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THE SPECIFIC'S OF THE CONNECTION SYSTEM BETWEEN THE EU AND MEMBER STATES PUBLIC ADMINISTRATION

The Maastricht Treaty has established the European Union in 1992, and has assumed an unique world history example and huge task, when it has set itself twin goals: economic and monetary union, and the implementation of political union. The achievement of this goal is also an unprecedented – three pillars – structure was intended to achieve, in cooperation with Member States, of course. The first pillar was the European Communities, the second pillar the EU's "common foreign and security policy", and the third pillar was the "justice and home affairs co-operation".

In this structure, the **Treaty of Amsterdam** (1997) brought a significant change in that, it has significantly affected the third pillar. Seven from the nine cooperative area have been moved to the first pillar. Consequently, the name was changed to "police and judicial cooperation in criminal matters", The **Treaty of Nice**, signed in 2001, did not result a significant change in our topic, although significance was enormous, no doubt, since the EU expansion has created the legal prerequisites. In the meantime (1998 and 2000) after the end of accession negotiations, that has started earlier, and the signature of the Accession Treaty has been comleted, the number of EU Member States in 2004 went from 15 to 25, 2007 and increased up to 27, and finally in 2013 has emerged into 28 member states. In our topic it is relevant to point out, that the EU has not got legal personality and its own institutional structure nor in the Maastricht or Amsterdam, or the Treaty of Nice! That is why the EU is essentially ' borrowed ' from 1965 to common institutional system of the European Communities on the first pillar.

In the three pillars, there was not only difference between co-operation fields, but in the respect of the operational model of cooperation (the so-called. Policies). While the first pillar has worked in the "community model" basis, meanwhile the second and third pillar has worked under the "intergovernmental model" principle. Simply it is mean that:

– Areas included in the first pillar (political) community, in the issues, all of institutional actors, "had a say." The decisions were prepared by the European Commission, taken by the Council in cooperation with the European Union' Parliament and of the other "game-actors" involved. The decisions were taken by qualified majority: the 15 Member States had 87 votes, (necessary 62), while 27 countries had 345 votes (255 are necessary for decision making).

– Into the Second and Third Pillar areas (political) question, just the community institution's, the Council of the European Union "has the right to say, what have to be done and how" and when it has decided, it could only be reached by consensus.

The **Treaty of Lisbon** has entered into a new situation which has arisen in 2007 and entered into force in 1st December, 2009[1]. This proves that:

– The EU has received legal personality and its own institutional system,

– Everything that had been "community",went into "Union", including the legal system,

– The abolition of the three-pillar structure and decision-making model has been implemented in the former first pillar's rule (ordinary legislative procedure),

– A significant decrease has been made in "democratic deficit" accordance with the EU institutional system, an emphasis on respect for democratic principles and other measures,

– There is a clear division of competences between the Union and the Member States,

– For administrative cooperation between the Union and the Member States (general) has been recorded.

All this was showned to illustrate: how complicated and how difficult is it in these days, the European Union's institutional system and its operation. If this is true, and yes it is, it is also obvious, that the system of relations between the EU institutions and the Member States should be complex. That is why we have to simplify our message about it. This can be achieved, if the relationship can not be inferred into system of the Member States throughout the state

organization (legislative, enforcement and litigation), but only limited to the Member States' administrations (the implementation). Therefore thicken theses considered to the most important features of the system of relations.

First thesis: The EU is an independent subject of international law,with own legal entities and private institutional system. A bit more detailed:

The 1. Article of Lisbon Treaty has modified the the Maastricht Treaty on European Union (as amended by the Amsterdam and Nice Treaty), and the text was modified, generated a result, that was the **Treaty on European Union** (hereinafter TEU). The 47. Article of the TEU has stated that the EU has legal personality. The 13. Article (1) recognize, that regulation provides that the Union shall have an institutional framework, as follows: European Parliament, European Council, Council, Commission, Court of Justice of the European Union, the European Central Bank and the Court of Auditors. The 13 Article (4) says that the EU institutions – as an advisory capacity – are assisted by the Economic and Social Committee and the Committee of the Regions.

The structure and responsibilities of the EU institutions are basically fixed in the 55. Article in the TEU. In contrast, the relationship between the rules and the institutions of the operation is not a contract, but the 358.article of the **Treaty on the Functioning of the European Union** (hereinafter TFEU) is included it[2]. This contract has borned with the modification of Rome Treaty (establishing the European Community Treaty) in the 2.Article of Lisbon Treaty. The TEU and the TFEU are two equal-value contracts. Together form the constitutional basis of the EU.

Second thesis: In the lack of external EU institutions in the Member States, EU institutions and government organizations in the Member States are form together a single unit, whict has to both ensure the implementation and the enforcement of EU law too. In this sense, the EU administration is a shared management. A bit more detailed:

After review the history of the European Communities and the European Union and the structure and functioning of the EU institutions has beeb analyzed, it was found that organic sense, the EU is nothing more than that – up by nation states, supranational level – institution building in a strong and legally accurate defined relationship with the member states's national institutions.

