An Empirical Study of Judicial Review of Regulatory Agencies’ decisions in Croatia

The decisions of Croatian regulatory agencies are final but may be subject to judicial review before the Administrative Court. Empirical study shows that the plaintiff has approximately a 13% chance of success in administrative proceedings that last for two years on average, with a basic cost totalling between 270 and 400€. These success rates suggest that regulatory agencies have evolved over the years into highly effective public authorities.

Data on all administrative disputes against twelve government agencies’ decisions between 1995 and 2011 are used to identify the main characteristics and trends relating to these disputes. Data for 2012 to 2013 was also examined to identify initial changes and emerging trends in the new administrative judiciary system resulting from changes in basic legislation in 2012.

The paper first presents an overview of the Agencification process and administrative judiciary development in Croatia and introduces the reader to the administrative dispute proceeding. Second, it presents the findings of the empirical study. The conclusion summarizes the empirical findings and points out the pros and cons of the previous and current administrative judiciary system from the perspective of the plaintiff and the defendant.

Key terms: administrative dispute, administrative judiciary, judicial review, regulatory agency, empirical study
1. Introduction

Regulatory agencies are rooted in the experience of the US in the late 19th and early 20th century. Regulatory agencies arose from the need for public control of providers’ of infrastructure services during the Second Industrial Revolution that arose from major technological innovations such as the telephone and electric power generation.\(^1\) Over time, this model was adopted widely throughout the world, and extended to social regulation, including public health and environmental protection. Despite the many criticisms that their status and authority have provoked,\(^2\) regulatory agencies have shown exceptional strength and staying-power, emerging as one of the most important elements in modern public administration.\(^3\)

In the European Union, regulatory agencies are very widespread, primarily playing a coordinating role. However, they have shown a tendency to increased authority and operational power at the EU level.\(^4\) In Croatia, regulatory agencies began to be established in the 1990s as part of the EU integration process (see Table 1).\(^5\)

The actions of the regulatory agencies are subject to legal, financial and political control processes. These include: submission of annual reports and other documents to the Croatian Sabor (Parliament), judicial review of the legality of the administrative acts and

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\(^2\) Which are outside the scope of this paper. See e.g. Smerdel, B. (2006) "Regulatory Agencies" Informator, 5432, p. 1-3; Smerdel, B. (2012) "Independent regulators and the rule of law - Croatian practice in the context of the American experience", Proceedings of the 50th anniversary meeting of lawyers, p. 35-57.


\(^5\) For more detailed analysis of the Agencification process in Croatia, see: Musa, A. (2014) "Croatian Agencies in the context of Europeanization” in Europeanization and the agency model of public administration, Faculty of Law, Zagreb, p. 384-612 (forthcoming).
activities of public authorities, Government audits and other forms of inspection, and transparent access to information.⁶

Judicial review of administrative acts adopted by public authorities is considered to be one of the basic principles of freedom and human rights. It is guaranteed by the Constitution of the Republic of Croatia (RoC): „Specific acts by administrative bodies and by bodies with public authority must be based on law. Judicial review of specific acts of administrative bodies and of bodies with public authority is guaranteed.“⁷ Judicial review takes place within the framework of the Administrative Court system. This system underwent a fundamental reform as part of Croatia’s process of accession to the European Union, after several decades of functioning under Communist-era legislation. On January 1, 2012, a new Administrative Disputes Act (ADA) came into force, introducing a two tier administrative judiciary model.⁸

This paper provides empirical analysis of judicial review of regulatory agencies’ administrative acts (henceforth: decisions). The paper mainly analyzes a 17-year period in the functioning of the Administrative Court of the RoC (ACRC)⁹ under the older legal framework, covering the years 1995 to 2011. To the extent permitted by the limited data available, the paper also examines evidence from 2012 and 2013, in an effort to identify possible new trends emerging after the legal framework changed. The distribution of disputes and their results will be analysed by agency, along with characteristics of the plaintiffs and defendants, the length of disputes, the outcomes of Administrative Court rulings, the share of various decision outcomes by plaintiff and defendant types, the use of exceptional legal remedies and appeals to the Constitutional Court, and the costs of administrative court cases.

The aims of the paper are: first, to provide an overview of Administrative Court reviews of regulatory decisions; second, to identify problem areas and to compare these with problem areas identified by authors studying the broader area of Administrative Court decisions in general; and third, to discuss how well the system works from the perspectives of both the plaintiffs and the regulatory agencies.

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⁶ More on this topic: Pusic, Peters, Bovens and others in Musa, op. cit., str. 214.-220.
⁸ Official Gazette (OG) 20/10, 143/12 – new Administrative Disputes Act (henceforth: new ADA).
⁹ The Administrative Court of the RoC (ACRC) was established in 1977 and with administrative judiciary reform was transformed into the High Administrative Court of the RoC (HADRC). For the purpose of this paper ACRC refers to the Administrative Court of the RoC in the period from 1995 to 2011.
As an introduction, the authors provide a brief comment on the process of “Agencification” and public control of the regulatory agencies. In this connection, they provide a short historical overview of the administrative judiciary system, as well as a detailed explication of the legal process governing the submission and resolution of complaints against regulatory decisions under the old legal framework. This is followed by an empirical analysis of administrative disputes against the decisions of the regulatory agencies (ADADRAs) from 1995 to 2011, and a brief consideration of empirical evidence from 2012 to 2013. Based on the empirical evidence from these two periods, differences are identified and conclusions are drawn.

2. Administrative judiciary in Croatia

2.1. A short historical overview of the administrative judiciary in Croatia

The tradition of administrative court supervision of the legality of administrative acts dates back to the time of the Austro-Hungarian Empire in the last quarter of the 19th century. Legislation has undergone numerous changes during the politically turbulent 20th century. Medvedovic emphasises broad negative enumeration as a constant of past systems, i.e. the number of acts against which administrative disputes may not be initiated. The last administrative judiciary system, before the major reform, started in 1952 and was ongoing for the next sixty years. Among the important changes within this period, Medvedovic points out the 1965 tentative protection of the fundamental human rights and freedoms and further narrowing of negative enumeration in 1977. The Croatian Administrative Court was established in Zagreb in 1977 changing from the Anglo-American to the French system of

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13 Ibid.
judicial control of public administration with specialised courts. With the declaration of independence of the Republic of Croatia, the legislative framework was taken from the former system with formal adjustments and certain substantial modifications. During the European integration process, Croatia implemented a comprehensive reform of the Croatian legal system and introduced a new, two tier administrative judiciary model. The new Administrative Disputes Act (ADA) was adopted by the Croatian Parliament on January 29, 2010 and entered into force on January 1, 2012 with newly opened first instance administrative courts in Zagreb, Split, Rijeka and Osijek, which were established for the territory of one or more counties. The previous Administrative Court of the Republic of Croatia (ACRC) continued to work as the High Administrative Court of the Republic of Croatia (HACRC), i.e. second instance court of appeal.

2.2. Judicial review of regulatory agencies’ decisions until January 1, 2012

Until January 1, 2012 the jurisdiction of the ACRC was regulated by the Courts’ Act, The Administrative Dispute Act and by other laws. It had the jurisdiction to review the legality of public administration acts issued upon rights and obligations in administrative matters. Therefore, considering the narrow segment of regulatory agencies, the ACRC was reviewing the legality of individual acts (decisions) enacted in proceedings conducted before agencies. Hereinafter, in order to give an introduction into the empiric analysis a short overview of the course of the administrative disputes which were instituted against decisions of regulatory agencies is presented, as prescribed by regulations in effect at that time (see Scheme 1 and Annex 1).

16 Official Gazette (OG) 20/10, 143/12 - new Administrative Disputes Act (further on: new ADA).
17 OG 122/10 – consolidated version, 27/11, 130/11, see also the former Courts Act – OG 3/94, 100/96, 131/97, 129/00, 101/03, 17/04 and 141/04.
18 Valid until December 31, 2011; OG 53/91, 9/92, 77/92. (hereinafter: the old ADA).
19 Art. 1 of the old ADA.
20 If the Court established that a decision had been illegal, it could have remitted a case for a retrial or it could have reached its own decision.
After proceedings have been finished, a regulatory agency enacts a decision (ruling or conclusion). As a general rule, the final decision may not be appealed, but an administrative

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21 The exemption from the general rule is a possibility to lodge an appeal to the competent ministry (against decisions of the Croatian Agency for Science and Higher Education – Art. 6 of the Act on the Recognition of the
dispute before the ACRC may be initiated. The time limit for lodging a complaint is thirty days from the day of service of the decision. Only if the Court did not declare the complaint inadmissible immediately, nor did it quash the act attacked, the copy of the complaint along with the attachments would be submitted to the defendant (agency) and to interested parties (if any). From the moment of submitting the complaint until the service of the Court’s decision, proceedings may be terminated if the plaintiff waives his complaint and if conditions for termination have been met. A reply should be given in a time limit set out by the Court in each particular case (it may not be shorter than 8 nor longer than 30 days). In a given time limit regulatory agencies must submit documentation relevant for the case to the Court. If agencies even after the second invitation fail to submit case files or if they declare that they are unable to submit them, the Court may solve the case even without a case file.

A case file thus completed (a complaint, a reply, case files) is assigned to a Judge Rapporteur who, in an in camera session of a Chamber (composed of three judges: president of the chamber, the Judge Rapporteur and the member), reports facts and merits of the dispute. After deliberation the Court, acting by majority, renders a judgment, or ruling. The minutes of deliberation and voting are taken and signed by all members of a chamber and by a clerk. After that a decision is made and a certified copy is dispatched to parties along with the confirmation of receipt (case files submitted by agencies with their reply are returned to them along with a decision). An order to pay a court fee is attached to the decision. A court fee is due in administrative dispute proceedings only if a complaint has been declared

Foreign Educational Qualifications – OG 158/03,198/03,138/06,45/11 and against decisions of the Croatian Agency for the Quality and Accreditation in Health Care and Social Welfare and Art. 18 of the Act on the Quality of Health Care - OG 107/07).

22 A complaint, as a rule, shall not prevent the execution of the administrative act against which it is lodged, Art. 17(1) of the old ADA.
23 Ibid., Art 24.
24 Ibid., Art. 29(2) and 30.
25 Ibid., Art. 31.
26 Ibid. Art. 28.
27 Ibid., Art. 32.
28 Art. 33. of the old ADA.
29 Ibid.
30 Although the act provided for the possibility of having an oral (public) hearing, in disputes related to regulatory agencies’ decisions no hearings were being held while the old ADA was in force. The act prescribed how an oral hearing was to be held (Art. 34- 43 of the old ADA).
31 Request for the renewal of proceedings is to be held by a Chamber composed of five judges (a President, a Judge Rapporteur and three members). Art. 54. of the old ADA.
32 Art. 44 of the old ADA.
inadmissible or rejected. It must be paid within eight days from the day of service of a court order.  

A decision of the ACRC may not be appealed, but it is possible to lodge an extraordinary legal remedy. Firstly, a competent state attorney may, within three months from the day of the service of a decision to parties, lodge a request for the protection of legality before the Supreme Court of RoC who will decide a case in a Chamber of five judges. Secondly, proceedings finalised by a decision of the ACRC may be renewed upon the request of the party in proceedings (a plaintiff, a defendant, an interested party). A request for the renewal of proceedings may be lodged within 30 days from the day when the party became aware of the reason for renewal. After a decision has been final for 5 years, a request for the renewal of proceedings may be lodged only in exceptional circumstances. Thirdly, a plaintiff may, within 30 days from the day of service of the decision, lodge a constitutional complaint before the Constitutional Court of RoC against a decision of the Administrative Court of RoC, if he/she deems that his or her human rights and fundamental freedoms granted by the Constitution of RoC have been violated.

3. **Empirical study of administrative disputes initiated against the decisions of regulatory agencies in the period from 1995 to 2011**

3.1. **Methodology**

Academician Jaksa Barbic, when opening a scientific conference dedicated to the reform of the administrative judiciary and administrative procedures, expressed concern about the lack of assessment and analysis of the situation in that area: "Such complete analyses are still lacking, so we do not know the exact number of initiated administrative procedures and..."
areas of public administration in which they are initiated, the number and types of decisions reached, as well as the share and type of lodged legal remedies and finally, the success rate. The only reliable data is that the plaintiffs succeed in 44% of initiated administrative disputes."³⁸

This paper deals with the empirical analysis of a narrow segment of administrative judiciary, i.e. the processing and analysis of the available quantitative data on initiated administrative disputes against decisions of regulatory agencies in a seventeen-year period from 1995 to 2011.³⁹ They account for only 0.36% of the total running of administrative disputes in the specified period. The aim of this paper is, firstly, to review the status and trend estimates of administrative proceedings relating to decisions of regulatory agencies, and to the extent practicable, to identify problem areas and compare them with existing estimates by other authors, which are mainly related to a broader area - overall administrative judiciary.

