Suspending effect of complaints**

(1) On a respective petition the Supreme Administrative Court may order that a complaint has suspending effect.

(2) Complaints against fines or against the detention of a person have suspending effect.

(3) Para. 2 does not apply for rulings concerning the restoration of order during a hearing and rulings concerning enforcement matters.

## **Part 9 Reopening of proceedings**

### **Article 83 Reopening of proceedings**

(1) Proceedings concluded with a judgment or a ruling shall be reopened upon a motion by a party,

1. if a party finds out about new facts or gains the opportunity to use new evidence on the basis of which the dispute would have been resolved in his/her favour had these facts or evidence been presented or used in the former proceedings,

2. if the challenged decision was rendered as a result of a criminal offence by a judge or a court official or if this decision was gained by fraud and that act constitutes a criminal offence,

3. if the challenged decision was based on a judgment rendered in a criminal or civil matter and this judgment was later annulled by another final court decision,

4. if a document on which the challenged decision was based was false or falsely amended, or if a witness, expert witness or party gave false testimony at the hearing before the court provided that the challenged decision was based on this testimony,

5. if the party finds or obtains the opportunity to use a previous decision rendered in the same administrative dispute,

6. if a judge who had to be disqualified (Art. 71 para. 1 No 1 to 6 CPA) or who was disqualified by ruling took part in the rendering of the challenged decision,

7. if a person who did not have the status of a judge took part in the rendering of the challenged decision or

8. if in the former proceedings a party was not represented in accordance with the law unless the conduct of litigation or performance of certain measures in the former proceedings was subsequently approved by this party.

(2) A reopening of proceedings shall only be permitted if the party had not been able to present these facts during the former proceedings for no fault of his/her own.

#### **Article 84     Deadline for the filing of a motion for reopening**

(1) The motion to reopen the proceedings has to be filed within 30 days from the day when the party discovers the reason for the reopening. If the party discovers such a reason before the proceedings are concluded before the court, but he/she was not able to make use of this reason during the course of the proceedings, the motion has to be filed within 30 days of the service of the decision.

(2) A reopening of proceedings can no longer be requested after the expiration of five years from the day the decision became legally effective. Sentence 1 does not apply for motions based on Art. 83 para. 1 No 2 to 4.

#### **Article 85     Filing of a motion for reopening**

(1) The motion for a reopening of proceedings has to be filed at the court before which the proceedings were concluded.

(2) The motion must contain in particular

1. the judgment or ruling rendered in the proceedings for which a reopening is requested;

2. the statutory basis for a reopening (Art. 83 para. 1) and the evidence or circumstances which make the existence of this basis likely;

3. the circumstances from which it arises that the motion was filed in time and evidence to support this;

4. the direction and the scope of the requested amendments to the judgment or ruling rendered in the proceedings for which a reopening is requested.

#### **Article 86 Decision on the motion for reopening**

(1) The court shall dismiss the motion with a ruling if it establishes that it was filed by an unauthorised person or that it was not filed in time or that the party did not demonstrate the existence of a statutory basis for the reopening at least likely.

(2) If the court does not dismiss the motion according to para. 1, it is served upon the other parties who may reply to it within 30 days.

(3) After the expiration of the time limit (para. 2) the court shall rule on the motion by judgment.

(4) To the extent that the proceedings are reopened, the previous decision shall be repealed whether in part or in its entirety. The previous procedural actions which are not affected by the reasons for the reopening do not have to be repeated. The judgment allowing a reopening shall also decide on the merits.

#### **Article 87 Complementary provisions**

Unless otherwise provided for in this part, the provisions of the other parts of this law apply *mutatis mutandis*.

### **Part 10 Provisional proceedings**

#### **Article 88 Suspending effect**

(1) An objection and an action for the repeal of an administrative act suspend the legal effects of a disadvantageous administrative act until this act becomes final.