The relationship between the only **centraly operating** and above listed EU institutions, and as well as the **"regional and local" operating** authorities at national institutions (parliaments, governments, courts and governments) can be characterized with the **principle of supplementory**[3]. In other words – the words of Professor Louis Lorincz loaned – the principle of the division of administrative functions prevail in the EU. This means, that the EU institutions envisage the objectives of the Union, collect information, plan, decide, and coordinate and control. Implementation of it's decision are primarily the responsibility of Member States, in the Member States including all state bodies, not just the administration[4]. In this organizational and operational model, the EU institutions and the Member States form together a whole state apparatus: a pan-European "public body," and as part of a pan-European legislation, administration and justiciary. All of these can be taken into account in the **definition of European public administration**, as follows:

In organic sense – The European Union Administration is the sum of the ("core") union' and national ("regional and local") institutions, that prepare's EU decisions (legislation) and ensure their implementation and effectiveness. So it is clearly seen, that the organizational sense "notion not only the European government administrative departments of the Community, namely self-management and administration of the Community include, but embraces the Community and Member States' administrations as well[5].

Third thesis: Apart from minor exceptions, in the absence of legal regulations, that are directly binding to the administrations of the Member States, there are 'only' expectations from the Union: consistently and fully enforce the EU law, that are reliable, transparent and democratically operate. To achieve the above mentioned, the TFEU made significant progress. A little more detailed:

In our opinion in the case of **the secondary sources of Union law** the Union can influence **the structural and functional system of the Member States**. As we earlier mentioned in the curriculum Council Regulation (EC) No 1083/2006 on general provisions of the Structural Funds lays down obligatory the structure and the tasks of the national institutions which are responsible for the proper utilization of structural resources. (c.f. managing-, certifying, audit- authorities) Furthermore Regulation (EC) No 1059/2003 of the European Parliament and of the Council on the establishment of a common classification of territorial units for statistics (NUTS) (NUTS-regulation) there was an **obligatory prescription** for Member States to establish the classified territorial units! In these regulations and in other **secondary law-sources obligatory rules** concerning the administrative organs and actions of the Member States are determined **only exceptionally.** On the other hand **the connection between the institutions of the EU and the Member States** is rather **a partnership and not a hierarchical relationship**[6]**.**

Taking some example, the cooperation between the Commission and the competition offices; or the cooperation between the EU Court of Auditors and the national offices financial-control can be mentioned. The EU Court of Auditors controls based on the accounting voucher by the Union institutions or by the Member States on the spot. The control in the Member States takes place by the national Court of Auditors through holding continuous connection with its organs. The EU Court of Auditors and the national institutions cooperate in a loyal way with respect of its independence. The national institutions let the EU Court of Auditors to know whether they intend to take part in the examination. If they take part in this procedure they will quasi Union institutions a so-called deconcentrated organ of the EU Court of Auditors placed in the Member States. Consequently in this way the institutions build **an institutional-network in order to implement Union law.**

As we can see the representatives of **institutions of the Union and of the Member States** are partners. They make up together **a whole entirety, an institutional network** in order to **ensure the effective enforcement of**

Union law. The model of the European administration can be characterized as „… transition of separation of power between cooperation, subordination and superiority" according to specialized literature. This transition is called „model of interpenetration". In this sense „…interpenetrations means a principle which aims at the achievement of unified administrative actions due to two principles – cooperative and hierarchical model"[7].

In the Member States of the EU a unified administrative model does not function, which is governed from Brussels based on the above mentioned facts, since it can be characterized with variety. This circumstance – as we highlighted earlier – can lead to crucial problems in view of the unified implementation and enforcement of Union law. The implementation is carried out in 27 ways, since the place of the execution is too far from the Brussels-based European Commission. Consequently the situation leads to the partnership between the Commission and Union institutions.

As a result of the above mentions reasons **the European Union** and its institutional system do not exert direct power (irrespective of some exceptions) on the public administration of the Member States. **It is without doubt however that it effects on it continuously,** widely and more and more powerfully: due to the acquis communautaire has a binding effect implicitly and the Union law primarily through paragraph 3 of 4 Article of the TEU, through Article 6 of TEU and through Article 41, 42 of Charter and through certain secondary sources expressis verbis, **it obliges them to what is called as a "resultobligation". This obligation means** the implementation of the Union law, **accomplishment** of three requirements the public administration of the Member States **shall be reliable, transparent and democratic as well**[8]**.** What do these terms mean?

a.) Reliability

It can be stated, that the Member States organize their public administration independently without any external influence, therefore we cannot speak about administrative acquis. For the EU it is neutral, what kind of organizational solutions and functional methods have being applied by the Member States furthermore how their civil servant system is built up. Only one thing is essential, that the public administration is to function to achieve the tasks of the EU completely in order to achieve the goals determined by the EU. The emphasis is on achieving the EU goals, consequently on the effective application implementation of acquis communautaire are emphasized. To achieve this, the Union expects the Member States to **have a reliable public administrative institutional system** the Union regulations shall be incorporated in the legal system, they shall be enforced effectively by the different organs, furthermore a continuous control of enforcement and the settlement of legal dispute shall be facilitated[9]. The reliability includes the different elements of efficiency: accuracy, quickness, dynamic adaptability, moreover the promotion of the economic and political integration, major[10].

b.) Transparency

The EU expects the Member States to have **transparent** public administration, which means that the scope of state organs having contact with the EU institutions is to be well-defined. The powers and levels of decisions shall be precisely separated and the powers of the institutions shall be in compliance with each other so that neither 'empty space' nor overlapping of powers shall occur[11].

c.) Democracy

Another requirement of the EU is the **democratic operation** of the administrative institutions of the Member States. The requirement of democracy includes law and order, respect for human rights and fundamental liberties, a multi-party political system, political impartiality of those working for the executive power, stability of legislation and reliability of public administration[12].