The analysed sample includes administrative disputes initiated against decisions of 12 regulatory agencies, according to the classification made by Musa⁴⁰: 1) Croatian Post and Electronic Communications Agency (CPECA), 2) Croatian Financial Services Supervisory Agency (CFSSA), 3) Croatian Competition Agency (CCA), 4) Croatian National Bank (CNB), 5) Croatian Agency for Electronic Media (CAEM), 6) Croatian Energy Regulatory Agency (CERA), 7) Croatian Civil Aviation Agency (CCAA), 8) Croatian Agency for Medicinal Products and Medical Devices (CAMPMD), 9) Croatian Agency for Science and Higher Education (CASHE), 10) Croatian Rail Market Regulatory Agency (CRMRA), 11) Croatian Railway Safety Agency (CRSA) and 12) Croatian Agency for Quality and

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³⁹ The analysed period from 1995 to 2011 was chosen for several reasons. Firstly, the computerisation of the ACRC was introduced in 1995 enabling data search of ADADRAs by a number of variables. Secondly, most of the ‘older’ generation agencies were established around 1995, so with the exception of a few cases related to decisions of the CNB, ADADRAs started from 1995 and onwards. Thirdly, authors analysed the disputes initiated until December 31, 2011 because after that date a whole new system of administrative judiciary was installed. For the time-being, data on ADADRAs will be fragmented at 4 first instance courts and the HACRC and consolidation of data will have to be conducted in the future.

⁴⁰ Beside 11 Croatian regulatory agencies introduced by Musa, for the purpose of this paper authors attached the twelfth - Croatian National Bank, in order to complete the analysis of administrative disputes with understanding of the whole financial sector, i.e. the banking (CNB) and the non-banking sector/regulator (CFSSA). For an overview of independent regulatory agencies in Croatia, see: Musa A. „Good Governance in Croatian regulatory agencies: towards a legal framework“, in Kopric, I., Musa, A. i Djulabic, V. (eds.) (2013) „Agency in Croatia“, Institute for Public Administration, Zagreb, p. 103-154; About the CNB as a separate agency form, see: Musa, A. (2014) "Croatian Agencies in the context of Europeanization“ in “Europeanization and the agency model of public administration”, Faculty of Law, Zagreb, p. 492-496 (forthcoming) and Petrovic, S. (2008) "The concept and role of independent regulators,” 3 Law in Economy, p. 465-466.
Accreditation in Health Care and Social Welfare (CAQAHCSW), along with their predecessors (see Appendix 1). The sample consists of 902 initiated administrative disputes in the seventeen year period from 1995 to 2011 (see Table 1).

Obtained data from the HACRC allowed, with the examination and processing of data, an analysis of: 1) the structure of administrative disputes against the decisions of regulatory agencies (according to the agencies, as a share of total administrative disputes and associated trends), 2) the structure of the plaintiffs and defendants, 3) duration of administrative disputes, 4) the structure of decisions of the ACRC and the structure of judgments according to the parties to the proceedings, and 5) the structure of initiated extraordinary legal remedies and constitutional complaints against decisions of the ADRC. In addition, the authors have produced an estimate for the cost of launching an administrative dispute against the decisions of regulatory agencies.

Available and generally fragmented data on ADADRA for the two-year period from 2012 to 2013 from first instance courts and the HACRC were analysed in order to identify initial changes and emerging trends.

For the purpose of exploratory data analyses authors used descriptive statistics and linear and exponential trend model for the trend movement of: ADADRA before ACRC, the average duration of administrative disputes against decisions of CPECA, judgments share in favour of certain regulatory agencies and trend estimates of administrative disputes of the HACRC in the future.

41 From 12 agencies, three (CRMRA, CAQAHCWS i CRSA) have no initiated administrative disputes against their decisions. CRMRA had one lawsuit brought at the ACRC, but since it was a civil dispute, it was not included in the sample.
42 The total number of initiated ADADRA amounts to 905, but the sample was reduced by three cases. These cases are at the ACRC classified as “merged / connected”, which means that a single plaintiff tried to initiate the same lawsuit in different ways (e.g. by himself, by a lawyer). Furthermore, there is another classification “merged / co-solved”, where there are multi-plaintiff lawsuits concerning one issue and having the same kind of procedure, so the cases are temporarily connected for joint deliberation, and after hearing, decisions are made separately for each case. In the analysed sample of 902 cases, 65 or 7.2% were resolved in this way, most commonly in CFSSA and CCA cases, with an increasing trend from 2007 onwards. Such statistics point to the operational efficiency of the ACRC and increased effectiveness in the work of judges and court advisors, because cases are integrated from the start, which allows a shorter duration of the dispute and reduces costs.
43 The estimated cost is approximate and represents an orientation framework for further research that is beyond the scope of this paper.
3.2. Empirical study of administrative disputes initiated against the decisions of regulatory agencies in the period from 1995 to 2011

3.2.1. The structure of ADADRA's

The observed seventeen year period from 1995 to 2011 saw a total of 902 ADADRA's. Since the beginning of the analysed period there was a trend of increasing regulatory agencies in Croatia, as well as increasing the number of initiated administrative disputes against their decisions.

Table 1 The structure of initiated ADADRA's, grouped by agencies, 1995–2011

<table>
<thead>
<tr>
<th>No.</th>
<th>Year</th>
<th>CPECA</th>
<th>CFSSA</th>
<th>CCA</th>
<th>CNB</th>
<th>CAEM</th>
<th>CERA</th>
<th>CCAA</th>
<th>CAMPMD</th>
<th>CASHE</th>
<th>Total RA No.</th>
<th>In total</th>
<th>All AD</th>
<th>ADADRA's share in AD</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1995</td>
<td>1</td>
<td></td>
<td>6</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>5</td>
<td>7</td>
<td>10024</td>
<td>0,07%</td>
</tr>
<tr>
<td>2</td>
<td>1996</td>
<td>4</td>
<td></td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>5</td>
<td>6</td>
<td>9723</td>
<td>0,06%</td>
</tr>
<tr>
<td>3</td>
<td>1997</td>
<td>3</td>
<td>5</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>5</td>
<td>11</td>
<td>12636</td>
<td>0,09%</td>
</tr>
<tr>
<td>4</td>
<td>1998</td>
<td>5</td>
<td>1</td>
<td>16</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>5</td>
<td>24</td>
<td>29649</td>
<td>0,08%</td>
</tr>
<tr>
<td>5</td>
<td>1999</td>
<td>3</td>
<td>7</td>
<td>6</td>
<td>11</td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td>6</td>
<td>27</td>
<td>20602</td>
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</tr>
<tr>
<td>6</td>
<td>2000</td>
<td>2</td>
<td>2</td>
<td>12</td>
<td>12</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>6</td>
<td>31</td>
<td>12277</td>
<td>0,25%</td>
</tr>
<tr>
<td>7</td>
<td>2001</td>
<td></td>
<td>8</td>
<td>5</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td>7</td>
<td>13</td>
<td>13915</td>
<td>0,09%</td>
</tr>
<tr>
<td>8</td>
<td>2002</td>
<td>5</td>
<td>10</td>
<td>3</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>7</td>
<td>19</td>
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<td>9</td>
<td>2003</td>
<td>9</td>
<td>13</td>
<td>9</td>
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<td></td>
<td></td>
<td>7</td>
<td>40</td>
<td>12648</td>
<td>0,32%</td>
</tr>
<tr>
<td>10</td>
<td>2004</td>
<td>4</td>
<td>10</td>
<td>2</td>
<td>1</td>
<td>4</td>
<td></td>
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<td>8</td>
<td>22</td>
<td>11387</td>
</tr>
<tr>
<td>11</td>
<td>2005</td>
<td>6</td>
<td>23</td>
<td>7</td>
<td>1</td>
<td>10</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>8</td>
<td>47</td>
<td>13404</td>
<td>0,35%</td>
</tr>
<tr>
<td>12</td>
<td>2006</td>
<td>8</td>
<td>18</td>
<td>26</td>
<td>6</td>
<td>4</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td>1</td>
<td>84</td>
<td>15250</td>
</tr>
<tr>
<td>13</td>
<td>2007</td>
<td>25</td>
<td>47</td>
<td>15</td>
<td>4</td>
<td>2</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td>11</td>
<td>95</td>
<td>14409</td>
<td>0,66%</td>
</tr>
<tr>
<td>14</td>
<td>2008</td>
<td>33</td>
<td>13</td>
<td>4</td>
<td>6</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td>12</td>
<td>57</td>
<td>14986</td>
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<td>15</td>
<td>2009</td>
<td>63</td>
<td>17</td>
<td>26</td>
<td>6</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td>12</td>
<td>114</td>
<td>17111</td>
<td>0,67%</td>
</tr>
<tr>
<td>16</td>
<td>2010</td>
<td>129</td>
<td>24</td>
<td>24</td>
<td>1</td>
<td>8</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td>12</td>
<td>189</td>
<td>16306</td>
<td>1,16%</td>
</tr>
<tr>
<td>17</td>
<td>2011</td>
<td>64</td>
<td>28</td>
<td>23</td>
<td>6</td>
<td>6</td>
<td>1</td>
<td>7</td>
<td>1</td>
<td>12</td>
<td>12</td>
<td>136</td>
<td>15133</td>
<td>0,90%</td>
</tr>
<tr>
<td>Total:</td>
<td>361</td>
<td>206</td>
<td>193</td>
<td>72</td>
<td>49</td>
<td>9</td>
<td>7</td>
<td>4</td>
<td>1</td>
<td>12</td>
<td>902</td>
<td>250940</td>
<td>0,36%</td>
<td></td>
</tr>
</tbody>
</table>

Source: The authors, according to the data of the HACRC.
Note: The table does not include the remaining three regulatory agencies: CRMRA, CAQAHCS i CRSA, established between 2007 and 2008 because there are no initiated administrative disputes against their decisions. The total number of regulatory agencies (Total RA No.) refers to the total number of specified regulatory agencies and their predecessors by year of establishment (see also Appendix 1). ADADRA = administrative disputes initiated against decisions of regulatory agencies.
This trend is the result of the process of European integration and Agencification, i.e. increasing amount of acts and depth of market regulation. In 1995 there were 7 initiated ADADRAs, and in recent years that number has grown to over a hundred administrative disputes initiated against the decisions of nine regulatory agencies. From 1995 to 2011 the number of initiated ADADRAs grew at an annual average of about 20%, i.e. over 8 disputes per year.\footnote{Specifically for 20.44\%. 85.6\% variation of the number of ADADRA is explained by the exponential model. The model is statistically significant at a significance level of 0.05 and 0.01, because p <0.001. The equation model is $y = 7.583 e^{0.186x}$. X = 0 in 1995. Unit x = one year. Unit y = one ADADRA.}

Chart 1 shows a striking increase in the number of administrative disputes during 1998 and 1999. In that short period, ACRC received 25,685 administrative disputes relating to pensions (PAD) which were treated during the coming years and contributed to a further backlog of cases.\footnote{Specifically for 8.67 cases. 71.3\% of the variation of the number of ADADRAs is explained by the linear model. The model is statistically significant at a significance level of 0.05 and 0.01, because p <0.001. The equation model is $y = 8.671 x - 16.31$. Unit x = one year. Unit y = one ADADRA.} Approximately 75\% of initiated PADs were declared inadmissible and 22\% were granted.\footnote{PADs were initiated after the Constitutional Court’s decision No. UI-283/97 of May 12, 1998. These cases were initiated against the silence of the administration (Croatian Institute for Pension Insurance - CIPI) for pension adjustment regarding the Constitutional Court decision. 19,153 cases were resolved in such a way that lawsuits were declared inadmissible for failure to comply with assumptions for silence, 5,746 cases were granted, 17 were dismissed, while 769 cases were resolved in other way: merged, connected, transferred, terminated or abruption. Source: HACRC.}

Furthermore, as is evident in Chart 1, the share of ADADRAs is negligible compared with the total number of initiated administrative disputes with an average of only 0.36\% in the period from 1995 to 2011, i.e. only every three hundredth administrative dispute is related to decisions of regulatory agencies.\footnote{In addition to ADADRAs, the ACRC resolves cases from a number of areas: pension and health insurance, Croatian veterans’ and their families’ legal issues, social protection, asylum and aliens, general administration, financial and labour rights, ownership restructuring rights, privatisation, public procurement, property, residential, architectural and municipal law, intellectual property rights and access to information.} However, during the study period, there was a trend increase in the share of ADADRAs in the total number of administrative disputes, an annual average of 0.06\%.\footnote{75.1\% variation of the number of ADADRAs from 1995 to 2011 is explained by the linear model. The model is statistically significant at a significance level of 0.05 and 0.01, because p <0.001. The equation model is $y = 5.500 x - 8.793$. X = 0 in 1995. Unit x = one year. Unit y = 1/100% of ADADRA in the total number of administrative disputes.}
The above statistics points to the possibility of problems concerning specialisation of courts. ADADRAs are addresses at the ACRD within two divisions: 1) Financial and labour law department (which solves cases in the following areas: financial and labour law, ownership restructuring rights, privatisation, public procurement, competition policy and general administration),and 2) Proprietary-legal department (which solves cases in the following areas: property, residential, architectural, municipal, and intellectual property rights, access to information and general administration). It is clear that some departments solve a large number of items from somewhat similar, but still very broad and demanding areas. It is unrealistic to expect a narrow specialization in all these areas because it is simply impossible, and it is therefore logical that specialization occurs in those areas and issues that are the subject of an administrative dispute more frequently than others. Here we encounter a potential problem. ADADRAs are much rarer than others, but at the same time extremely challenging because some of them are highly regulated and technologically highly sophisticated areas that are often comprehensible only to a narrow circle of experts who are dealing with them on a daily operational basis (e.g. telecom, capital markets). Given that there

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50 These two departments were merged into one department in mid-May of 2014, HACRC, http://www.upravnisudrh.hr/frames.php?right=about.html
is a significant problem of information asymmetry in this area, the question arises how deeply one can go when solving challenging disputes relating to decisions of certain regulatory agencies.

