

# **European Administration. Normative fundamentals and systemic models**

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## **Abstract**

Making use of the relevant literature in the area, this paper proposes a systemic approach to the European administration. The difficulty of the research design stems from the inconsistency of the regulations European treaties exhibit, as well as from the sectorial approaches, mostly of legal nature, on the conceptualization of the EU administration. To this we add the complexity of the analyzed process which, under the conditions set by the EU enlargement tends to overcome, both in sphere and content, many of the administrations of the federal states or international organizations.

The systemic model we propose is a complex system, of a mixed architecture. It is there that the self-regulatory processes have a unique specificity and make use of both a legal foundation and of complementary processes such are those of Europeanization, convergence and administrative dynamic.

**Key words:** *European administration, European Administrative Space, Cybernetic system, Europeanization, convergence, administrative dynamics.*

## Preamble

The objective of this paper is to build and describe the process of construction and affirmation of the European public administration, using the techniques and methods of systemic analysis. The doctrine (Nedergaard, 2007; van der Hoek, 2005, Part III; Ziller, 2005; Nickel, 2008; Chiti, 2005; Kassim, 2003) usually refers to the “EU Administration”, thus establishing a distinct domain of the European public administration which adds to the European Union in its latter’s diverse stages of enlargement.

As such, the context in which the European public administration is approached is determined by the institutional and normative mechanisms which support the evolution of the process of construction and enlargement of the European Union.

Also, governance and European public administration are taking a rather rapid, yet sinuous way of development from concept to reality, a process that entails both European and national elements, interconnected and superiorly complex to any other processes and phenomenon specific to the building of a United Europe.

This mutual determination between “state” and “public administration”, presented in this paper as “European Union” and “European administration” is supported and argued upon by Wessels (1990, 229). There is a broad consensus that public administrations are as much a “product” as a “characteristic feature” of what we call the “state”. In all phases of the state’s formation, the changes in its characteristics are closely linked with respective developments of public administration.

Among scholars, discussing the concept of “European public administration” or “EU administration” or “integrated administration” raises a new paradigm which derives, in our opinion, from the ratio between traditional and modern in researching public administration. In this context, to be refined, the European public administration is an “atypical concept in a traditional approach of public administration that allows important developments closing it to the modern countries of public management” (Matei, 2005, 11).

Building from the permanent dispute between traditional and modern and national and supranational, the new public administration paradigm adds to the doctrine of public administration the necessary substance to describe the major determinants of social and political nature, derived from the amplitude and diversity of the European Union’s construction.

Starting with the European integration, relevant studies and researches (Featherstone and Redaelli, 2003; Kassim, 2003; Harmsen, 1999; Knill, 1999; Kaeding, 2004; Papadoulis, 2005; Matei and Iancu, 2010) note that the main processes of the European public administration construction are represented by the Europeanization, and administrative convergence and dynamics. In a systemic approach, these become the internal, profound

mechanisms for regulation and self-regulation of a dynamic, polycentric, and mixed social system, such as the European public administration is.

In this context we should mention the conceptualization of the European Administrative Space (EAS) (OECD, 1999; Olsen, 2003; Shapiro, 2004) that starts from the idea that the constitutional and administrative law principles represent the key factor for democratic governance and development. These principles may create a “unformalized *acquis communautaire*” (OECD, 1999, 5), meant to inspire the public administration reforms so as to achieve the integration criteria.

This course of action aimed at (Matei, 2004, 30):

- formulate guidelines for the national public administration reforms;
- offer certain standards that might measure the reform progress.

These objectives were later complemented by the technical assistance for public administration reforms in the EU Member States or the acceding countries.

Olsen (2003, 508) points that: “the European Administrative Space has symbolic overtones of European integration and unity and can be seen as part of a normative programme”. Paraphrasing Goetz (2006, 2), “the notion of a European Administrative Space has emerged as a central point of reference in discussions about trends in European administration”.