The 2. Article of TFEU rank into four types of EU powers. One of them are those which are practiced by the EU, the Treaty clearly defined areas and conditions, without thereby superseding their competence of the Member States are doing. These are called : actions to support, coordinate or supplement the powers that are listed in the 6.Article of the TFEU. The seventh element of the list is the **administrative cooperation**, (Article 197 TFEU.)[13]. The essence of the legislation, that the need for effective implementation of Union law by the Member States in matters of common interest, so that the EU supports the efforts of Member States to improve their administrative capacity to implement Union law. Such EU action's are directing mainly to include the exchange of information and civil servants as well as supporting training programs. It is important to stress, that the Treaty state,s that no Member State shall be required for such action to be invoked. Imposing these regulations – our opinion – the EU has stepped a boundary. The threshold under which a primary source of law previously has not contained anything about the administration of the Member States. And now,it has, in fact it is quite careful. This provision gives the true significance! However, this means still the next thesis.

Fourth thesis: If we examine **how the integration has affected the central, regional and local administrative organs of the Member States,** we will be get the same answer, what we earlier mentioned. As we above highlighted directly obligatory dispositions apart from some exceptions are not, but general features can be collected. We can state that each Member State has different administration, although the obligation of preparation and implementation of Union law is the same. Moreover a new procedure the Europeanization of the administrative law of the Member States occurs due to the Union "result-obligation". What do these terms mean?

The definition of **„Europeanization of administrative law"** means that the national administrative law develops under the European influence. Contrary to it the **"European administrative law"** means that a part of Community/Union law became independent the so called "European administrative law". This definition is narrower than the law which regulates the matters of the administrative usage and implementation in the EU, since it does not cover the implementation by the jurisdiction. On the other hand this definition is wider than the law which

involves the harmonization procedure of the administrative law of the EU's and the Member States' law-systems, since it includes the loyal cooperation of the Union institutions and the organs of the Member States.

This is a long, historical procedure, which – as we will see in the next Chapter – appeared in the 90s through the definition of the European Administrative Space.

a.) In central public administration:

Each and every Member State has established its own structure for handling European affairs, however, a so called Ministry for European Affairs has nowhere been established, since the minister leading the Ministry would have more power than other ministers and the prime minister have due to the strong intervention of the Union law. It shall be emphasized that the minister is not executor on the stage of the EU, but he is a legislator. **The resolution** of the Member States adopted on the field of the administration – as we saw earlier in Chapter 2.5. – **are divided into four or rather five types of groups.** The so-called centralized model 1 and 2, decentralised model can be mentioned. The Union affairs in case of the British and French solutions are coordinated by a central organ (the European Secretariat and the SGCI), established ex-novo, beside the government, but sub-ordinated to the prime minister. (Centralized model 1.) The Ministry for Foreign Affairs has this task in Belgium and Spain, whereas in Germany the Ministry of Economy provides it. (Centralized model 2.) The fourth solution is **the decentralized model**. Its main feature is that each central authority (ministry) has a department dealing exclusively with EU matters. For example in Luxembourg due to lack of central coordination each Ministry has connection with its pair in Brussels. (Török, 1994) As we referred, it is **a fifth resolution** which can consider as a transition of centralized and decentralized models. In this case organs dealing with EU affairs are not only in the Ministries but in the government as well (for instance in Hungary)[14].

b.) Concerning the territorial level:

The determining common feature is **regionalisation** and a strong level of municipality on one hand, and closely related to this a significant decrease in the number of medium-level units and a significant increase in the population of this level. The main characteristic concerning the local level of the administration is the **regionalization** and the recruitment of the middle-level of municipalities[15]. On the other hand – in close connection with the earlier feature – the significant decrease of the middle-level units and the important increase of its population can be mentioned. In connection with these facts we have to highlight some data: the number of the middle-level (regional) units decreased from 531 to 320 in the European Union in the period 1956–1995, meanwhile the population increased on average from 468.000 to 1.159.000[16]. The reasons behind the strengthening of regionalisation as an economic, social and political process are as follows: the extension of ethnic movements, the effects of the latest function of state administration (e.g. the effect of decentralisation), representation of regional interests, and the regional policy of the European Community. **Regionalisation can be considered as an attack against national states since** it enforces the central state power to delegate competences to the regions below the national level.