In the course of the reform of administrative judiciary, experts from regulatory agencies (in this case CPECA) proposed the direct jurisdiction of the HACRC when it comes to decisions made by CPECA. They argued that, according to the case-law of the European Court of Human Rights and the European Court of Justice and examples of case-law of EU Member States (e.g. Hungary, France, UK), regulatory agencies should be seen as first instance administrative courts, i.e. to exclude the possibility of a dispute of full jurisdiction at first instance administrative courts. They generally emphasised the need to resolve the dispute within a reasonable time, but also expressed concern about the pace of development of specialization and uniformity of case-law at newly established regional administrative courts of first instance. "... It remains an open question of professional capacity of specialization of these courts and their ability to develop clear and consistent case-law in cases where there is a need to examine the merits of complex issues that have a technical and technological basis and require an extensive economic analysis."

Ultimately, from commencement of the new ADA implementation, administrative disputes initiated against the decisions of CPECA fell within the jurisdiction of the HACRC, and its example was followed by the CCA a year and a half later.

3.2.2. The structure of the plaintiffs and defendants in ADADRA

According to the structure of the plaintiffs, regulatory agencies can be roughly grouped into "old", "new" and "medium age" regulatory agencies, due to a positive correlation between the number of initiated administrative disputes and age of agencies (with the

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52 Ibid., p. 212.
53 From July 1, 2013 onwards, for certain procedures (e.g. disputes between users and communications services operators, users and providers of postal services, as well as certain decisions of the inspector regarding violations of the law) competent authorities are regional administrative courts of first instance, see Appendix 1.
54 Ibid.
exception CAMPMD). 832 or 92% of initiated administrative disputes are related to the four oldest regulatory agencies in Croatia: CPECA - 40%, CFSSA - 23% CCA - 21% and CNB - 8%. Three youngest regulatory agencies established between 2007 and 2008: CRMRA, CAQAHCWS and CRSA have no initiated administrative dispute against their decisions.\(^{55}\)

The remaining four "medium age" regulatory agencies, established in the period between 1999 and 2004: CAEM, CERA, CCAA and CASHE account for 7%, i.e. 66 administrative disputes (see Chart 2). Furthermore, when comparing data on initiated administrative disputes in absolute terms and on average annually since the establishment of the agency, the obtained result gives an almost identical graphic form, and therefore, according to both indicators, the number of initiated ADADRAs is higher if the agency is "older".

Chart 2 Number of initiated ADADRAs at the ACRC, grouped by plaintiffs, 1995 – 2011

![Chart 2](chart2.png)

Source: The authors, according to the data of the HACRC.

Note: Year of establishment under the name of the regulatory agency refers to the year of establishment of the agency or its predecessors (see also Appendix 1).

\(^{55}\) CRMRA had one law suit brought at the ACRC in 2009, but since it was a civil dispute, it was not included in the sample.
The exception to this division is CAMPMD, which is statistically a case for itself. Predecessors of CAMPMD were established back in 1993 (see Appendix 1), according to which CAMPMD falls into the category of "older" agencies, but it does not fit in this group by the number of disputes initiated (only four). Instead, it fits better in the "medium age" category; however, 50% of disputes were initiated by a natural person, which is not typical for this sector. The pharmaceutical sector belongs to one of the most competitive industries on the market, with multinational companies known as wealthy and very powerful lobbying organisations. Over 30 pharmaceutical manufacturers operate in the Croatian market, most of whom achieve high rates of growth in total revenue, atypical for current recessionary macroeconomic statistics.\textsuperscript{56} In addition, the pharmaceutical industry belongs to highly regulated sectors. Moreover, sectoral analyses indicate a competitive disadvantage for the European pharmaceutical industry because of regulations strengthening.\textsuperscript{57} Due to heavy regulation and the CAMPMD's broad scope of work\textsuperscript{58} and taking into account the intense

\textsuperscript{57} Ibid., p. 20.
\textsuperscript{58} CAMPMD’s list of tasks requires and authorises CAMPMD to: 1) grant marketing authorisations for medicinal products and homeopathic medicinal products, 2) carry out registration procedures for traditional herbal medicinal products and homeopathic medicinal products, 3) grant authorisations for parallel imports of medicinal products, 4) make expert assessments of quality, efficacy and safety of medicinal products, 5) perform laboratory analyses of medical devices, 6) perform tasks of the official laboratory for quality control for the RoC, 7) perform quality control of medicinal products and homeopathic medicinal products, and issue certificates of quality control, 8) analyse and assess adverse reactions and safety of subjects in clinical trials, 9) prepare the Croatian Pharmacopoeia, 10) issue the Croatian Pharmacopoeia and other expert publications from its scope of work, 11) perform pharmacovigilance tasks, 12) grant manufacturing authorisations to manufacturers and importers of medicinal products and investigational medicinal products, 13) keep the register of manufacturers, importers and wholesale distributors of active substances and excipients, 14) grant authorisations for wholesale distribution of medicinal products, 15) grant authorisations for retail sale of medicinal products in specialized retail sale outlets, 16) grant authorisations for brokering of medicinal products, 17) give approval for entry and importation of medicinal products, 18) give approval for emergency entry and importation of medicinal products, 19) monitor adverse reactions and defects of medicinal products, 20) initiate procedures for the suspension of marketing of medicinal products and make product recalls, 21) monitor the supply of medicinal products, 22) monitor the consumption of medicinal products and promote their rational use, 23) propose measures to the Minister to supervise the consumption of medicinal products, 24) engage in waste management activities (for its own needs), 25) ensure education and provide information on medicinal products, 26) provide expert advice from its scope of activities, 27) provide expert guidelines from its scope of activities, 28) propose harmonisation of regulations on medicinal products with those of the European Union as well as with the regulations and guidelines of international institutions, 29) establish international cooperation in the field of medicinal products, 30) carry out inspection of the production of medicinal products, investigational medicinal products, active substances or excipients and the inspection of pharmacovigilance, 31) keep the register of manufacturers of medical devices, the register of medical devices and the register of the wholesale distributors of medical devices, 32) analyse and evaluate adverse events in clinical trials of medical devices, 33) grant authorisation for the retail sale of medical devices in specialized retail sale outlets, 34) keep the register of medical devices marketed in the RoC, 35) operate a vigilance system for medical devices, and monitor safety of medical devices, 36) carry out the procedure for emergency recall of medical devices, 37) carry out the procedure for classification of medical devices, 38) issue certificates of free sale of medical devices, 39) ensure education and provide information about medical devices, 40) establish international cooperation in the field of medical devices, 41) propose harmonisation of regulations on medical devices with those of the European Union as well as with the regulations and guidelines of international institutions, and perform other tasks in the field of medicinal products. Art. 212, Medicinal Products Act (OG 76/13).
competition in the pharmaceutical market, one would expect a higher number of differences in opinion between regulators and regulated parties and consequently initiated administrative disputes, such as in the telecom sector, but it seems not to be the case in the pharmaceutical sector.

CPECA, CFSSA, CCA and CNB, members of the "older" generation of regulatory agencies in Croatia, have the highest rate of initiated administrative disputes, which is caused by the increase in regulation as a consequence of the European integration process, i.e. the transposition of European legislation in these areas. In addition, the "old" regulatory agencies fall under the domain of highly regulated areas for various reasons: a) their importance for macroeconomic stability and further increased regulation due to the global financial crisis and governments’ efforts to prevent the appearance of a new systemic risk, b) government policy in encouraging a sustainable and competitive business environment, and/or c) new technological innovations that change the way of life, with the simultaneous need to protect the rights and safety of users.

When considering the highly regulated areas, i.e. quantitatively extensive regulation, the question of implementation quality inevitably arises. Medvedovic generally warns: "Great support to poor and inefficient protection of the rights of citizens from unlawful operation of public administration certainly was contributed by the defendants, issuing a relatively high number of administrative acts in which there is doubt of their legality. For example, the ACRC upheld more complaints (4982) in 2005 than it had denied (4589)." The above comment reflects more accurately the situation in relation to lawsuits against administrative acts of other public authorities, because in initiated lawsuits against decisions of CPECA, CFSSA, CCA and CNB, the judgements by the ACRC were on average five and a half times more in favour of regulatory agencies, i.e. in the observed period of seventeen years, the ACRC resolved 82% of disputes in a way that upholds the legality of acts of four regulatory agencies.

However, the real quality over quantity test of regulatory agencies’ decisions is yet to be taken in the future. In the process of Croatia’s accession to the European Union in the last

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59 Medvedovic, D. (2011) "The complete reform of administrative judiciary", Proceedings of the 49th meeting of jurists, Opatija, 11-13 May 2011, The Croatian Association of corporate lawyers, Zagreb, p. 256. However, statistics from the judgments of 2005 are unique because that year a high number of PAD’s cases were resolved, with significant success of the plaintiffs. Generally, in the observed period from 1995 to 2011 the ACRC had twice as many dismissed judgements than granted.
decade, Croatia had to harmonise its legislation with the *acquis* in a very short period of time. Consequently, in the process of compliance and implementation of new regulations many areas became overregulated. Therefore, in years to come we can expect a new wave of lawsuits related to the implementation of new regulations that are the result of the most comprehensive Croatian regulatory reform of the legal system and speedy adjustments to the European legislation.

Additional criticism of the defendants is focused on the implementation of court decisions. Specifically, even when prosecutors would win the case, they would often be forced to initiate a new administrative dispute because the respondent authorities would again issue illegal acts or would not issue them within the prescribed period. This comment also applies generally to the administrative disputes initiated against the acts of public authorities (e.g. local government, ministries), while the analysis by type of disputes and prosecutors determined that the implementation of court decisions is not problematic when it comes to regulatory agencies.

Plaintiffs in ADADRAs are mainly legal entities - in 87% of cases, while only 13% are natural persons. Looking at Chart 3, a predominant share of legal entities in the role of the plaintiff is typical for: CPECA, CCA, CNB, CAEM i CCAA, slightly less for CFSSA (65%) and 50% for CAMPMD. In administrative disputes against decisions of CASHE and CERA, natural persons are prevalent as plaintiffs.

The above statistics are expected for CASHE, which has in the first phase of its work mostly dealt with the recognition of higher education qualifications. For CERA a high proportion of natural persons in the role of the plaintiffs is also not surprising, because until recently there was only a state-owned company as a sole supplier of electricity (Hrvatska elektroprivreda, HEP). The liberalisation of the Croatian energy market formally began in 2008, with a still dominant market share of former monopolist, but with more competition in...

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60 This comment refers generally to administrative disputes against acts of public administration. Medvedovic, D. (2011), op. cit., p. 256.


62 By the 2009, the Act on Quality Assurance in Science and Higher Education (OG 45/09) has significantly expanded the scope of work and authority of CASHE. In Havranek, J. Bežjak, S. “Agency between European standards and Croatian circumstances” in Kopriv, I., Musa, A. i Džulabic, V. (eds.) (2013) „Agency in Croatia”, Institute for Public Administration, Zagreb, p. 155-158.

the future, we also expect a more dynamic relationship between the regulator and regulated parties. CAMPMD, as already mentioned, raises more questions than answers.