(2) An objection or an action do not have suspending effect

1. if an administrative body has revoked the suspending effect (Art. 115 para. 2 LGAP),

2. as far as the payment of public revenues (taxes, fees, custom duties, costs, social security contributions or other comparable financial obligations) is concerned,

3. if so provided by law.

## **Article 89 Restoration, ordering and declaration of the suspending effect**

(1) On a petition by the addressee of a disadvantageous administrative act the court may completely or partially

1. restore the suspending effect of an objection or an action against such an act if an administrative body revoked this effect (Art. 115 para. 2 LGAP),

2. order that an objection or an action against such an act shall have suspending effect, if this effect is excluded by law (Art. 88 para. 2 No 2 and 3),

3. declare that an objection or an action against such an act has suspending effect if an administrative body wrongly denies it.

(2) For its decision under para. 1 No 1 and 2 the court shall weigh the public and private interests in the immediate effectiveness of the challenged administrative act against the private interests in its suspension, taking into consideration the result of a summary examination of the legality of the challenged administrative act as well as the consequences of its implementation.

(3) If the court accedes to the petition, it may at the same time order a party to provide security or to meet any other condition. The court may also grant the suspending effect for a certain period of time.

(4) If the court accedes to the petition and the administrative act has already been implemented, the court on a respective petition of the plaintiff may order provisional measures how and to what extent to reverse the implementation, provided that this is possible and proportional.

## **Article 90 Administrative acts affecting third persons**

(1) If a third person files an objection or an action for the repeal of an administrative act against a beneficial administrative act, the court may

1. on a petition by the beneficiary revoke the suspending effect of an objection or an action, or

2. on a petition of a third person order or restore the suspending effect.

(2) If the addressee of a disadvantageous administrative act which is beneficial for a third person files an objection or an action for the repeal of this administrative act, the court may on a petition of the third person revoke the suspending effect of an objection or action.

(3) Art. 89 para. 2 to 4 apply mutatis mutandis.

## **Article 91      Temporary injunctions**

(1) In cases not falling under Art. 88 to 90 the court may on a respective petition, which may be filed even before an action is filed, issue a temporary injunction

1. if the court based on a summary examination comes to the result that the claim raised is likely to be justified, and

2. if an injunction is indispensable to avoid grave and irreparable consequences.

(2) Art. 89 para.3 applies mutatis mutandis.

## **Article 92      Complementary provisions**

(1) Jurisdiction for provisional proceedings lies with the first instance court (Art. 6 and 8 para 2). If an appeal is pending, the jurisdiction lies with the Supreme Administrative Court.

(2) The plaintiff has to substantiate the necessary facts at least by prima facie evidence.

(3) Provisional proceedings are decided by ruling. The presiding judge may decide alone if the decision has to be taken without delay and the other members of the chamber are not available.

(4) On a petition or ex officio the competent court may amend or revoke rulings on provisional proceedings if the factual or legal situation on which the ruling was based has changed or if facts are submitted that without fault of the party could not have been submitted in previous proceedings.

## **Part 11          Costs of proceedings**

### **Article 93      Decision on the apportionment of costs**

(1) Every judgment has to contain a decision on the apportionment of costs.

(2) If the proceedings end without such a decision the court decides on the costs by a non-appealable ruling.

### **Article 94      Legal remedy against decisions on the apportionment of costs**

The decision on the apportionment of costs can only be challenged together with the decision on the merits.

## **Article 95 Principles for the apportionment of costs**

(1) The losing party has to bear the costs.

(2) If an action is only partly successful the court can order that the costs are apportioned proportionally or that each party has to bear its own costs. In the latter case each party has to bear an equal share of the court fees.

(3) If a party only succeeds to a proportionally insignificant extent the court can order that all costs have to be borne by this party.

(4) Administrative bodies bear their own costs regardless of the outcome of the proceedings.

## **Article 96 Third parties**

(1) A third party has to bear costs only if it has filed a petition or a legal remedy. Art. 101 remains unaffected.