This is particularly important since the **European integration**, the other major economic and political process in the second half of the 20th century in Western Europe had the same result, although with and opposite tendency. European integration – similarly to regionalisation – also leads to the weakening of the national state since it means that the tasks and competences are delegated to upper levels, to the institutions of the EU. Consequently, **European integration can be considered as an attack from above against nation-states.**

We state that the nation-states of Europe have existed under double pressure, besides other circumstances (globalisation), under the pressure of regionalisation and integration. Regionalisation sets the demand of decentralising the tasks and competences of the central power as well as the resources. In contrast to this, integration sets the demand of delegating tasks and competences to the institutions of the European Community and the European Union. The result of these tendencies will be the **disappearance of national states** in Europe, or in other words, a united Europe without national borders. A super state, a new United States of Europe will be formed. Nobody knows when it will take place. The fact is, however, that the tendencies are evident: the disappearance of national states and the formation of a new state structure.

c.) On the level of local administrative organs the self-government is determining. With regard to **the local self-government organs of administration** certain common features occur:

– local government management is generally multi-level with the different levels being co-ordinate and not subordinate or superordinate,

– local governments have general responsibilities thus they are involved in local public affairs,

– the scope of the local governments' activity involves providing services and co-ordinating the activity of different organisations in the settlements,

– the powers are exercised by assemblies composed of members directly elected by the inhabitants and supported by professional executive staff,

– the scope of activity of the political body and the executive authority is clearly separated,

– local governments, beyond the national level, are entitled to co-operate with their counterparts in each state thus they can establish a wide range of international relations.

The Council of Europe, aimed to enforcing human rights in Europe, was established in 1949. It has developed and opened several signature for the Members, such as Hungary, before 1990, and it has also made numerous recommendations for the Member States for numerous conventions in the past sixty years. Among the agreements, a prominent theme has to be mentioned: the European Charta of Local Self-Government, adopted in 1985[17]. Hungary has joined that in 1997 with Act XVII. 1997. The significance of the Charter is to set up European standard's to what the member states have to use in local communities, and what are requirements to be enforced[18].

Within the recommendations of the Council of Europe, play's an important role in the national administrations of the Unification issued, the recommendations on "good public administration in 2007". The document sees "good government" guarantee, that the Council of Europe's member governments are all supporting more effective, efficient and making cost-conscious the organization and functioning of the public authorities. For this aim, the recommendation – "harmonization of procedures" – has encouraged the Member States to follow the, "Sample Code" attached in the annexes. The Model Code sets out the following principles of general national validation, and thus secured a sort of European minimum procedural standards: the subordination of the administration of the law (Article 2), the principle of equal treatment (Article 3), the decision on the principle of taking the obligation within a reasonable period of time (Articles 7 and 13), the principle of judicial review (Article 22), the principle of injury to the administrative power compensation obligation (Article 23) the principle of protection of personal data (Article 9), transparency (Article 10)[19].

Fifth thesis: The result's of the research's, made in the **European Institute of Public Administration** (EIPA, Maastricht) and in the University of Florence European Institute, has showned, that the EU has taken a big step towards a single European Administrative Area with creating the 'Copenhagen criteria' formulation for the socialist countries from the region of the Central and Eastern Europeans, with the intention of the accession to the EU, that can be provide in the Treaty of Amsterdam (1997) with the formula. This played an important part in the Paris-based **OECD and SIGMA programme**. After the Treaty of Amsterdam in about one and a half decades, the contours of European Administrative Area has drowned out increasingly. A bit detailed:

The EU made a major step to create the EAS with the European Institute of Public Administration (EIPA – Maastricht), the researches in the University of Firenze, Copenhagen criteria (1997.) and with the Amsterdam Treaty (1997.)[20]. The Council of Europe and the OECD (headquarters in Paris, France) with its SIGMA Programme has taken its great part of the developing of the EAS. From the Amsterdam Treaty the EAS has been outlining strongly:

The European Institute of Public Management was founded in 1981. Its role was specified to analyze the relationship of the European Communities' institutes and the member states in the field of public administration. In the legislation of the Community the directives were getting more important. Directives are binding on Member States as to the result to be achieved but leave it to the respective national authorities to decide how the Community objective set out in the directive is to be incorporated into their domestic legal systems before a specified date. Famous professors were working together in the Institute and in the other European institute in Firenze, where they were researching in the field of management with empirical methods. This time **Professor Jürgen Schwarze** created his famous, still determining monograph about the European administration law[21].

The Copenhagen Criteria was created by the Head of States and the Prime Ministers of the member states in the June of 1993. In this document we can find the rules that define whether a country is eligible to join the European Union. The Criteria require that a state has the institutions to (a) preserve democratic governance, human rights and grant the protection of the minorities, (b) has a functioning market economy, (c) and accepts the obligations and intent of the EU. (Acquis communautaire, European Monetary Union, Political Union) When the members created the Criteria, they fulfilled its requirements, so the newly members have to fulfill them to join the EAS.