Chart 3 The structure of the plaintiffs in ADADRAs, grouped by type of persons 1995 – 2011

<table>
<thead>
<tr>
<th>Agency</th>
<th>No. of ADADRA</th>
</tr>
</thead>
<tbody>
<tr>
<td>CPECA</td>
<td>350</td>
</tr>
<tr>
<td>GSSA</td>
<td>300</td>
</tr>
<tr>
<td>CCA</td>
<td>250</td>
</tr>
<tr>
<td>CNB</td>
<td>200</td>
</tr>
<tr>
<td>CAM</td>
<td>150</td>
</tr>
<tr>
<td>CERA</td>
<td>100</td>
</tr>
<tr>
<td>CCAA</td>
<td>50</td>
</tr>
<tr>
<td>CAMPMD</td>
<td>0</td>
</tr>
<tr>
<td>CASHE</td>
<td>0</td>
</tr>
</tbody>
</table>

Source: The authors, according to the data of the HACRC.

3.2.3. Duration of ADADRAs

In the period from 1995 to 2011 there were a total of 863 administrative disputes resolved against the decision of nine regulatory agencies (see Table 2).\(^63\) The average dispute duration is approximately two years, i.e. 23 months. Almost half of all ADADRAs last over two years. 25% of all resolved administrative disputes last less than 7 months, and 25% of them last over three years. The average ADADRA’s duration is similar to the average for all administrative disputes in the seventeen year period. It amounts to 2 years and 3 months, which means that ADADRAs last 4 months less on average.\(^64\)

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\(^63\) Of the 902 initiated ADADRAs until November 2013, 96% were resolved. 39 ADADRAs remained unresolved and therefore do not fall under the following analysis.

\(^64\) HACRC statistics for the period of 1995-2011.

During the implementation of technical assistance to the ACRC in the reform of the administrative judiciary under the CARDS programme, presented calculations stated that the average duration of administrative disputes is 3 years and 4 months, for the year 2007. In CARDS (2007) Twinning project “Support to more efficient, more effective and more modern management and operation of the Administrative Court of the RoC” - strategic document for the drafting of the new Law on Administrative Disputes”, p. 3.
Table 2 Duration of ADADRAs, grouped by regulatory agencies, 1995–2011

<table>
<thead>
<tr>
<th>Mean values (in months)</th>
<th>CPECA</th>
<th>CFSSA</th>
<th>CCA</th>
<th>CNB</th>
<th>CAEM</th>
<th>CERA</th>
<th>CCAA</th>
<th>CAMPMD</th>
<th>CASHE</th>
<th>All</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of AD (resolved)</td>
<td>357</td>
<td>186</td>
<td>191</td>
<td>69</td>
<td>47</td>
<td>7</td>
<td>1</td>
<td>4</td>
<td>1</td>
<td>863</td>
</tr>
<tr>
<td>Average</td>
<td>17</td>
<td>30</td>
<td>26</td>
<td>27</td>
<td>28</td>
<td>25</td>
<td>25</td>
<td>34</td>
<td>7</td>
<td>23</td>
</tr>
<tr>
<td>Shortest AD</td>
<td>&lt;1</td>
<td>1</td>
<td>&lt;1</td>
<td>&lt;1</td>
<td>1</td>
<td>11</td>
<td>25</td>
<td>23</td>
<td>7</td>
<td>&lt;1</td>
</tr>
<tr>
<td>Longest AD</td>
<td>58</td>
<td>62</td>
<td>56</td>
<td>62</td>
<td>52</td>
<td>41</td>
<td>25</td>
<td>52</td>
<td>7</td>
<td>62</td>
</tr>
<tr>
<td>Standard deviation</td>
<td>15.30</td>
<td>13.35</td>
<td>14.45</td>
<td>17.54</td>
<td>18.22</td>
<td>10.86</td>
<td>N/A</td>
<td>11.46</td>
<td>N/A</td>
<td>16,10</td>
</tr>
<tr>
<td>Coefficient of variation</td>
<td>92%</td>
<td>44%</td>
<td>55%</td>
<td>66%</td>
<td>66%</td>
<td>44%</td>
<td>N/A</td>
<td>34%</td>
<td>N/A</td>
<td>70%</td>
</tr>
<tr>
<td>Median</td>
<td>11</td>
<td>35</td>
<td>30</td>
<td>28</td>
<td>33</td>
<td>30</td>
<td>-</td>
<td>30</td>
<td>-</td>
<td>24</td>
</tr>
<tr>
<td>Mode</td>
<td>2</td>
<td>35</td>
<td>6</td>
<td>1</td>
<td>6</td>
<td>N/A</td>
<td>-</td>
<td>N/A</td>
<td>-</td>
<td>2</td>
</tr>
<tr>
<td>Q 1</td>
<td>4</td>
<td>19</td>
<td>14</td>
<td>10</td>
<td>7</td>
<td>14</td>
<td>N/A</td>
<td>25</td>
<td>N/A</td>
<td>7</td>
</tr>
<tr>
<td>Q 3</td>
<td>29</td>
<td>40</td>
<td>36</td>
<td>39</td>
<td>39</td>
<td>44</td>
<td>32</td>
<td>N/A</td>
<td>39</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Source: The authors, according to the data of the HACRC.

As shown in Chart 4, 36% of all ADADRAs were resolved within a year.\(^65\) 15% of disputes lasted from one to two years,\(^66\) while a slightly larger share, about 20% of disputes lasted from two to four years.\(^67\) Approximately 4%, i.e. 35 disputes lasted for over four years.\(^68\)

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\(^{65}\) Of these 310 disputes that were resolved within a year, most of them belonged to: CPECA - 64%, other: CCA 15%, CFSSA 9%, CNB 7% and CAEM 5%.

\(^{66}\) In total 130 resolutions for a period of 1-2 years: CPECA 43%, CCA 30%, CFSSA 18%, CNB 4%, CAEM and CERA 2% each, and CAMPMD 1%.

\(^{67}\) There are 208 resolved ADADRAs, which lasted between two and three years: CFSSA and CCA 30% each, CPECA 24%, CNB 11%, CAEM 3%, CERA and CAMPMD 1%. There are 180 ADADRAs lasting from 3-4 years: CFSSA 37%, CPECA 23%, CCA 22%, CAEM 9%, CNB 8% and CERA 1%.

\(^{68}\) Of these 32 disputes that lasted between four and five years: CPECA 44%, CCA i CAEM 16%, CNB 12%, CFSSA 9% and CAMPMD 3%, and the remaining three disputes lasting between five and six years are associated with CFSSA and CNB.
The shortest recorded ADADRA, in this case CCA, lasted less than two weeks and was declared inadmissible. The longest recorded administrative dispute was initiated against the decision of CNB and lasted five years and two months.

In terms of regulatory agencies, administrative disputes against decisions of CPECA last the shortest, on average about 17 months, with 25% lasting less than 4 months. Even the most time-consuming CPECA’s disputes last considerably shorter than others - the upper quartile is 29 months vs. at least a half a year longer by the others. It should be noted that these results were expected since CPECA had a classification of urgency to the proceedings between 2005 and 2011 at the ACRC (see Appendix 1). Thus, from 2006 to 2010 there was a recorded downward trend of the average duration of administrative disputes against the decisions made by CPECA, on average 35.14% annually. Though administrative disputes against the decisions of CASHE lasted shorter than the CPECA’s average – around 7 months

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69 CERA’s upper quartile is also slightly lower than the average of 32, but in the case of CERA there are only seven administrative disputes initiated.

70 85.46% variation of the average duration of the administrative dispute against a decision of CPECA is explained by the exponential trend model. The model is statistically significant at the 0.05 level of significance, p = 0.024. X = 0 in 2006. Y is one month of average length of the administrative dispute against a decision of CPECA. Unit x = one year.
– there is only one such case which was terminated, i.e. the plaintiff gave up the lawsuit. The longest average duration of disputes are at CFSSA and CAMPMD. Administrative disputes against decisions of CFSSA on average last 2 ½ years, and 25% of them take more than three years. Although CAMPMD counts only four administrative disputes, they are all long-term. The lower quartile in CAMPMD's case is several times higher than other regulatory agencies with disputes duration between two and four and half years.

CPECA, CFSSA, CCA and CNB have already been included in a separate group by age and number of initiated administrative disputes, and they also show similarities in duration of disputes (see Chart 2 and 5). CPECA is different, because at one time it had a classification of urgency in the administrative proceedings, but other agencies have shown a similar distribution of the duration of disputes. They have a higher number of disputes that are resolved within a year, after that all agencies record a decrease in the number of resolved disputes for a duration period of 1-2 years, then an increase in disputes resolved within a period of 2-3 years, and after that (with a small deviation by CFSSA with an increase in the number of disputes lasting between 3-4 years) listed agencies record a continuous decline in the number of disputes with a longer duration period. This is good news to a certain extent because there is a smaller share of cases lasting for over four years, but the troubling factor is the percentage of cases with duration between 2-4 years (CFSSA 69%, CCA 53%, CNB 54%).
Chart 5 Portion of resolved administrative disputes against the decisions of CPECA, CFSSA, CCA and CNB, grouped by duration in years, 1995 – 2011

Source: The authors, according to the data of the HACRC.

The shortest administrative disputes, lasting up to a month, end up as inadmissible or terminated. There are 15 in total (1.74% of the total number of ADADRAs): 10 at CPECA (8 inadmissible and 2 terminated) and 5 inadmissible cases (3 at CCA and 2 at CNB). It was expected that the shortest ADADRAs would be inadmissible at the ACRC because of their nature, i.e. incomplete or incomprehensible lawsuit in which the plaintiff did not correct the failings in the lawsuit within a specific time limit\(^{71}\), or terminated, if the plaintiff had dropped the lawsuit\(^{72}\).

This brings up the question of why all inadmissible cases do not last so short. There are a total of 136 such cases (Chart 6). The good news is that most of them are resolved in a short period of time, of which nearly half (49%) in the first three months, and only two cases lasted for more than four years. However, 46 administrative disputes, i.e. 34% of them lasted between one to four years. Before the reform of administrative judiciary, preparatory work for each case was performed by the special division within the ACRC. Due to a high number of pending cases, these "fast-solvable" cases had to wait to come to the agenda of the Camera, which could have only then determined that the requirements for the lawsuit were invalid. With the new structure of the administrative judiciary since the beginning of 2012 (and reduction in the number of pending cases) the above mentioned procedure has changed, i.e.

\(^{71}\) Art. 29 of the old ADA.
\(^{72}\) Ibid., Art. 28.
preparatory work is carried by the judge himself and the case may be declared inadmissible if requirements for the lawsuit are invalid.

Chart 6 Duration of inadmissible cases, 1995 – 2011

As mentioned earlier, almost 50% of all ADADRAs last for over two years, with a maximum duration period of over 5 years. There were a total of three administrative disputes against the decisions of CFSSA and CNB that lasted for 5 years and 2 months, which were eventually all dismissed.

Unreasonable duration of court proceedings represents a violation of human rights.\textsuperscript{73} Lukanovic-Ivanisevic states that legal documents do not provide a universal definition of a reasonable time, instead it is determined separately for individual cases according to the criteria laid down by the case law of the European Court of Human Rights.\textsuperscript{74} Requests for judicial protection against the violation of the right to a trial within a reasonable time were filed at the Constitutional Court of the RoC and from 2006 at the Supreme Court of the RoC.

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\textsuperscript{73} Art. 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, which was ratified in Croatia in 1997.

\textsuperscript{74} Which includes: complexity of the case in factual and legal sense, conduct of the applicant, conduct of the court and of other state authorities, local self-government authorities, public services and other holders of public authorities and the best interest of the applicant. According to: Omějec i Vajic, in Lukanovic-Ivanisevic, D. „Trial within a reasonable time in the administrative judiciary - The practice of the Supreme Court of the RoC”, in Kopric, I. (ed.) (2014) 'Europeanization of administrative judiciary in Croatia', Institute for Public Administration, Zagreb, p. 137.
According to the statistics of the Supreme Court, in a four-year period from 2006 to 2009 there was a total of 1,124 cases filed for the protection of the right to a trial within a reasonable time from the ACRC and nearly 90% of them have been solved. In 58% of cases the Court found that there was a violation of the right to trial within a reasonable time and awarded compensation totalling about 3.76 mil HRK (app. € 0.49 mil).