(2) The losing party has to bear the costs of a third party, if this is equitable.

## **Article 97 Withdrawal, acknowledgement and court settlement**

(1) The party that withdraws a petition, an action or a legal remedy has to bear the costs. The court can impose costs on another party if this is equitable. Sentence 2 does not apply if an action is presumed to have been withdrawn (Art. 33 para. 4 and 51 para. 2).

(2) If the proceedings end with an accepted acknowledgement (Art. 52), the defendant has to bear the costs. The court can impose costs on another party if this is equitable. Provided that the defendant has not given the plaintiff any cause for the filing of the action, the plaintiff has to bear the costs, if the defendant declares the acknowledgement immediately after the action has been filed.

(3) If the proceedings end with a court settlement (Art. 54) that does not contain a provision on the apportionment of costs, each party has to bear an equal share of the court fees as well as its own expenses.

## **Article 98 Administrative inaction**

If a justified reason for administrative inaction does not exist (Art. 16 para. 2), the defendant has to bear the costs regardless of the outcome of the proceedings.

## **Article 99 Reopening of proceedings and reinstatement**

(1) Regardless of the outcome of the proceedings, the costs of a successful motion to reopen proceedings may also be imposed on the party whose fault caused these proceedings or on the Republic of Croatia.

(2) Costs caused by a motion for reinstatement have to be borne by the applicant.

#### **Article 100 Failure to take evidence in administrative proceedings**

Regardless of the outcome of the proceedings, the court can impose costs for taking evidence on administrative bodies if they failed to conduct obviously necessary inquiries in administrative proceedings and the court took evidence to compensate this failure.

#### **Article 101 Costs based on fault**

Art. 156 Para. 1 and 2 CPA apply mutatis mutandis.

#### **Article 102 Violation of procedural rules in administrative proceedings**

If an action does not succeed solely because of Art. 73, the court may impose a part or all costs on the administrative body.

#### **Article 103 Distribution of costs between several parties**

If several parties who share the position as plaintiff, defendant or third party have to bear costs, Art. 161 CPA applies mutatis mutandis.

#### **Article 104 Reimbursable costs**

(1) The following costs are reimbursable:

1. court fees,
2. costs and fees for lawyers,
3. the costs for an administrative remedy procedure,
4. the costs for interpreters and translators mandated by the court and
5. all other costs which were necessary to conduct the proceedings.

(2) As far as a tariff for lawyers exists, only these costs and fees are reimbursable. If no such tariff exists only reasonable fees are reimbursable.

(3) Costs and fees for lawyers which incurred in an administrative remedy procedure are only reimbursable if the court declares that the representation was necessary. This is the case if it cannot be expected that the party is able to conduct the proceedings itself. Art. 93 applies mutatis mutandis.

## **Article 105 Determination of reimbursable costs**

(1) On request of a party or its representative a court advisor or a cost officer of the first instance court (Art. 6 and 8 para. 2) determines the amount of the reimbursable costs.

(2) The amount determined under para. 1 bears interest according to Art. 71 para. 2. The obligation to pay interest begins with the expiration of 60 days from the day the motion under para. 1 is filed.

## **Article 106 Complaint against rulings on the determination of reimbursable costs**

(1) The ruling on the determination of costs can be challenged by complaint within 15 days of its service.

(2) A special chamber of the first instance court (Art. 6 and 8 para. 2) decides on the complaint. This decision is non-appealable.

## **Part 12 Enforcement**

### **Article 107 General Provisions**

(1) Decisions of the administrative courts and other enforceable titles (Art. 108) shall be enforced according to the provisions of this part.

(2) The jurisdiction for enforcement lies with the first instance court (Art. 6 and 8 para 2).

(3) Enforcement proceedings are initiated upon a motion by the enforcement creditor. Decisions on enforcement matters are taken by ruling.

(4) The means of enforcement has to be chosen with respect to the principles of effectiveness and proportionality.