SIGMA was initially launched in 1992 by the OECD and the European Commission's Phare Programme to support 5 Central European countries in their public administration reforms. In parallel with the expansion of the Stabilization and Association Process, SIGMA support has subsequently been extended to other countries, including all ten 2004 and two 2007 EU entrants. Its main task was to help the transitions countries to expand their capacity of administration. The European Commission – the EU – joined to the SIGMA with its Phare programme (its main aim is the same as the SIGMA) in 1999. The EU and the OECD together gave out different types of **recommendations** to help them prepare the joining the EU and the appropriate enforcement of the EU law. Two of the recommendations are important for us. The first is about preparing the national administrations for the EAS, and the second is about the principles of the European administrations[22]. (See more at: OECD SIGMA/PUMA: Preparing Public Administrations for the European Administrative Space. SIGMA Paper No. 23. 1998. AND: OECD SIGMA/PUMA: European Principles for Public Administration. SIGMA Paper No. 27. 1999)[23].

In the first document three principles were defined: 1.) The EU institutions can not substitute with national institutions, but they have to cooperate. 2.) The national administrations are responsible for the implementation of the EU's decisions. 3.) The national administrations have to be reliable, transparent, and have to work democratically.

The second document – which is about **the principles of the European administration** – states that **there are principles, which need to be enforced to grant the primacy of the EU law in the member states**. This also is an obligatory requirement for the candidate states and they have to make reforms to grant this primacy. These principles were defined by the European Court as **basic principles** and they have to enforce generally in a member states' legal system. These principles are: the principle of legality, the principle of proportionality, the principle of legal certainty, the principle of legitimate expectations, prohibition of discrimination, the right of trial use, the right of appeal. The principles are known widely, so we do not have to define them, but we refer to that the Document methodizes the principles in different groups, such as: 1.) reliability and predictability, 2.) publicity, 3.) accountability (public responsibility), 4.) efficiency and effectiveness[24]. We discuss these principles in the next chapter, because these characterize the EAS. The features of the EAS and the integration of the public administration in the EU have the same features[25]. The experts' opinions are the same about them. The features are:

A.) Political stability and the enforcement of the democratic rule of Law.

A law, which grants the separation of powers, a democratic system of institutions and its operation, the enforcement of the fundamental rights and freedoms, and finally the respect of the minority rights. We have to highlight

one of the instructions of the Treaty on the European Union (Lisbon Treaty), this is the article 2 in title 1: "The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of Law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail".

B). Sustainable and environment friendly economic development, in which the principle of solidarity is dominant

In article 3, 3 paragraph of Treaty on the European Union we can find this instruction: "The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance.

The principle of solidarity primarily means an economic, social and regional cohesion, which is realized by an internal policy. (This is based on article 174–178. of the Treaty on the Functioning of the European Union). This means in practice that the EU coordinates their policies and activities to provide the sustainable development and to improve the force of the coordination. The EU specially takes efforts to reduce the difference of the development between the different regions all over the EU; furthermore it pays special attention to the rural areas, the areas with big industrial transformation, the thinly populated areas and the island region. To reach these aims the EU uses the sources of the European Investment Bank and the European Investment Fund, and other funds. The member states shall conduct their economy policies and shall conduct them in such way as, in addition, to attain these objectives. (Article 175. in the Functioning of the European Union).

C). To decrease the role of the national parliaments and to increase the role of the national administrations.

An institutional point of view the winners of the European integration are the national administration public system, particularly central agencies and within this the ministers. It is not forgettable that the Council of Ministers was an exclusive legislature for a long time, and now as the Council of the European Union is co-legislator with the European Parliament. Consequently, the national parliaments are not legislatures, but they execute the decisions of the EU. This naturally upgraded the role of the national ministers, and devalued the role of the national parliaments in the EU. The EU called this situation as "the democratic deficit". This phenomenon is very active in the EU, but the European Union has been decreasing it with for instance: in the history of the European Parliament, it received more and more legislative powers (Single European Act, Treaty in European Union, Treaty of Amsterdam… etc.), the EU involves the national parliaments to the legislation (article 12, the Treaty on the European Union), the EU involves the European Parliament to the process of the foundation and the termination of the European Commission (article 17 and 18 in the Treaty on the European Union). The deficit can totally disappear if the European Parliament becomes the exclusive legislature (even with the Council of the European Union), and the European Commission becomes the government of the European Union. This is the tendency of the development, but the EU is too far from realization.

D). The maintenance and the operation of a reliable, a transparent and a democratic administration.

Previously we defined the content of these words. We put emphasis on to understand, that in the EU there are a few directly binding legal regulations for the national administrations, rather there are many expectations against them: to be reliable, to work transparently and democratically. If they do not meet with the expectations, the European Commission and the other member states have got the legal instruments to enforce them. (Article 114. 126. 258., 259. in the Treaty on the Functioning of the European Union).

F). The enforcement of the principles of the "European" and "good governance" all over the EU, especially in EU level, member state level, local self-government level.

Basically in this feature we have to mention the European Commission's "White book on the European governance" from 2001. This outlines that the EU citizens and the EU institutions to get closer the "good governance" have to be put into effect. The good governance has got 5 principles: **openness**, **participation**, **accountability**, **effectiveness and the requirement of coherence**.

The White Book also states that the five principles of the good governance is need to be applied all over the EU, more precisely in the authorities of the EU and the member states (in central bodies and in the local self-governments). This document clearly outlines expectations against each organization in every member states and in the EU.

G). The harmonization of procedures, or applying rules of procedures and institutions, which provide the enforcement of EU law.