The experience of the Republic of Slovenia in the regulation of administrative judiciary points to difficulties in implementing high standards set to protect the rights of natural and legal persons from unlawful acts and conduct of public authorities. In 1997 they adopted a new legislative framework with a two-tier administrative judiciary model applicable to almost all cases, but it eventually brought the system into a crisis due to the inability to process the backlog in a reasonable time. In addition, in mid-2006 the European Court of Human Rights has awarded compensation for exceeding a reasonable trial time. The Slovenian Ministry of Justice prepared an estimate of the total amount of damages that could be collected – app. € 0.24 billion. They proposed a New Administrative Dispute Act which would retain a two-tier model, but with a significant narrowing of the possibilities of appeal. Slovenian experience obviously had an impact on the reform of administrative judiciary in Croatia – within the academic debate warnings for caution were brought up some suggested a restrictive approach to the definition of the admissibility of the appeal, and the Croatian legislator took the same approach when drafting the new ADA.

The experience of best practices of EU Member States confirm that the training of judges in the field of domestic and international law is a key factor in achieving effective and

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75 On the issue of protection of the right to a trial within a reasonable time related to administrative judiciary, see Sikic, M. (2013) "The impact of practice (judgments) of the European Court of Human Rights on administrative judiciary in the RoC", 50 (2) Collected papers of the faculty of Law in Split, p. 462-468.

76 Average per case around HRK 6,500 (app. € 852). 26% of resolved cases were dismissed, while 16% were declared inadmissible or resolved in another way. In Lukanovic-Ivanisevic, D. „Trial within a reasonable time in the administrative judiciary - The practice of the Supreme Court of the RoC“, in Kopric, I. (ed.) (2014) "Europeanization of administrative judiciary in Croatia“, Institute for Public Administration, Zagreb, p. 140.


78 SIT 60 billion, based on the exchange rate at the date of issue of the mentioned publication. Ibid., p. 65.


80 See explanation of Art. 66 in the "Explanation of certain provisions", Final proposal of the ADA.
timely protection (e.g. the United Kingdom and the Scandinavian countries), and this view was also shared by the Croatian legal experts.

3.2.4. Decisions of the ACRC with regard to ADADRAs

In the period of 1995 – 2011 there were 863 ADADRAs resolved before the ACRC. Only 13% were in favour of the plaintiffs, natural or legal persons who deemed that his/her rights or legal interests based on law had been violated by an administrative act. Therefore, 87% of the judgments in one way or the other indicate the validity of decisions of regulatory agencies: 58% of law suits were dismissed, in 13% of disputes plaintiffs dropped the charges, and 16% of law suits were declared inadmissible – mainly due to technical deficiencies.

In addition to the previously mentioned problem of the disputes with extensive duration that were declared inadmissible, there is also a problem of the quantity of such cases (16% of solved ADADRAs). Kopric finds the lack of common definitions of the administrative matter problematic (within old ADA) as it allows a narrowing of judicial protection due to a restrictive interpretation of the administrative matter by the ACRC, which has to some extent been the case according to Medvedovic, who states that of all initiated lawsuits against acts of public authorities in the period between 2003 and 2005, 25 to 45% were declared inadmissible. That Court had for decades interpreted restrictively the notion of an administrative act and the legitimacy of appeals which led to many cases being declared inadmissible.

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83 Of the 902 initiated ADADRAs until November 2013, 96% were resolved. 39 ADADRAs remained unresolved and therefore do not fall under the following analysis.
84 Art. 29 and 30 of the old ADA.
Under the new ADA, the scope of administrative disputes was extended, from current assessment of the lawfulness of administrative acts, to assessment of the lawfulness of a general act of the local and regional self-government, and assessment of the activities or lack of activities of public authorities.  

If one narrows down the sample by excluding inadmissible and terminated cases (which account for almost a third of ADRAs), and focuses only on the judgments of the ACRC, the results can be observed in Chart 8.

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87 Art. 3 of the new ADA.
Chart 8 Judgments of the ACRC, grouped by regulatory agencies, 1995 – 2011

In cases of CPECA, CFSSA, CCA and CNB, the four largest regulatory agencies by the number of initiated administrative disputes, the ACRC had on average judgements five and a half times more often in favour of aforementioned regulatory agencies, i.e. it confirmed the legality of their acts. Against CERA, CCAA and CAMPMD, the plaintiffs have not won a single case so far.\(^{88}\) The only exception is the CAEM, where there are more judgments in favour of plaintiffs than CAEM.\(^{89}\)

Figure 9 presents the findings of trend movement of judgments in favour of CCA, CFSSA and CPECA. Agencies that are included in the “medium age” category (CAEM, CERA, CCAA, CASHE) have an insufficient number of cases for a trend analysis, which was partly possible with CCA, CFSSA and CPECA. CNB has a steady record of granted cases (average 85%). All of the remaining three agencies have success rate of over 80%. Until 2004, CCA succeeded in 70% of cases, but with significant variations in performance over the years, and from 2005 to 2011 it had a continuous success rate of 99%. In case of CFSSA, in 1995 to 2002 there were not enough cases needed to detect a trend, and during that period CFSSA mainly won the cases (9 out of 11). From 2003 to 2010 CFSSA recorded an upward

\(^{88}\) Regulatory agency CASHE had only one administrative dispute initiated against its decisions, which was terminated.

\(^{89}\) Most initiated procedures against decisions of CAEM are linked to (not)allowing concessions for television and radio services. Further research could determine the cause of such a low success rate by CAEM in the administrative disputes in comparison with other regulatory agencies.
trend of won cases with an average annual growth rate of 3.43 percentage points. However, in 2011 the achieved success rate was only 43%. Until 2006, CPECA did not have enough data to identify trends. From 2006 onwards, CPECA has won 83% of disputes, with minor variations that were not statistically significant. Concerning ADADRAs which were declared inadmissible or terminated, there were no observed trends.

We can conclude that since mid-2000s, there are patterns in the proportion of disputes won by the analysed agencies (CCA, CFSSA) and to some extent in CPECA’s case. In other words, these regulatory agencies, including the CNB, have evolved into superior public authorities when it comes to confirmation of the legality of their decisions by the ACRC.

Figure 9 Trend movement of judgments in favour of CCA, CFSSA and CPECA, 1995-2011

![Figure 9 Trend movement of judgments in favour of CCA, CFSSA and CPECA, 1995-2011](source: The authors, according to the data of the HACRC.)

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80. 81.76% of the variation of share of cases won by CFSSA was explained by a linear trend model. The model is statistically significant at a significance level of 0.05 and 0.01, because p = 0.002. The equation model is \( y = 0.0343 x + 0.7693 \). \( X = 0 \) in 2003. Unit \( x \) = one year. Unit \( y \) = 1 percentage point.

81. Further research could determine the cause of such a low percentage of success compared to other impressive results.

82. 26.78% of the variation of share of cases won by CPECA was explained by a linear trend model. The model is statistically significant at the 0.05 level, because \( p = 0.293 \). The equation model is \( y = -0.0226 x + 0.9008 \). \( X = 0 \) in 2006. Unit \( x \) = one year. Unit \( y \) = 1 percentage point.
However, there are different trends in the case of administrative disputes in general. Gagro and Juric-Knezevic, in their review of administrative judiciary, have presented a calculation (excluding rulings of termination) according to which in the observed ten-year period from 1996 to 2005 44% of cases were won by the plaintiffs. As an additional indication to the questionable quality of administrative acts issued by public authorities, they gave an example of one body which had, 55% of its cases dismissed in 2005 and warned that some of these acts were dismissed due to the "lack of knowledge about some of the most basic things of administrative procedure".93

These data point to the discrepancy between the success of regulatory agencies in validating the legality of their administrative acts and other public authorities and suggest a difference in the quality of administrative acts assembled by the regulatory agencies in comparison with other public authorities (in favour of the agencies). Such indicators support the frequently used thesis about greater efficiency of regulatory agencies in comparison with other public authorities because of their organisational specificity (fewer, but highly specialised employees, more flexible organisation, independence, etc.).94

3.2.5. Extraordinary remedies and constitutional complaints

Croatia use to have a one-tier model of administrative judiciary, i.e. appeal against the decisions of the ACRC was not allowed.95 However, one could have taken the following actions: 1) a proposal for reopening of proceedings submitted by a party to the administrative proceedings, 2) complaint to the Constitutional Court of the RoC for violation of constitutional rights, submitted by the plaintiff, and 3) the request for the protection of legality, submitted by the competent public prosecutor.

94 However, for a comprehensive assessment of differences in the efficiency of the regulatory agencies and other public authorities, one should also evaluate other indicators in the process of administrative procedures and administrative judiciary, which exceed the scope of this paper.
95 Under the new ADA, Croatia introduced a two-tier system of administrative judiciary.
Table 3 Extraordinary legal remedies against the decisions of the ACRC and constitutional complaints, 1995 - 2011

<table>
<thead>
<tr>
<th>Nr.</th>
<th>RA</th>
<th>GRANTED (CC)</th>
<th>ABOLISHED (CC)</th>
<th>DISMISSED (CC)</th>
<th>PENDING (CC)</th>
<th>REJECTED (CC)</th>
<th>In total Const. Court</th>
<th>Supreme Court</th>
<th>Reopening of proceedings</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>CPECA</td>
<td>1</td>
<td></td>
<td></td>
<td>47</td>
<td>48</td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>2</td>
<td>CFSSA</td>
<td>2</td>
<td>1</td>
<td>3</td>
<td>2</td>
<td>8</td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>3</td>
<td>CCA</td>
<td></td>
<td></td>
<td></td>
<td>4</td>
<td>4</td>
<td></td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>4</td>
<td>CNB</td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>CAEM</td>
<td></td>
<td></td>
<td></td>
<td>2</td>
<td>2</td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>6</td>
<td>CERA</td>
<td></td>
<td>1</td>
<td>1</td>
<td></td>
<td>2</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>CCAA</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>CAMPMD</td>
<td></td>
<td>1</td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>CASHE</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total:</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>56</td>
<td>66</td>
<td>0</td>
<td>5</td>
<td></td>
</tr>
</tbody>
</table>

Source: The authors, according to the data of the HACRC. (CC = constitutional complaint)

Ad 1) Reopening of proceedings may be requested by a party to the proceedings (plaintiff, defendant or interested person) if certain conditions are met. From a total of 863 resolved ADADRA over a period of 1995 to 2011, there were only five cases of reopening of procedures related to decisions of CPECA, CFSSA, CCA and CAEM (Table 3). Mostly they were legal entities, whose disputes lasted from 2 months to 3 and a half years, and reopening of proceedings in all five cases was resolved in the short term, 1-4 months, all negative for the plaintiffs. So, in the first two cases the plaintiffs (for ADADRA that were declared inadmissible) requested reopening of proceedings, which ultimately ended with the ACRC decision of termination or inadmissibility. In the other three cases (in which the plaintiffs’

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96 These are: 1) if the party discovers new facts or finds or obtains the opportunity to use new evidence on the basis of which the dispute would have been more favourably resolved for him/her if these facts or evidence had been presented or used in the previous court proceedings, 2) if the court decision was rendered as a result of a criminal offence committed by the judge or a court employee, or if the decision was gained by a fraudulent act by an attorney or representative of a party, his/her opponent or the opponent’s representative or attorney and that act constitutes a criminal offence; 3) if the decision was based on a judgement rendered in a criminal or civil matter and that judgement was later annulled by another legally effective court decision; 4) if the document on the basis of which the decision was made was false or fraudulently amended, or if a witness, expert witness or party gave false testimony at the hearing before the court and the court decision was based on that testimony; 5) if the party finds or obtains the opportunity to use a previous decision rendered in the same administrative dispute; 6) if an interested person was not given the opportunity to participate in the administrative dispute. Art. 52 of the old ADA.
complaint was granted) reopening of proceedings was requested by the interested party, in which the ACRC upheld the original ruling.\textsuperscript{97}

Ad 2) From a total of 863 resolved ADADRAs over a period of 1995 to 2011, in 8% of cases the constitutional complaint was filed at the Constitutional Court of the RoC on account of the violation of human rights and fundamental freedoms.\textsuperscript{98} 90% of resolved constitutional complaints were declared inadmissible (Table 3).\textsuperscript{99}

Only one judgment of the Constitutional Court was adopted in favour of the plaintiff, who overturned the judgement of the ACRC and resolved the matter himself.\textsuperscript{100} This case started in the 1995, concerning a decision made by CPECA and was resolved after four years and 2 months. Furthermore, two administrative disputes regarding the decisions of CFSSA were declared as inadmissible by the ACRC, followed by a constitutional complaint, abolished by the Constitutional Court and returned for a retrial. The ACRC accepted ADADRA as an administrative matter and then dismissed the case by a judgment. The entire process lasted for 4 years and 2 months, and another case lasted seven years. Finally, three

\textsuperscript{97} Reopening of proceedings was in two out of the five cases related to the recognition (or its denial by a third party) of a party to the proceedings. In addition to these, there are only two cases initiated for this reason in ADADRA’s sample and both were dismissed by the ACRC. Such an insignificant share (less than 0.5% of cases) points to high quality of administrative proceedings management by the regulatory agencies, which is not the case with other public authorities. In Gagro B., Juric-Knezevic D. "The quality of administrative acts and activities from the experience of the ACRC with suggestions for improvements" in Barbic, J. (ed) (2006), "The reform of the administrative judiciary and administrative procedures", Scientific Council for Public Administration, Justice and the Rule of Law, Croatian Academy of Science and Arts, Book Forth, p. 23-24.