(5) In addition to the enforcement provisions of this law the provisions of the Enforcement Act apply *mutatis mutandis*.

### **Article 108 Enforceable titles**

Enforceable titles are:

1. final court decisions,
2. final rulings in provisional proceedings (Art. 89 para. 4, 91 para. 1),
3. acknowledgements (Art. 52),
4. court settlements (Art. 54),



5. final rulings on the determination of costs (Art. 105),
6. other titles if provided for by law.

### **Article 109 Enforcement against individuals, legal entities and other entities entitled to sue**

For the enforcement against individuals, legal entities and other entities entitled to sue the provisions of part 9 of the Law on General Administrative Procedure apply mutatis mutandis.

### **Article 110 Enforcement against administrative bodies**

(1) For the enforcement of non-monetary obligations against an administrative body the enforcement means under Art. 111 to 113 apply.

(2) For the enforcement of monetary obligations against an administrative body the enforcement means under Art. 111 and 113 apply. Beyond that, the administrative courts may charge the enforcement authorities of the civil judiciary with the enforcement. The administrative court may determine the means of enforcement. The enforcement authorities are bound by the orders of the administrative court and have to give enforcement against administrative bodies priority to other enforcement cases.

(3) Prior to issuing a writ of enforcement against an administrative body, the administrative court shall notify the head of the respective body of its intention to proceed with enforcement. The notification has to name the means of enforcement and set a deadline for voluntary compliance. This deadline must not exceed 30 days.

(4) The prior notification and the setting of a deadline are not required for the enforcement of a temporary injunction or in other urgent cases.

(5) Public property which is indispensable for the performance of public tasks or whose disposal would be in conflict with the public interest are exempt from enforcement of monetary obligations. On a respective complaint, the administrative court shall rule after hearing the competent supervisory authority or, in the case of supreme authorities, its head or his/her representative.

### **Article 111 Penalty fines**

If an administrative body fails to comply with an enforceable title the administrative court may impose and enforce a fine against the administrative body or its head between 2.000 and 100.000 kuna. The notification under Art. 110 para. 3 has to specify the body or the person against whom the fine will be imposed as well as the amount to be imposed. The notification, the imposition and the enforcement of the fine may be repeated.

## **Article 112 Issuance of administrative acts by the court**

If an administrative body fails to comply with an obligation to issue an administrative act in due time, the administrative court may in suitable cases issue the act itself.

## **Article 113 Commissioner**

(1) If it is probable, that measures under Art. 110 para. 2 sentence 2, 111 and 112 will not lead to the compliance with an enforceable title the administrative court may appoint a commissioner. The commissioner works under the supervision of the administrative court. He/she is authorized to take all measures necessary to comply with the title to be enforced. The head of the administrative body and all other public servants and employees working at the respective body have to follow the commissioner's orders.

(2) The commissioner is selected by the administrative court among high ranking public servants working for the supervisory authority of the body against which the enforcement is directed, among other high ranking public officials or among judges of the administrative court competent for the respective enforcement case. The appointment can only be refused because of health impairments or similar grave reasons.

(3) The ruling on the appointment of a commissioner has to be served to all parties of the court proceedings. It divests the representatives of the administrative body against whom the enforcement is directed of their competence in the respective case.

(4) The commissioner receives a financial compensation of 200 kuna per hour in addition to his/her regular salary.

(5) The costs for the commissioner as well as the costs for the measures taken by the commissioner have to be borne by the body against whom the enforcement is directed.

## **Part 13 Complementary provision**

### **Article 114 Reference to the Civil Procedure Act**

As far as this law does not contain specific procedural provisions, the provisions of the Civil Procedure Act apply *mutatis mutandis*, provided that this is not contrary to basic principles of administrative court procedure.

## **Part 14 Transitional and concluding provisions**

### **Article 115 Supreme Administrative Court of the Republic of Croatia**

(1) The Administrative Court of the Republic of Croatia shall become the Supreme Administrative Court of the Republic of Croatia once this law has entered into force.