In these past years there is agreement that says: the integration of the administration has to follow the economic integration, because it is not allowed in the European Union, that the 27 member states execute differently the EU law and the EU norms too. So a process was started in the EAS. This process is about the unification of the procedures of member states' administrative authorities and the administrative procedures. (It is called Europeanization).

The start of this development was **the recommendation of the OECD** on the principles of the European administration. (See at: OECD SIGMA/PUMA: European Principles for Public Administration. SIGMA Paper No. 27. 1999.) This document organizes the requirements against the European administration **in 4 groups** (considering the European Court's general principles of law): a.) reliability and predictability, b.) openness and transparency, c.) accountability (public responsibility), d.) effectiveness and efficacy.

Ad. a.) Reliability and predictability

These two principles mean the duty of the administrative bodies when they make their decisions and their actions, because during this they are bound to law. The principles also mean the rule of Law, the principle of legality. So the administration when does something, it can does with an authorization (the principle of authority). When it has got authority, action is needed (the principle ex officio). That is why the administration is predictable.

But there are more principles in the service of the principle of reliability and predictability. Namely: proportionality, fair procedure, the principle of timeliness and the principle of professionalism. The principle of proportionality contains the proportionality of decisions, which means that the decisions has to be proportional with the aim pursued without causing an unnecessary disadvantage to citizens. The principle of fair procedure means dealing with issues without partiality, and it extends the duty of information on the side of authorities. The principle of timeliness means, that the authorities have to make their decision in the deadline which is based on the deadline defined in the act, because the delay can cause injustice and can make harder to get the evidences. The principle of professionalism is a requirement against the public service: the civil servants have to be qualified, well-trained, neutral and professionally independent.

Ad. b.) Openness and transparency

The principle of openness means that the administration is available for the external examinations and for the involved citizens. The principle of transparency enables the realization of the aims of control and examination. The enforcement of these two principles provide the chance for the people who are involved into the administration process to learn about their rights and of course for the external bodies to revise the legality of the decisions. In addition, the principles of legality, equality and accountability also enforce in the field of the principles of openness and transparency.

The principle of openness and transparency serve 2 special aims in the world of public administration. On the one hand serve the protection of the public interest with reducing the possibility of the wrong decisions and the possibility of corruption, and the other hand serve the protection of the individual rights with expecting the justification of the decisions rationally and with helping the interested to live with their right to appeal. Secrecy and discretion was a general practice – except Sweden – in the administration until the end of the 18th century. Subsequently the principle of openness meant that the laws and the individual decisions could be enforced if they were told to the involved person by the administrative bodies, authorities. The principles of openness and transparency became the principles of the democratic states at the end of the 20th century (open government).

Ad. c. Accountability (public responsibility)

The accountability and public responsibility are synonymous terms. It means that in **the field of administration every authority is liable of their actions and omissions** before other authorities, court, or legislator. In the other hand we could say that external bodies have got the chance to examine the courts, and when they do examine the courts, the court can not pull itself out the examination, the external examination is obligatory for the courts. These examinations are very complex, they are controlled by the regulations of positive law: the examination of appeals is the task of superior authorities, the judicial review of the decisions taken, the examination of the ombudsman or the prosecutor, or even the examination of the Parliament. The final objective of these examinations is to provide the legal operations of the administrative bodies: to grant the public interest and to grant the individual rights too.

The accountability has got other aspects – besides the administration one – such as political or professional aspects. The professional literature summarizes **the features of the public responsibility** as follows:

– Theoretical basis: the examination of the procedures' legality.

– Its subject: the legality of administration actions.

– The criterion: compliance with applicable laws.

– Its direction: it has got two ways; one is within the body (superior bodies) and on is outside of the body (citizens, courts).

– Its mechanism: internal and external examinations, legal and judicial control

– Consequences: approving, modification, nullification, applications of sanctions, compensation[26].

Ad. d.) Effectiveness and efficacy

Effectiveness means the favorable ratio between the use resources and the results obtained. This is a category of economy. During its development the state became the master of public services, thus this category gained civil rights in the field of administration. This principle has already been published in the constitution of Spain in 1978. with other classical principles, such as the principle of legality, the principle of openness and the principle impartiality.

The **efficacy** is a value, which is related closely to the principle of effectiveness. This value shows us how successful is the performance of the administration in the reaching of the aims, which were determined by the legislature. Basically it means the rating and the analysis of public policies, and a prediction about how much they appear in the actions of the public servants.

Apparently the principle of effectiveness is against the principle of legality. The tension is real between the two terms, and because of that the different governments try to eliminate it. For instance: outsourcing, or the involvement of the private sector to provide public matters[27].

Sixth thesis:

In recent years, there is an emerging trend, the impact of which is extremely powerful, almost brutal in the Member States' administrations States. In particular the Community/Union law to refer to secondary sources of which are related to the European Union's regional policy. In more detailed:

We want call up the attention on the following two Regulation: one the European Parliament and the Council's: 26th May 1059/2003/EC Uniform Regulation of Regional Statistical Classification System, and the other 1083/2006/EC of the Council, laying down generally the provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and of Regulation 1260 / No 1999/EN repeal.