\textsuperscript{98} The highest share of lodged constitutional complaints refers to the judgments relating to decisions of: CPECA – 73%. The remaining 27% consists of: CFSSA 12%, CCA 6%, CAEM and CERA with 3%, CAMPMD 2% and CNB 1%.

\textsuperscript{99} The Constitutional Court shall reject the constitutional complaint by a ruling if it is not competent, if the constitutional complaint has not been timely submitted, or if it is incomplete, not understandable or not permissible. Art. 72 of the Constitutional Act on the Constitutional Court of the RoC, OG 49/02. Giunio doubts that the Constitutional Court, due to overload of a large number of cases, had massively rejected the complaints, some perhaps unnecessarily. See Giunio, M. (2013) “Connecting the court to the citizen as an eliminatory criterion for reimbursement of administrative dispute”, 13 (3) Croatian Law Review, p. 43. For details of the relationship between the administrative and constitutional control of public administration, see: Omejec, J. "The relationship of the Constitutional Court and the Administrative Court in the control of public administration in the RoC", Barbic, J. (eds) (2006), op. cit. 81-96.

\textsuperscript{100} By its decision to accept a constitutional complaint, the Constitutional Court shall repeal the disputed act by which a constitutional right has been violated. If the competent judicial or administrative body, body of a unit of local and regional self-government, or legal person with public authority, are obliged to pass a new act to replace the act that was repealed by the decision, the Constitutional Court shall return the matter to the body that passed the repealed act for renewed proceedings. If the law regulating competency for proceeding in that legal matter was changed before the Constitutional Court had passed its decision, the body that conducted the proceedings and passed the repealed act shall without delay refer the matter to the competent body. If the disputed act that violated the constitutional right of the applicant no longer produces legal effect, the Constitutional Court shall pass a decision declaring its unconstitutionality, and state in the dictum which constitutional right of the applicant had been violated by that act. Art. 76 of the Constitutional Act on the Constitutional Court of the RoC, OG 49/02.
constitutional complaints were dismissed in proceedings that lasted between 2 ½ and 7 years.  

Ad 3) Request for the protection of legality may be initiated by the competent public prosecutor if there is violation of law or general act. It falls within the jurisdiction of the Supreme Court. In the observed period from 1995 to 2011 there were no such cases recorded (Table 3).

3.2.6. Costs of ADADRAs

The costs of administrative disputes include court fees and lawyer costs. Both depend on the Value of the Subject of the Dispute (VSD). They are determined by the ADA, the Act of Judicial Fees and the Tariff Schedule for Rewards and Costs for Lawyers’ Work. To explain the calculation of these costs, we will now discuss the costs facing a plaintiff in an administrative dispute against a regulatory agency’s decision (Table 4).

The costs of ADADRAs vary based on the value of the subject of the dispute, the outcome of the dispute and further actions (motions for extraordinary legal remedies and constitutional complaints). All parties are required to cover their own costs in administrative disputes. ADADRAs are mainly undertaken without estimation of the VSD. In such cases, the plaintiff incurs a cost of 270€ if it wins the case or 400€ if it loses the case and must pay court fees.

101 Out of 66 lodged constitutional complaints against the judgments of the ACRC in the period from 1995 to 2011, 94% has been resolved till mid 2013.
102 Art. 21(1) of the old ADA.
103 Ibid., Art. 21(2).
104 May also include the cost of expert testimony (The Ordinance on permanent court experts and the Price List which is an integral part of this Ordinance, OG 88/08, 8/09, 126/11, 120/12), but in ADADRA’s cases it would have been an exception, so it is not covered in subsequent calculations.
105 There is estimated and no estimated VSD, determined by the AVRC. Estimated VSD is administrative dispute whose value can be clearly identified, according to the determining methodology in civil proceedings (Art. 33 of the Court Fees).
108 The price list was changing in 17-year period from 1995 to 2011 – differently by different items. Therefore, authors took the last valid price list before the January 1, 2012.
109 Art. 61 of the old ADA.
110 However, the court fee is not charged if the plaintiff withdraws the complaint before dispatch decision of the ACRC. The decision of inadmissibility is not charged.
Table 4 Costs of ADADRAs for plaintiffs, in €

<table>
<thead>
<tr>
<th>Activity</th>
<th>No estimated VSD</th>
<th>Minimal estimated VSD</th>
<th>Maximum estimated VSD</th>
</tr>
</thead>
<tbody>
<tr>
<td>FILING FEE (not paid if complaint is granted or terminated)</td>
<td>65</td>
<td>27</td>
<td>660</td>
</tr>
<tr>
<td>JUDGMENT FEE (not paid if complaint is granted)</td>
<td>65</td>
<td>15</td>
<td>660</td>
</tr>
<tr>
<td>COMPILATION OF THE COMPLAINT</td>
<td>270</td>
<td>33</td>
<td>13,220</td>
</tr>
<tr>
<td>Total:</td>
<td>400</td>
<td>75</td>
<td>14,540</td>
</tr>
<tr>
<td>FEE FOR MOTION FOR RENEWAL OF PROCEEDINGS</td>
<td>27</td>
<td>27</td>
<td>27</td>
</tr>
<tr>
<td>COMPILATION OF MOTION FOR RENEWAL OF PROCEEDINGS</td>
<td>330</td>
<td>42</td>
<td>16,530</td>
</tr>
<tr>
<td>COMPILATION OF MOTION FOR CONSTITUTIONAL COMPLAINT</td>
<td>650</td>
<td>650</td>
<td>650</td>
</tr>
</tbody>
</table>

Note: The numbers are approximate calculations of currencies.

However, in a large number of cases, especially those involving legal entities, these are only the initial costs. Larger companies will incur other costs, such as opportunity costs (e.g. employees who are engaged in gathering and analysing documents for the case, costs of management time spent), costs of external experts such as the costs of legal teams consulted during the preparation of the case and consultants and the like. In disputes with estimated VDS, costs for the plaintiff range from 33 to 14,540€, depending on the value of the dispute and the outcome.

If the plaintiff decides to move for renewal of proceedings, additional costs can amount to between 65 and 16,530€. However, in the 17-year period of analysis from 1995 to 2011 there were only 5 renewal of proceedings (0,6% of all disputes). If the plaintiff submits complaint to the Constitutional Court of the RoC for violation of Human Rights and Fundamental Freedoms, the additional costs are fixed, independent of VSD, at 660€ for lawyers' costs.\textsuperscript{111} Constitutional complaints, the extraordinary legal remedy for ADADRAs, were made in a total of 66 times (8% of total resolved ADADRA's) between 1995 and 2011.

\textsuperscript{111} There are other costs of running the administrative dispute, concerning the other parties to the proceedings, and the amount of attorneys’ fees for representation at the hearing, which was an exception at the previous
Plaintiffs had, on average, a 13% chance of winning ADADRA's. Awards for successful disputes ranged from 270 - 400€ (when VSD was estimated the range was from 33 to 14,540€). There was a 50% chance that the dispute would last longer than 2 years. Motions for extraordinary legal remedies were even riskier: renewal of proceedings costs 360€ (with estimated VSD between 65 and 16,530€) with, during the period, 0% chance of success. When petitioning the Constitutional Court, the plaintiff had to pay lawyers fees of 660€ with a 1,5% chance of success.

The new ADA (for a short time) changed the determination of costs in administrative disputes by providing for payment of court costs to the winning party. However, in less than a year the law was amended, returning the old stipulation that all parties were responsible for their own costs. This created a new problem, because the new ADA provided for new and larger costs. The new ADA introduced oral and public hearings as a rule rather than an exception, and provided for the possibility of appeal. This substantially increased administrative dispute costs: representation at hearings, court fees for appeal, composition of appeals, representation at hearings at the HACRC, compilation of motions for extraordinary re-examination of the legality of confirmed judgments, compilation of motions for carrying out judgments, etc. These actions can lead to costs as high as 1,800€ for unestimated VSD, and from 200 to 70,200€ for estimated VSD.

Undoubtedly, this represents a multifold increase in costs for plaintiffs, suggesting a decrease in legal protection against illegal administrative acts and actions by public authorities, since the cost of administrative disputes are an important factor in the decision to (not) open a dispute. Giunio, Sikic and Turudic point out that the argumentation used by the Legislator about the changes in fees and the return to the old system are illogical. They claim that these changes were in fact motivated by efforts to shore up the Government budget and administrative judiciary system, so it was not included in the basic calculation. (In €, by approximate calculations of currencies.

<table>
<thead>
<tr>
<th>Action</th>
<th>No estim. VSD</th>
<th>Min. est. VSD</th>
<th>Max. est. VSD</th>
</tr>
</thead>
<tbody>
<tr>
<td>REPRESENTATION AT HEARINGS (exception with ADADRA's cases)</td>
<td>270</td>
<td>33</td>
<td>13,220</td>
</tr>
<tr>
<td>COMPILATION RESPONSES TO THE CLAIMS (pays IP or RA if represented by a lawyer)</td>
<td>270</td>
<td>33</td>
<td>13,220</td>
</tr>
</tbody>
</table>

112 Art. 79 of the new ADA.
113 Act on Amendments to the ADA, OG 143/12.
114 Calculated by the current price lists.
by distorting statistical indicators.\textsuperscript{115} Furthermore, they agree that this is a "\textit{large step backwards}" in the sense of decreasing legal protection against regulatory decisions and actions by public authorities.\textsuperscript{116}

Paradoxically, even though this was probably not the Legislator's intent, these changes in the new ADA did not help the Government budget but in fact hurt it! In the sphere of ADADRAs, from a statistical perspective, the Legislator in fact aided plaintiffs because on average plaintiffs will now pay substantially less, since they have far more lost disputes (58\%) than disputes won (13\%). In other words, regulatory agencies on average win disputes 4.6 times more frequently than plaintiffs. So if the rule that court costs of the winning side are borne by the losing side remained in force, plaintiffs would have to cover the costs of disputing regulatory decisions to the benefit of the Government budget.

The same is true for disputes after the new ADA went into effect. From January 1, 2012 to December 31, 2013, regulatory agencies on average won disputes 4.5 times more frequently than plaintiffs, and at the HACRC they won as much as 7 times more often. Even if we look at all administrative disputes from 1995 to 2011, public authorities won cases twice as frequently as plaintiffs. To conclude, the "new-old" stipulation of the ADA is a "\textit{lose-lose}" situation: the "unfair" system that had been subject to criticism was restored, with the winning party having no right to having their costs covered, and the Legislator scored an "\textit{own-goal}" by transmitting income for the Government budget.

\begin{footnotesize}
\begin{enumerate}
\end{enumerate}
\end{footnotesize}
4. Administrative judiciary reform and new trends

4.1. The process of administrative judiciary reform and the most important new trends

The process of administrative judiciary reform is part of the comprehensive reform of Croatian legislation, connected to the process of transposition of the acquis communitaire in preparation of Croatia's accession to the European Union. After six decades under the old administrative judiciary system, Croatia has adopted European standards of legal protection of its citizens and others in relationships with public authorities. The bases for the reforms were: domestic and international official documents, EU technical assistance programs, organised academic and technical discussions, technical assistance through information systems, etc.

Croatian experts have identified the following as the most important changes in the new ADA: the introduction of the two-tier model of administrative judiciary, i.e. the decentralisation of first-tier administrative judiciary and the right to appeal, mandatory oral and public hearings, decision of administrative disputes on the merits (full jurisdiction

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118 Twinning project CARDS 2004, "Support to more efficient, more effective and more modern management and operation of the Administrative Court of the RoC" - all strategic documents regarding the reform of the administrative judiciary are available on: http://www.upravnisudrh.hr/frames.php?right=CARDS2004.html.


120 The HACRC was included in the project of computerisation with a goal of publishing a comprehensive case-law, http://www.upravnisudrh.hr/praksa/frames.php.