## **The normative basis of the European administration**

The difficulty in the conceptualization of the European administration is connected to several motives, such as:

- The EU constitutive treaties or any other official documents of the European Union do not directly and distinctively address administrative structures, administrative norms, principles of functioning, etc., of what we call, European public administration;
- Inexistency of an *acquis communautaire* for the public administration, containing standards, criteria and norms for organization and functioning of national public administrations in the context of the evolving European integration process;
- Existence and development of robust public administrations which, in time, have influenced public administration systems at regional level. Closely surveying law systems of different origins and philosophies, national public administrations have developed endemic characteristics which finally remained their own.
- Globalization of the public management (Ferlie, Lynn and Pollit, 2007, 43-44) and strong international influences on European integration theories have determined an apparent distance of the European specific of the national public administration. We refer here to the general American “best practices”, the appearance and extension of the New Public Management (NPM). A compact vision of NPM, as advised by the Lynn (2007) is presented by König (1997, 219): „a popularized mixture of management theories, business motivation psychology and neo-liberal economy”.

The mentioned author notes that in a popular interpretation: „NPM began propagating itself globally both because of the inherent appeal of the ideas and because of the support of the organization for Economic Cooperation and Development, the United Nations, the United Nations Development Program, and other international and regional forums” (Lynn, 2007, 44).

The historical and political, economical and social context in which the European Union appeared and developed could no longer leave aside those realities, especially as the founding states of the European Communities had already embraced that approach. The legal basis of the European public administration is to be found in the constitutive treatise of the European Union. Accepting those regulations as grounds of the European public administration takes into consideration a more profound philosophy of the European construction based on, as provided for in the Treaty on European Union (TEU), on the drawing of inspiration “from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law (TEU, 2008, 15). The same Treaty stipulates the will of the EU Member States “to enhance further the democratic and efficient functioning of the institutions so as to enable them better to carry out, within a single institutional framework, the tasks entrusted to them”, as well as “to continue the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as closely as possible to the citizen in accordance with the principle of subsidiarity” (TEU, 2008, 16).

If to these general administrative values to be found even in the Preamble of the Treaty on European Union we add those regarding the transparency: “the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible” (TEU, Art. 1, 2008, 16), the continuity and specificity: “The Union shall respect the equality of Member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government. It shall respect their essential State functions, including ensuring the territorial integrity of the State, maintaining law and order and safeguarding national security. In particular, national security remains the sole responsibility of each Member State (TEU, Art. 4(2), 2008, 18), as well as the principle of conferral, subsidiarity and proportionality: “The limits of Union competences are governed by the principle of conferral. The use of Union competences is governed by the principles of subsidiarity and proportionality.” (TEU, Art. 5(1), 2008, 18), we will discover the fundamentals of the European Administrative Space (EAS), representing a true “unformalized *acquis communautaire*” of the European public administration.

To all these arguments that derive from the treaties one should definitely add the provisions of the Art. 298 of TFEU which clearly speaks of the “European administration”, as a transparent, efficient and independent support of the institutions, bodies, offices and agencies of the European Union in accomplishing their mission.

As such, hereinafter, we will also opt for the term “European administration”, and will make the appropriate distinctions, in all relevant cases. In the context of the creation of a

single system of public administration, the process of construction of the European Union has been targeted towards two important objectives:

- Creation and consolidation of the European institutions and optimization of their functioning, in accordance to the European Union's objectives and mission;
- Reforming of national public administration so as, in the absence of a model of European administration, the Member States would assist each other in "carrying out tasks which flow from the Treaties" and ensure "the fulfilment of the obligations arising out of the Treaties or resulting from the acts of the institutions of the Union" (TEU, Art. 4(3), 2008, 18).

Fulfilling these objectives is to be traced both in the constitutive treaties of the European Union, other acts of the European and in the legislation of the Member States. The legal foundations of the European administration have developed with those of the European administrative law. For the latter, during the debates on the European Constitution, several researchers have fostered discussions around „the constitutional bases of European administrative law" (Ziller, 2005, 4; Auby, 2005, 18; Sierra, 2005, 29). Even if the trends that followed did change the approach (although not drastically), the European Law remained „one of the pillars of European Administrative Law" (Sierra, 2005, 29) and consequently, one of the European administration.

However, the dispute on the possibility of defining the European administrative law and the European administration remains open in the absence of a European Constitution. „L'administration et le droit administratif ne peuvent, ni d'un point de vue pédagogique, ni d'un point de vue théorique, se définir de façon autonome. C'est en portant de la Constitution que leur définition peut être donnée » (Vedel and Delvolvé, 1992, 25). The arguments of a French jurist, G. Vedel, one of the active participants in the elaboration of the European Union's Treaties are not unanimously accepted.