A) The Consolidated Statistical Area Classification System – and the designation used from 2003 to enjoy the "Nomenclature of territorial units for statistics" (hereinafter referred to NUTS) – is an indispensable tool in the EU 's regional policy implementation. It was made up to ensure, that different geographical area's statistical datas have to be comparable with each other (Statistical European Communities (Eurostat)) and this basis had decided at Community level, for example, that financial resources for development purposes to which regions should be provided. The NUTS system that is – the collection of comparable statistics, compilation, and dissemination as a means – ultimately impoundment areas eligible for Community support use of service (service). The NUTS system allocated to five levels, three of which were regional (spatial), and two local (local). Resources of the Structural Funds for the implementation of regional policy is typically allocated in the NUTS 2, and available by the Council's 1260/1999 decision.

There was not any legal basis of the NUTS system and its operation, or rather: there was not one particular source of law, which could order about this legal institution. This insufficiency was abolished by **Regulation (EC) No. 1059/2003 of the European Parliament and of the Council** on the establishment of a common classification of territorial units for statistics (NUTS). According to paragraph 2 of Regulation – referring to the Regulation (EEC) No. 91/450 – NUTS classification **dissolves the territory of Member States into territorial units** and it orders each unit individual name and code. With this – according to our estimation – there **happened a breakthrough in the connection of the Union and Member States**, since with this regulation the Council regulated such a question, which was the exclusively internal affairs of Member States – similary to the whole administration – till that time, so it stood until the suvereignity of Member States. With this Regulation the Council has interfered in the administration of Member States, because it determines **obligatory** the administrative-territorial classification, and division of Member States. It would be true in that time too, if we know well, that on the one hand the decision was brought by ministers of Member States in the Council, and on the other hand decision-preparing was realized by the central administrative institutions of Member States.

NUTS classification is a **hierarchic nomenclature**, which divides each Member States into territorial units level NUTS 1, and all of that divides into territorial units level NUTS 2, and these divides into territorial units level NUTS 3. According to paragraph 3 of Regulation, and the Appendix 1. the **whole territory of every Member States were classified into level NUTS 1, NUTS 2, and NUTS 3**, depend on **the number of the permanent residents** in a given area. In level NUTS 1 come to classification areas at least 3 million and at most 7 million persons, in level NUTS 2 at least 800. 000 and at most 3 million persons, and in level NUTS 3 at least 150. 000 and at most 800. 000 persons, identified the given areas with concrete name and code. If the whole population of a Member State is under the lower threshold concerning a given NUTS level, then in this stage the whole Member State will form only one NUTS territorial unit. We have to highlight: Member States are entitled to establish further particularized hierarchic territorial stages in their own competence, and with that they divide level NUTS 3.

The **fundamental criterion of classification compose the existing administrative units**. „Administrative unit" is such a geographical area, possessing administrative authority, which provides administrative or political decision-making competence within the legal and institutional frame of Member States. The existing administrative units, utilized to the NUTS classification, were defined by the Appendix I. of the Regulation, stage to stage, referring to the Member State (native) nomination. Appendix II. of the regulation fixes the Member State nomination of existing administrative units separately from stage to stage.

If a Member State does not have an adequate size administrative unit, according to the upper criterion, than it **has to (!) compose** the missing NUTS level **with the merger of** adequate number, boundering on one another and **existing administrative units**. In the course of that, they have to be attentive to the geographical, social-economic, historical, cultural and environmental circumstances too. The name of the so established contracted area is: „non administrative unit". But notable that the size of this area has to be inside of the upper population-treshold.

With the issue of the Regulation (EC) No. 1059/2003 the possibility was stopped for Member States to form their territorial classification freely, at their pleasuse, and according to their prevailing interest, aiming the access to the communal developmental sources. From 2003 the amendment of the regulation, or as a conclusion the approval of other Member States are necessary to the establisment of the areas level NUTS 2, meaning the aiming field of developmental sources. In this meaning Regulation (EC) No. 1059/2003 not only defines the structure of the territory of Member States but it stabilizes that too, not absolutely to the pleasure of every Member States.

B) In the curriculum Council Regulation (EC) No 1083/2006 on general provisions of the Structural Funds lays down obligatory the structure and the tasks of the national institutions which are responsible for the proper utilization of structural resources. (c.f. managing-, certifying, audit- authorities). We have to highlight to followings: this question is not just regulated in the 6. Article, but also affects many other articles, including the basic principles of the use of resources. In particular, the partnership, the regional level implementation of shared governance and the principles of coherence and coordination is important in this regard. It is clear that the basic principle decisive, but not limited to, the institution was to be set up under the Regulation intended to provide. The legislation makes a clear framework for the use of development funds for the implementation of Operational Programmes, determining the Member State responsible, and this responsibility extends to the establishment and operation of the program ma-

nagement and control system too. The European Commission has "only" controls the functioning of national institutions and imposing sanctions if it does not work properly.

B/1. The administrative organs of the Member States dealing with the implementation of the Union's regional policy more precisely the utilization of development resources shall be the same in each Member State. This means, that the existing organs shall be charged with providing the tasks ordaining by the Regulation or new organs shall be established. Hereby **the same structure will be developed and functioned in each Member State.** It will break through the former principle, that the public administration is the Member States' internal affair. Organizational structure and its task determining compulsory in the Regulation is the following:

The management and controls system

The compulsory elements of the institutional system – namely: managing authority, certifying authority, audit authority – are named in Article 59., and further articles lay down the tasks of each institution.