121 Art. 12 of the new ADA.

122 Ibid., Art. 13, 66.

123 Ibid., Art. 7, 33, 38.
disputes) as a rule, payment of costs of the successful party (revoked with the first amendments to the law), and other increases in the authority of the Court.

4.2. Signs of new trends

In the two-year period since the new ADA has been in effect, 238 first-tier administrative cases have been opened. Of these 97, or 28% were referred to other courts for resolution. Corrected for cases referred to other courts, the first-tier administrative courts resolved 29% of the ADADRAs opened in the following manner: 6% granted, 26% dismissed, 43% declared inadmissible and 25% terminated (see Chart 10). Appeals to the HACRC were lodged in 10% of the cases.

The HACRC has resolved 58 of the 119 ADADRAs referred to it. 79% of these “resolved” cases were referred to other courts. Corrected for the cases referred to other courts, the HACRC has resolved 10% of the ADADRAs opened in 2012-2013 in the following manner: 8% granted, 58% dismissed, 25% declared inadmissible and 8% terminated (Chart 10).

So what has actually changed with the new Administrative judiciary system?

The first trend is easy to spot: the trend to spillover. Some 47% of „resolved“ cases are resolved in the sense that they have been reassigned to other courts. This figure suggests that

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124 Ibid., Art. 58, 74(2)
125 Ibid., Art. 3.
126 Ibid., Art. 79.
128 E.g. other territorial jurisdiction of administrative courts of first instance, jurisdiction of ordinary courts (e.g. municipal court) jurisdiction of the HACRC (e.g. CCA, CPECA) – Art. 12 and 13 of the new ADA, see Appendix 1.
129 Large number of referred (reassigned) cases are linked to CPECA cases and regulatory amendments in the second half of 2013 according to which disputes between end users and providers of telecommunications and postal services, as well as claims against certain decisions of the inspector regarding violations of the Act on electronic communications are to be addressed at first instance administrative courts. See Appendix 1.
the courts are still in an adjustment period, which will have a negative effect on the duration of cases in the medium-term.\textsuperscript{130}

According the data available on resolved cases against the regulatory agencies (29\% in first-tier courts and 10\% at the HACRC), it is apparent that at least 70\% will last more than 2 years. This is substantial increase in the duration of ADADRAs since, under the old system, „only“ 50\% of disputes lasted longer than 2 years.

Although it is perhaps not entirely reliable to compare a 2-year period in which the new system is still in an adjustment period with a 17-year year period, initial calculations do suggest some new insights (Chart 9). Under the new Administrative judiciary system, the share of successful appeals has fallen from 13\% to 6-8\%. That is, plaintiffs in first-tier cases have on average only half the chance of winning a dispute against regulatory agencies than in the previous system. At the same time, their costs of engaging in such a dispute have risen many-fold (e.g. representation at hearings, costs of appeals, etc.).

The share of ADADRAs declared inadmissible has risen substantially, reaching 43\% in first-tier cases. This cannot be taken as a positive change in achieving the objectives of reform, such as decreasing the restrictive interpretations of administrative acts and increasing the level of legal protection. The HACRC has also increased the share of ADADRAs declared inadmissible from 16 to 25\%. However, it is worth noting that ADADRAs are only 1\% of all administrative disputes, so that trends related to these cases need not be in line with trends for administrative disputes in general.\textsuperscript{131}

The share of terminations by the HACRC decreased from 13\% to 8\%, but in first-tier courts terminations rose to 25\%. The share of cases dismissed stayed the same at the HACRC, and was substantially decreased to 26\% in first-tier courts.

\textsuperscript{130} For a given period of 2012-2013 there were no available consolidated data on the beginning and duration of disputes.
\textsuperscript{131} Consolidated data of administrative disputes from all administrative courts were not available.
The Administrative Court of Osijek had the highest efficiency measured by the percentage of administrative disputes settled excluding reassignments, with 68%. However, this Court had the smallest absolute number of disputes, only 19, and it resolved 13 of these.\textsuperscript{132} The least efficient court in terms of ADADRA resolution was the Administrative Court of Split, where 39 cases were opened, and only one was resolved—a termination (Chart 11).\textsuperscript{133} The Administrative Courts of Zagreb and Rijeka were at the „golden middle“. Rajko warns that the regional administrative courts are already overburdened, with the number of cases filed four to five times greater than the capacity of the courts.\textsuperscript{134}

\begin{itemize}
  \item\textsuperscript{132} Of which 15% dismissed, 46% inadmissible, 38% terminated and none granted.
  \item\textsuperscript{133} This estimate is very approximate and represents only a superficial glance at the beginning of the process of administrative dispute by the two-tier model. Eventually it will be possible to give a more accurate assessment taking into account the total number of administrative disputes, the number of employees in individual courts, etc.
\end{itemize}
CPECA was the first regulatory agency whose decisions could be appealed directly at the HACRC after the introduction of the two-tier model of administrative judiciary.\textsuperscript{135} This possibility applied to the CCA starting on July 1, 2013.\textsuperscript{136} The reason for this was probably the exceptionally broad and demanding regulations in the fields of telecommunications and competition policy. It is precisely the HACRC, as the successor to the ACRC, which has the greatest know-how in these areas. Popovic and Maricic, as was mentioned previously, consider the greatest problem of the two-tier system for telecommunications and competition policy in the duration of the cases because of „duplication“ of the proceedings if the dispute is first heard at the local first-tier court with geographical jurisdiction, as well as in the feasibility of reaching a high level of specialisation and uniform court practices in such technical and technologically demanding areas.\textsuperscript{137} Turudic considers giving jurisdiction to the HACRC to be a favourable solution because of the „concentration of expertise in one court and because of the shortening of the duration of the process“.\textsuperscript{138} However, considering the

\textsuperscript{135} Art. 18., of the Act on Amendments to the Electronic Communications Act, OG 90/11, with some exceptions, see Appendix 1.
\textsuperscript{136} See Appendix 1.
comparative legal systems of various EU Member States, Turudic suggests that it would be better to give full jurisdiction over all decisions by CPECA to a single first-tier court.\textsuperscript{139}

During the two-year period 2012-2013, the regional Administrative Courts resolved 29% of initiated ADADRAs (corrected for reassignments). The highest percentage of resolution was by the CRMRA, with 50%, followed by the CFSSA, CCA and CAEM with 43% resolution rates (Chart 12). The most worrisome case is that of CPECA, with only 4% of cases resolved. Of 68 administrative disputes initiated against CPECA’s decisions, there have been 8 reassignments, while only 3 cases have been resolved: 1 dismissed, 1 declared inadmissible, and 1 terminated. The CCA has more reassignments than CPECA, 11, followed by the CFSSA with 7, and the CNB with 1.

Chart 12 Share of ADADRAs resolved at first-tier courts, by regulatory agencies, 2012-2013

![Chart 12](image)

Source: The authors, according to the data of the ADRCs and HACRC.

The structure of judgments by first-tier regional Administrative Courts in 2012-13 is similar to the structure of judgments by the ACRC from 1995-2011. The regulatory agencies

\textsuperscript{139} Ibid., p. 81-104.
prevail four and a half times more frequently. That is, the Administrative Courts are most likely to confirm the legality of their administrative acts and actions. Only in the case of the CAEM and the CRMRA are there a larger number of judgments in favour of the plaintiffs (Chart 13).

Chart 13 Judgments by first-tier Administrative Courts by RA 2012 – 2013

The HACRC resolved cases involving the CCA and CPECA in 2012-13. In the case of the CCA, 2 of 14 cases were resolved, with one dismissed and the other terminated. In the same period, 105 administrative disputes were initiated against CPECA’s decisions, of which 10 were resolved: 6 dismissals, 1 granted and 3 declared inadmissible. Some 46 were reassigned.

To conclude, when examining ADADRAs, the data suggests that the new system of administrative judiciary is still in an adaptation and learning phase. The average duration of disputes has increased, the amount of additional costs of disputes for the plaintiffs has risen, and the chances of success have fallen. For now, there is a decrease in the number of ADADRAs resolved and a large number of referrals because of incorrect assessments of jurisdiction and changes in the laws governing the field (e.g. CPECA, CCA) and. The most worrisome aspect is the extremely low percentage of disputes resolved for CPECA, corrected
for referrals: 4% at the regional first-tier courts and 10% at the High Administrative Court, which is a large fall from the rates for ADADRA’s in the old system. It is worth noting that, in the old system, this agency had the shortest average duration of disputes of all the RA.

4.2.1. The High Administrative Court of the RoC

Along with the introduction of the two-tier system, „filters“ were installed to prevent an excessive number of appeals.¹⁴⁰ Table 5 shows the dynamics of dispute resolution at the HACRC. After the new ADA came into force, the number of cases fell sharply and abruptly, first of all because of the decreased opportunities to appeal first-tier Administrative Court decisions. During 2012 and 2013, a large number of unresolved cases were resolved. A substantial fall in the number of judges and court advisors is also seen, most likely a result of the decrease in the workload of the Court.

Table 5 Administrative disputes at the HACRC (former ACRC), 2011 – 2013 with estimates for 2014 and 2015

<table>
<thead>
<tr>
<th>YEAR</th>
<th>RECEIVED</th>
<th>IN PROCESS</th>
<th>RESOLVED</th>
<th>UNRESOLVED</th>
<th>JUDGES AND EXPERT ADVISORS</th>
<th>RESOLVED / JUDGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>15.133</td>
<td>50.412</td>
<td>17.960</td>
<td>32.452</td>
<td>67</td>
<td>268</td>
</tr>
<tr>
<td>2012</td>
<td>3.965</td>
<td>36.417</td>
<td>17.792</td>
<td>18.625</td>
<td>57</td>
<td>312</td>
</tr>
<tr>
<td>2013</td>
<td>2.612</td>
<td>21.236</td>
<td>13.170</td>
<td>8.066</td>
<td>45</td>
<td>293</td>
</tr>
<tr>
<td>2014</td>
<td>3.289</td>
<td>11.355</td>
<td>10.383</td>
<td>972</td>
<td>34</td>
<td>302</td>
</tr>
<tr>
<td>2015</td>
<td>3.289</td>
<td>4.260</td>
<td>4.260</td>
<td>0</td>
<td>14</td>
<td>302</td>
</tr>
</tbody>
</table>

Source: The authors, according to the data of the HACRC.

Based on the data for 2012 and 2013, the number of new cases in 2014 is estimated 3.289 and the average number of resolved cases at 302. Using 2011 data, a linear trend model

is used to estimate that the number of judges and court advisors will be 34. Based on the dynamics of case resolution to date, we estimate that 10,383 cases will be resolved in 2014, implying that the HACRC will carry less than 1,000 unresolved disputes into 2015. In 2015, based on all of our estimates, only 14 judges would be needed to resolve current and outstanding cases.

However, such a scenario is unlikely to actually occur. According to unofficial information, a working group has been formed to amend the ADA, with the amendments expected to take effect at the end of 2014. One of the most important amendments is the removal of „filters“ for appeals against first-tier Administrative Court rulings. Because of this, it is more likely that 2015 will see an abrupt and significant increase in appeals to the HACRC similar to the changes seen in 1998-1999 (Chart 1). This would, of course, require more judges and court advisors.

5. Conclusion

The role of the administrative judiciary system is to protect the rights and legal interests of citizens and legal persons against illegal acts and actions by public authorities. This is one of the control mechanisms that ensure the legal and effective functioning of public authorities. The central idea of administrative judiciary reform was to approach European standards of administrative judiciary. Because of this, in the context of comprehensive reforms of Croatia's legal system, the administrative judiciary system that had functioned for 60 years was changed fundamentally.

Empirical analysis of ADADRAs during the 17-year period from 1995 to 2011 was used to give insight into the structure of administrative disputes. ADADRAs are a very small fraction, only 0.36% of total administrative disputes resolved by the ACRC. However, the importance of individual sectors in the whole Croatian economy and the influence of particular subjects in the Croatian economy (major Croatian companies such as Agrokor, 141 Trend model is set up for the period since 2011 because of January 1, 2012 legal changes (introduction of the two-tier model of administrative judiciary) that caused the reduction in the number of judges at the HACRC. 99, 73% variation of the number of judges is explained by a linear trend model. The model was statistically significant at the 0.05 level of significance because p = 0, 033. Equation model is y = -11x + 67.33. X = 0 in 2011. Unit for x = 1 year. Unit y = the number of judges and court advisors.
Croatia Telekom, Atlantic, commercial banks) is by no means easy to overlook, so that it would be worthwhile to pay special attention to continuing education of judges in this technologically demanding and highly-regulated areas. The majority of ADADRAAs occur in telecommunications, financial markets and competition policy, while other sectors have very few or no cases initiated (e.g. energy, civil aviation, pharmaceuticals, railroads etc.). We believe that is because if its date of establishment and great increase in EU regulations pertaining to those areas. The majority of the plaintiffs are legal persons, some 87% of the total, while only 13% are natural persons.