A large presentation and a clear argumentation in this regard is provided for by Sierra (2005, 30 – 31). It is however doubtless that both the European administrative law and the European administration are realities of the current existence of the European Union. This is actually an expression of what has been previously mentioned when discussing the globalization of public management and its consequences to the classical approach of administrative law and public administration.

Going back to one of the relevant objectives regarding the creation of a system of public administration in the European Union, one must consider the article 13 (1) of the Treaty on the European Union, as well the content of the 6<sup>th</sup> Part "Institutional and financial Provisions" of the Treaty on the Functioning of the European Union (TFEU) which establish the institutional framework of the European Union. In the same time, these articles represent the legal foundations for the administrative institutions of the European Union. Article 17 (1) of TEU sustains the administrative character of several institutions; amongst them, the most important is the European Commission which "exercise coordinating, executive and management functions, as laid down in the Treaties."

If corroborating those regulations with those of Art. 249 (2) TFEU according to which “the Commission publishes annually a general report on the activities of the Union”, as well as with other complementary provisions of the treaties, one can note another role, of synthesis that the European Commission plays when managing the affairs of the European Union.

As a conclusion, we can state that there is an institutional system at the level of the European Union, one holding also managerial (administrative) functions and competencies. the most important institution of this system is the European Commission.

Another approach used in grounding the European administration is the systemic one. Yet unformulated, this approach allows us to understand and integrate the main missions the European administration recognized as its own; one of these missions is that of formulating and implementing public policies, or, more generally said, of applying the European system of law.

Our approach is based on the work of Mehl (1992) who deals in a very synthetic way, with the “implicit and explicit connections between the general theory of systems and the legal process”, where the last can be seen “in its entire complexity and interdependency with the social environment” (Matei, 2005, 135-136).

Usually, the legal and public opinion vocabulary uses the concept of “legal system” as the set of norms (laws, decisions, and regulations) which are valid in a country or a group of countries. To us, this approach is limited. As such, just as in the case of the European building process, we should take into consideration, apart from the normative area, the institutional (political and administrative), economic and psycho-sociological domains. such a vision, extended towards the law system of the European Union supports our systemic approach.

Decleris (1992) continues the argument of the above mentioned authors, while sustaining the idea according to which there is compatibility between the systemic approach and the evolution of the administrative law. “We must identify the public administration inside the larger system of governance. That would allow us to define the boundaries of the public administration and to describe the latter’s connections with the other subsystems of the state” (Decleris, 1992, 149). in such a context, there is likely to discuss the idea of a model of European administration that would reveal both its internal structure as well as the networks of the European public policies necessary to its implementation.

The relevant literature (Timsit, 1986; Mehl, 1992; Decleris, 1992; Matei, 2003; Matei, Matei and Savulescu, 2010) identifies two categories of systemic models that apply to the design of a public administration model:

- structural models that use the conclusions of the organizational theories, with the note that public administration “is an organization with emergent and self-evident qualities, that searches the public interest through adequate means and procedures of the highest quality” (Decleris, 1992, 150).

- functional models that are based upon the objectives and ends of the public policymaking. In the systemic logic, the functional models precede the structural ones. The latter are projected only after establishing the functional models.

## **The European Administrative Space – systemic support for the European administration**

The assertion in the title of this section draws from the theoretical and practical interdependency between the EAS and the European administration. Both concepts may be formalized as dynamic systems that interaction and develop in a systemic interaction. The European administration may be seen both as a product of the EAS, and an internal process of the EAS, bearing a significant impact on the latter's evolution and development.

Relevant analyses from the approach we propose were made by Goetz (2006), Olsen (2003), Matei and Savulescu (2010), etc.

The analysis performed by Goetz (2006) points toward the territorial and functional dimensions of the EAS: “the territorial dimension has been addressed, in particular, with reference to, first, degrees of spatial cross-country variation in administrative arrangements. Topics discussed in this connection include, e.g., commonalities and differences in national and regional administration and state traditions; convergence and divergence across space or discussions of centre-periphery [...]. A second major concern has been administrative co-operation across space”. On the other hand, “the fundamental dimension of the EAS relates primarily to the evolution of different types of administrative authority within this space” (Goetz, 2006, 2-3). The second dimension relates to the European administration that may be considered a subsystem of the EAS.