(2) Judges who on the day this law enters into force are employed at the Administrative Court of the Republic of Croatia will automatically become judges of the Supreme Administrative Court of the Republic of Croatia.

(3) Senior court advisors and court advisors who on the day this law enters into force are employed at the Administrative Court of the Republic of Croatia will continue to work at the Supreme Administrative Court of the Republic of Croatia. If these advisors are transferred without their consent according to the Law on Civil Servants, they may be transferred only to the Administrative Court in Zagreb and will keep all acquired rights from the existing employment relationship.

(4) Civil servants who on the day this law enters into force are employed at the Administrative Court of the Republic of Croatia will continue to work at the Supreme Administrative Court of the Republic of Croatia. If these civil servants are transferred without their consent according to the Law on Civil Servants, they may be transferred only to the Administrative Court in Zagreb and will keep all acquired rights from the existing employment relationship.

(5) Employees who on the day this law enters into force are employed at the Administrative Court of the Republic of Croatia will continue to work at the Supreme Administrative Court of the Republic of Croatia. The provisions of the Labour Law remain unaffected.

### **Article 116 Establishment of administrative courts of first instance**

(1) The administrative courts of first instance in Osijek, Rijeka, Split and Zagreb have to be established until the day on which this law enters into force. For this purpose, the Ministry of Justice of the Republic of Croatia appoints a commissioner for every court to be established. The commissioners have to be appointed within three months of the publication of this law in Narodne Novine.

(2) The commissioners in cooperation with the Ministry of Justice of the Republic of Croatia have to take all organizational measures necessary to establish the administrative courts of first instance in time, including the requisition of court buildings.

(3) For the recruiting of new judges the general provisions for the appointment of judges apply. The recruiting of new court advisors and other personnel falls into the responsibility of the President of the Administrative Court of the Republic of Croatia who may delegate this responsibility to the Vice President or another judge of the Administrative Court of the Republic of Croatia.

## **Article 117 Delegation of judges to the Administrative Court of the Republic of Croatia**

For each administrative court of first instance five judges have to be appointed at the latest until six months after this law has been published in Narodne Novine. These judges are then temporarily delegated to the Administrative Court of the Administrative Court of the Republic of Croatia until this law enters into force.

## **Article 118 Proceedings on a request for the protection of constitutionally guaranteed human rights and fundamental liberties**

In proceedings on a request for the protection of constitutionally guaranteed human rights and fundamental liberties foreseen by a special law or the Constitutional Law on the Constitutional Court of the Republic of Croatia the provisions of this law also apply.

## **Article 119 Pending cases**

(1) Of the cases pending at the Administrative Court of the Republic of Croatia at the moment this law enters into force the 8000 cases filed most recently are transferred to the administrative courts of first instance except

1. provisional proceedings (Art. 88 to 92) and

2. cases which the Supreme Administrative Court of the Republic of Croatia decides as first instance court (Art. 8 para. 2).

For the distribution of the cases to be transferred Art. 7 applies. The transferred cases are decided according to this law.

(2) The cases not transferred under para. 1 remain at the Supreme Administrative Court and are decided according to the Law on Administrative Disputes (Narodne Novine ...). Art. 120 para. 2 remains unaffected.

## **Article 120 Entering into force**

(1) Art. 88 to 91, Art. 92 para. 2 to 4 and Art. 115 to 121 shall enter into force on the same day as the new Law on General Administrative Procedure.

(2) Art. 1 to 87, Art. 92 para.1 and Art. 93 to 114 shall enter into force 18 months after this law has been published in Narodne Novine.

## **Article 121 Expiration of the Law on Administrative Disputes**

The Law on Administrative Disputes (Narodne Novine ...) expires 18 months after this law has been published in Narodne Novine, except for the cases falling under Art. 119 para. 2.