ADADRAAs last on average 2 years. 36% are resolved within a year, but half last two to six years. Cases involving CPECA are resolved the fastest. In fact, for a certain period, disputes involving this Agency were classified as urgent at the ACRC. Examination of data on the ACRC’s decisions suggests that the regulatory agencies are very successful in having their decisions upheld, with decisions upheld four and a half times more often than they are overturned. Plaintiffs only succeed in 13% of resolved ADADRAAs, with an equal percentage of terminations, and 16% inadmissible. There was no right of appeal against the ACRC’s decisions, but certain other actions were possible (e.g. extraordinary legal remedies, appeals to the Constitutional Court). During the 17-year period studied, these actions brought extremely little success to plaintiffs.

The basic costs of administrative disputes range from € 270 - 400, but may increase if extraordinary legal remedies or constitutional complaints are lodged. In addition court costs depend on the value of the dispute. One of the most controversial aspects of the system is the stipulation that all parties bear their own costs, independent of the outcome of the case.

The main characteristics and trends regarding ADADRAAs are different than those for other administrative disputes. This suggests that regulatory agencies are special and very effective public authorities compared to others such as state administrative bodies, local and regional government.

The new administrative judiciary system that came into force on January 1, 2012 included many significant changes, such as the two-tier model, the right to appeal, mandatory oral and public hearings, resolution of administrative issues on substance etc. Available data on the new system are fragmentary, but there are signs of new trends. The administrative judiciary system is in an adjustment phase, as evidenced by the large number of referrals,
disputes that are reassigned to other courts because of incorrect determinations of jurisdiction. Because of this, almost 30% of the „resolved“ ADADRAs at first-tier Administrative Courts and almost 80% at the HACRC are in this „ping-pong space“. In the medium-term, this will surely increase the duration of disputes.

The share of disputes declared inadmissible has risen to 25% at the HACRC and to as much as 43% at the first-tier courts. This does not support the notion that the reforms are achieving their goal of raising the level of legal protection by decreasing the restrictiveness of judicial interpretations of administrative matter. The share of decisions in favour of plaintiffs has somewhat decreased, and the level of effectiveness of the regulatory agencies in affirming the legality of their decisions has remained at almost the same, very high level of success. Additional dispute costs for plaintiffs have increased many times over, including representation at hearings, appeals costs and others. At the same time, the counterweight provision in the new Act which allowed for successful plaintiffs to have their costs covered was repealed within a year of the Act's coming into effect, with the old system under which all sides cover their own costs returned to life. The HACRC has been extremely successful in decreasing its workload under the new ADA through „filters“. They have been so successful at reducing their workload that there is now a „danger“ that the HACRC would be „unemployed.“ However, new amendments to the ADA are expected to almost completely remove the „filters“ so the High Administrative Court will most likely once again be flooded with cases and (over)burdened with a large number of new administrative disputes resulting from appeals.

To conclude, from the perspective of the plaintiff, in the old administrative judiciary system, initiating an ADADRA meant starting a dispute that would, on average, last more than two years, require a basic cost of € 270 - 400, and have about a 13% chance of success. The new system gives plaintiffs higher costs and less chance of success.

From the perspective of the defendant, the regulatory agencies have shown a high degree of professionalism in handling administrative disputes under both systems, and they have gained a high rate of success. Through time and experience they have become superior public authorities regarding the legality of their decisions upheld by the HACRC. In the new administrative judiciary system, the low level of resolved ADADRAs suggests the inadequate capacities of the first-tier Administrative Courts and the future accumulation of unresolved cases. This opens the question of whether there is a need for specialisation of judges in these
highly-regulated and technologically demanding areas. It is possible that, in the future, the Legislator may follow the examples of CPECA and CCA, and give jurisdiction for judicial review of ADADRA directly to the HACRC.
Appendix 1: Overview of regulatory agencies and their predecessors, primary legislation with the notes related to the possibility of undertaking the administrative dispute and emergency proceedings classification (on January 31, 2014)

<table>
<thead>
<tr>
<th>No.</th>
<th>RA and predecessor</th>
<th>Primary legislation</th>
<th>Emergency proceeding</th>
<th>Administrative dispute</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Croatian Post and Electronic Communications Agency-CPECA - since 2008</td>
<td>Electronic Communications Act (OG 73/08, 90/11,133/12, 80/13) Postal Services Act (OG 88/09, 61/11) Postal Services Act (OG 144/12, 153/13)</td>
<td>Yes (Art. 18) Note: deleted - OG 90/11 Yes (Art.41, 54) Note: deleted – OG 61/11 No</td>
<td>Yes (Art. 18, 116) Note: HACRC jurisdiction (exception – from July 1, 2013 certain procedures are in the jurisdiction of the local 1st instance courts - Art.18, 116-OG-80/13) Yes (Art. 41, 54) Note: deleted – Art. 54- OG 61/11-appeal allowed to the Committee at the Ministry No</td>
</tr>
<tr>
<td>1.1</td>
<td>Croatian Telecommunications Agency (2003-2008)</td>
<td>Telecommunications Act (OG 122/03, 158/03, 177/03, 60/04, 70/05)</td>
<td>No / Note: Amend.– Yes (Art.13, 114-OG 70/05)</td>
<td>Yes (Art.: 13, 26, 33, 114)</td>
</tr>
<tr>
<td>1.2</td>
<td>Croatian Institute for Telecommunications (1999-2003)</td>
<td>Telecommunications Act (OG 76/99, 128/99, 68/01, 109/01)</td>
<td>No</td>
<td>Yes (Art. 5) Note: Yes (Art. 5b) amendments - OG 68/01</td>
</tr>
<tr>
<td>1.4</td>
<td>The Council for Postal Services (2004-2008)</td>
<td>Postal Act (OG 172/03,15/04,92/05,63/03)</td>
<td>No / Note: amendments - Yes (Art. 58-OG 63/08)</td>
<td>Yes (Art. 29, 58)</td>
</tr>
<tr>
<td>2.</td>
<td>Croatian Competition Agency – CCA – since 1995</td>
<td>Competition Act (OG 48/95,52/97,89/98) Competition Act (OG 122/03) Competition Act (OG 79/09, 80/13) State Aid Act (OG 47/03, 60/04) State Aid Act (OG 140/05, 49/11) State Aid Act (OG 72/13, 141/13)</td>
<td>No No No No No No</td>
<td>Yes (Art.37) Yes (Art.58) Yes (Art.: 36,38,39,41, 51,67) Note 1: HACRC jurisdiction from July 1, 2013 – Art. 50- OG 80/13 Note 2: HACRC shall decide within two days upon CCA's request to issue warrant to conduct dawn raids - Art. 42 OG 80/13 Yes (Art. 9) Yes (Art. 8) No</td>
</tr>
<tr>
<td>No.</td>
<td>RA and predecessor</td>
<td>Primary legislation</td>
<td>Emergency proceeding</td>
<td>Administrative dispute</td>
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<tr>
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</tr>
<tr>
<td>3.</td>
<td>Croatian Financial Services Supervisory Agency - CFSSA Since 2006</td>
<td>Act on the Croatian Financial Services Supervisory Agency (OG 140/05, 154/11, 12/12)</td>
<td>No</td>
<td>Yes (Art.19)</td>
</tr>
<tr>
<td>5.</td>
<td>Croatian Energy Regulatory Agency - CERA Since 2004</td>
<td>Act on the Regulation of Energy Activities (OG 177/04, 76/07)</td>
<td>No</td>
<td>Yes (Art.9,12)</td>
</tr>
<tr>
<td>5.</td>
<td>Croatian Energy Regulatory Agency - CERA Since 2004</td>
<td>Act on the Regulation of Energy Activities (OG120/12)</td>
<td>No</td>
<td>No (Art.36 Supervision - Ministry)</td>
</tr>
<tr>
<td>5.</td>
<td>Croatian Energy Regulatory Agency - CERA Since 2004</td>
<td>Energy Act (OG 120/12)</td>
<td>No</td>
<td>No (Art. 17, 18, 19 – Appeal to the Ministry of Economy)</td>
</tr>
<tr>
<td>5.</td>
<td>Croatian Energy Regulatory Agency - CERA Since 2004</td>
<td>Electricity Market Act (OG 20/13)</td>
<td>Yes (Art.12,27,54,68)</td>
<td>Yes (Art.: 12, 27, 34, 43, 47, 50, 54, 58)</td>
</tr>
<tr>
<td>6.</td>
<td>Croatian Civil Aviation Agency - CCAA Since 2007</td>
<td>Air Traffic Act (OG 69/09,84/11, 127/13)</td>
<td>No</td>
<td>Yes (Art. 5 - OG 84/11)</td>
</tr>
<tr>
<td>7.</td>
<td>Croatian Agency for Medicinal Products and Medical Devices - CAMPMD Since 2003</td>
<td>Act on Medicinal Products and Medical Devices (OG 121/03, 177/04)</td>
<td>No</td>
<td>Yes (Art.16,21,23,49,52,82)</td>
</tr>
<tr>
<td>7.</td>
<td>Croatian Agency for Medicinal Products and Medical Devices - CAMPMD Since 2003</td>
<td>Act on Medical Devices (OG 67/08,124/11)</td>
<td>No</td>
<td>Yes (Art. 22,23,24,31,32,45,68)</td>
</tr>
<tr>
<td>7.</td>
<td>Croatian Agency for Medicinal Products and Medical Devices - CAMPMD Since 2003</td>
<td>Act on Medical Devices (OG 76/13)</td>
<td>No</td>
<td>Yes (Art. 28,30,41)</td>
</tr>
<tr>
<td>No.</td>
<td>RA and predecessor</td>
<td>Primary legislation</td>
<td>Emergency proceeding</td>
<td>Administrative dispute</td>
</tr>
<tr>
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<td>------------------------</td>
</tr>
<tr>
<td>7.1</td>
<td>Croatian Institute for Medicines Control (1993-2003)</td>
<td>Health Protection Act (OG 75/93, 11/94, 55/96, 1/97PT, 111/97, 95/00, 129/00)</td>
<td>No</td>
<td>Yes (Art. 151) – in case of a health inspection</td>
</tr>
<tr>
<td>7.2</td>
<td>Croatian Institute of Immunobiological Preparations Control (1993-2003)</td>
<td>Health Protection Act (OG 75/93, 11/94, 55/96, 1/97PT, 111/97, 95/00, 129/00)</td>
<td>No</td>
<td>Yes (Art. 151) - in case of a health inspection</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Act on Quality Assurance in Science and Higher Education (OG 45/09)</td>
<td>No</td>
<td>No (Art. 6) Appeal to the Ministry</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Act on recognition of foreign educational qualification (OG 158/03, 198/03, 138/06, 45/11)</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>9.</td>
<td>Croatian Rail Market Regulatory Agency – CRMRA Since 2007</td>
<td>Act on Rail Market Regulatory Agency (OG 79/07, 75/09, 61/11)</td>
<td>Yes (Art. 6)- within 6 months / Note: deleted-OG 61/11</td>
<td>Yes (Art. 6, 7)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Act on Health Care Quality and Social Welfare (OG 124/11)</td>
<td>No</td>
<td>No (Art. 16) Appeal to the Ministry</td>
</tr>
<tr>
<td>12.</td>
<td>Croatian National Bank - CNB Since 1997</td>
<td>The Constitutional Law on Amendments to the Constitution of the RC (OG 137/97 Art. 8 – name change)</td>
<td>No</td>
<td>Yes (Art.42) i (Art.64a) - amendments OG135/06</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Act on the Croatian National Bank (OG 36/01, 135/06)</td>
<td>No</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>Act on the Croatian National Bank (OG 75/08, 54/13)</td>
<td>No</td>
<td>Yes (Art.69,81) - amendments (Art. 81 – OG 54/13)</td>
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<td></td>
<td></td>
<td>Act on the National Bank of Croatia (OG 55/89,991)</td>
<td>No</td>
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<td></td>
<td></td>
<td>Act on the NBC (OG74/92,79/92,795,35/95-PT)</td>
<td>No</td>
<td>Yes (Art.46,51)</td>
</tr>
</tbody>
</table>

Note: Marked OG numbers represent acts with provisions of agency's establishment.
Source: Adapted from Musa, A., „Good Governance in Croatian regulatory agencies: towards a legal framework“, in Kopric, I., Musa, A. i Djulabic, V. (eds.) (2013) „Agency in Croatia“, Institute for Public Administration, Zagreb, p. 120-121.