The conceptualization and transformation of the “European Administrative Space” (EAS) into an instrument for evaluating the public administration reforms in the CEE countries was developed by SIGMA with the support of the PHARE projects, in response to the European Council's requests regarding the process of accession to the EU, formulated at Copenhagen, Madrid or Luxemburg.

Can one talk of the EAS when there is an European Legal Space (ELS)? In this case, the EAS appear as a specific part of the ELS, territorially limited at being “a geographic region where the administrative law is uniformly implemented” (OECD, 1999, 9).

It is obvious that until recently, this administrative space was limited by the national borders of the sovereign states and was the product of the national legislations. The evolutions that followed (gravely marked by the creation and enlargement of the European Union that determined the development of the national administrative spaces towards supranational dimensions) lead to the dissolution of the traditional boundaries of sovereignty.

In conclusion, the EAS “is a metaphor with practical implications for Member States and embodying, *inter alia*, administrative law principles as a set of criteria to be applied by candidate countries in their efforts to attain the administrative capacity required for EU Membership” (OECD, 1999, 9).

The existence of an European Administrative Space implies that the national public administrations are ruled based on common European principles, norms and regulations, uniformly implemented within a relevant territory (Cardona, 1999, 15).

The evolution towards the European Administrative Space understands convergence on a common European model and may be seen as a normative program, an accomplished fact, or a hypothesis. Another important question is to be raised: What is “convergence” and what criteria can be used to decide whether an EAS exists (Olsen, 2003, 1)?

The development in question is not a simple process. Quite recent analyses show some other possible contradictory evolutions.

Thus, it is stated that “a development of the EAS may be in contrast to the national administrative systems, where the structure of the public administration structure reflects the identity, history and the specific states of the societies” (Nizzo, 2001, 2).

Still, as the processes of European integration deepen and enlarge, the EAS develops and evolves pointing out the values expressed by standards and good practices specific to public administrations situated closer to the citizens. In essence, EAS represents a global standard for the development of national administrative spaces that will represent the basis of the European administration.

The current analyses and studies operate, in different national systems, with distinct concepts of the administrative law. Still, “it is possible to agree upon a common definition of administrative law as being the set of principles and rules applying to the organization and management of public administration and to the relations between administration and citizens” (Ziller, 1993, 11).

In a summarized view, these principles may be presented as follows:

a) *Reliability and predictability*. These attributes derive from the essence of the rule of law which affirms the law supremacy as “multi-sided mechanism for reliability and predictability” (OECD, 1999, 12). As an EAS principle, it may be rephrased as “administration through law”, a principle meant to assure the *legal certainty* or *juridical security* of the public administration actions and public decisions.

Other connotations of this principle may be observed when we refer to the opposition of the law supremacy in regard to the arbitrary power, cronyism or other deviations of the latter that should not be seen as similar to the discretionary power applicable in cases when, within the legal framework, a certain degree of decisional freedom is allowed.

Exercising the discretionary power is limited by the principles of administrative law by means of which the public administration is forced into acting in good trust, follow the public interest, use fair procedures for equal and non-discriminatory treatment and respect the legal principle of proportionality.

b) *Openness and transparency* draw from the reality that public administration is the *resonator of the society*, assuring the interface with the citizen, the user of its services. The development of different social phenomena, such as the corruption or mal-administration, must be controlled by the society. This urges the administration to become available and to offer sufficient information to the exterior. As such, the openness and transparency refer to these exact attitudes and constitute the necessary instruments for achieving the supremacy of law and the equality before the law and its representatives. Assuring the openness and transparency, we protect both the public and individual interests.

We refer here to practices imposed by the administrative principles, like in the case of administrative actions being accompanied by statements of reasons, etc. To this, we may add the necessity to grant the access to public recordings, the restrictions placed for the civil servants and the necessity for the chosen authorities to exactly represent the public interest. The Lisbon Treaty sets out a more stable institutional system, and advocates in this respect for a more democratic, responsible and transparent governance.