The managing authority a national, regional or local public authority or a public or private body designated by the Member State. The managing authority shall be responsible for managing and implementing the operational programme in accordance with the principle of sound financial management. The managing authority submitting to the Commission the annual and final reports on implementation to 30th June 2008 and following it each year to 30th June.

The certifying authority a national, regional or local public authority or body designated by the Member State to certify statement of expenditure and applications for payment before they are sent to the Commission;

The audit authority a national, regional or local public authority or body, functionally independent of the managing authority and the certifying authority, designated by the Member State for each operational programme and responsible for verifying the effective functioning of the management and controls system.

The Regulation **ensures freedom on high level for the Member States** in connection to the institutional system:

– The same authority may be designated for more than one operational programme,

– Some or all of the authorities may be part of the same body,

– The Member State shall lay down rules governing its relations with the authorities and their relations with the Commission,

– The Member State may designate one or more **intermediate bodies** to carry out some or all of the tasks of the managing or certifying authority under the responsibility of that authority.

It is crucial to emphasize that **the Member States shall submit** before the submission of the first interim application for payment or at the latest within twelve months of the approval of each operational programme **to the Commission** a **report** of the managing and controls systems. To the report the Member State shall annex expert evidence published by an independent authority, which values the established institutional system and the accordance determining in the Regulation. If the Commission makes reservations the Member State shall make corrections[28].

B/2. The monitoring system

As far as the Union's regional policy is concerned the monitoring and the controls have different definitions. They can be distinguished according to five aspects: goal, timing, persons doing the work, method of the feedback. Accordingly the **monitoring's** aim is the examination of implementation of aimed goals. The timing is continuous. The work is operational doing by an external person. The method of feedbacks is aid and adjustment. The **controls'** aim is the examination of the accordance with the rules. The timing is continuous. The work is operational doing by an internal or external person. The method of feedback is imposing sanctions[29].

According to Art. 63 the **Member State** shall set up **a monitoring committee for each operational programme**, in agreement with the managing authority. A single monitoring committee may be set up for several operational programmes. The monitoring committee **shall examine and help** the continuous implementation of the operational programme. The managing authority and monitoring committee ensures the good quality of the operational programme's implementation.

The **composition** of the monitoring committee shall be decided by the Member State in agreement with the managing authority. The monitoring committee shall be chaired by a representative of the Member State or the managing authority. At its own initiative or at the request of the monitoring committee, a representative of the Commission shall participate in the work of the monitoring committee in an advisory capacity.

To sum up this topic we have to emphasize that the establishment of managing authorities, certifying authorities, audit authorities and monitoring committees is compulsory in the Member States if they intend to get supports from the Union development resources. As we know each Member States would like it. Therefore the Union's regional policy **approaches** the Member States' administrative institutional system effectively, taking into account the pursuit of the NUTS-system in terms of the territorial system of the Member States. These can lead to – after the development of the internal market – the development of **the European Administrative Space**.

Seventh thesis: A single geographical area, the fact of common European citizenship, as well as realized and implemented single market – economic – that have been developed so far by the European Community and the EU – without internal state boundaries fiscal and political union, necessarily implies from the Community/ Union the convergence and unification of the affairs of the public administration (implementation of). More detailed:

In our point of view, the current state of EU affairs can not be maintained for a long time, that some elements of the management cyrcle, as well as those institutions have been implementing a strong separation. Notably, the objective of collecting and processing information, planning, decision, coordination and control at EU level by the EU institutions and the implementation of the decisions take place at the national level and through the institutions of the Member States (national). The uniform requirements has to be unique, but actually twenty-seven different

ways. We contend, therefore, that should the economic – financial fiscal and political integration necessarily have to be followed by an administrative integration too, so Member State administrations have to be a much more powerful unification, even if it will (probably) get painful loss from national sovereignty guarding States with aim of economic integration too.

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[1] See more in the Art CLXVIII. 2007, the Treaty about the European Union, in a digital form, you can find it in the Official Journal of EU, 53.Year.

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[18] Recommendation CM/Rec(2007)7 of the Commitee of Ministers to member states on good administration. 20 June 2007.

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[25] Czuczai: i.m. 446. old.

[26] Cendon, 1990.

[27] See more: White Paper on European Governance (2001).

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Summary

***András Torma.* The specific's of the connection system between the EU and Member States Public Administration.**

The relationship between the EU institutions and the authorities in the member states are very complex. Nowadays this relationship works in a special space – just like in the European Economic Area – this space is called the European Administrative Space (EAS). This chapter is about the EAS's history, its characteristics, its future, and tries to give the best definition of EAS. The EU achieved a complete integration of the national administrations of the member states in the past six decades. This convergence was realized mostly in the aspect of functionality and value orientation. This is because the essence of the EU law is the effective cooperation.

Key words: Treaties, principle of supplementory, European public administration, institutional-network, transparency, regionalization, principles.