It should be noted that openness gained new characteristics once the public administration was considered to be a public service. In this context, openness becomes acquisitiveness to the citizens or other authorities' initiatives regarding the improvement of public services and their getting closer to the citizen. A new concept emerged, largely described by OECD (1996) that of the open administration.

c) *Accountability*. It is one of the instruments showing that principles like the rule of law, openness, transparency, impartiality, and equality before the law are respected; it is essential to ensuring values such as efficiency, effectiveness, reliability, and predictability of public administration. As it is described by the authors of the EAS, accountability means that any administrative authority or institution as well as civil servants or public employees should be answerable for its actions to other administrative, legislative or judicial authorities.

Furthermore, accountability also requires that no authority should be exempt from scrutiny or review by others, which means that, simultaneously or priority, mechanisms for implementation are created.

These mechanisms contain a complex of formal procedures that give a concrete form to the accountability act, as well as supervision procedures that aim to ensure the administrative principle of "administration through law", as it is essential to protect both the public interest and the rights of individuals as well.

*d) Efficiency and Efficacy.* The introduction for the public sector and public administration of the efficiency and efficacy as important values is relatively recent. This is to be understood since today, when serious fiscal constraints and development of the goods and services are in place, talking of an economic optimum for the public sector is possible (Matei, 2004, Ch VI).

In this context, efficiency becomes a managerial value that points towards maintaining the optimum equilibrium between the allocated resources and the obtained results, while efficacy – a connected value that makes sure that the activity of the public administration achieves the intended objectives and solves the public problems recognized by law and the governance process as in its duties.

The analyses in the field show that it is possible to discuss of contradictory developments between assuring efficiency and the rule of law. The European Commission has already intervened, by creating legal institutional solutions – directives to prevent these developments. European Community law also calls for efficient administration, particularly with regard to the application of Community directives and regulations.

Relevant to this end we may note the reinforcement, under the Lisbon Treaty, of the Protocol on the application of the principles of subsidiarity and proportionality, where for the Commission, it is stated that “any legislative proposal should contain a detailed statement [...] which [...] should contain some assessment of the proposal's financial impact and, in the case of a framework law, of its implications for the rules to be put in place by Member States, including, where necessary, the regional legislation” (article 4).

The above principles are not only theoretical in value. They constitute the base for an unitary application of the principles of the administrative law within the national administrations and the construction and enlargement of the EAS. These principles may not function on the basis of a simple knowledge; in turn, they assume a gradual, daily effort for interiorizing the EAS' principles as inherent to the administration, by means of institutional and legal mechanisms. The European Administrative Space appears as the closure for a large process that implies convergence, Europeanization and administrative dynamics.

## **The sphere and content of the European administration**

Debates on the concept of European administration are more frequently lately and they tend to trigger the attention towards the usual absence, from the texts of the constitutive treaties, of certain clear and direct provisions on administration. The same can be said of the European governance, although, for the latter, the European Commission has elaborated and published several important documents and reports (EC, 2001, White Paper on European Governance). The aforementioned document speaks of good governance, a concept “introducing a normative yardstick into the discussion about governance. The European Charter of Fundamental Rights reflects this turn to a qualitative approach to governance; in its Article 41, the citizens are granted a „right to a

good administration, about limited to „his or her affair” and focused on individual measures instead of on all administrative actions” (Nickel, 2008, 128).

Nickel (2008, 125-146) speaks, amongst others, of the link between European governance and European administration. His analysis is framed against the debate on the normative legitimacy or basis of the European administration. A redefinition of the European governance as an “integrating administration” „has to take the new developments of a distinct European administrative governance sphere seriously. At the same time, it has to address to specific legitimacy *problématique* of the new governance structures in a sufficient manner”. The author draws the attention towards „the odd position of European governance, which oscillates between legislative and administrative functions” (Nickel, 2008, 125-126).

The main ideas that are traceable in Nickel’s study (2008) may be summarized as follows:

- The European administration and governance are not legal concepts. The specific terminology of these concepts has been rapidly accepted by the social and political sciences both as an empirical category for new forms and modes of power exercise, as well as an analysis category that would point towards the specific difference between the classical concepts of governance and administration. The aforementioned create a rather new situation – lacking in legal consistency and rigueur – in the exercise of public powers in the European Union: creation of administrative mechanisms – the open method of coordination, comitology, intertwined public-private regulatory mechanisms – in the absence of parliament’s legal acts controlled by the judicial. This creates an attitude of openness and flexibility in approaching the European administration and governance.
- The important role of the secondary norms for European administration is a result of the fact that the „European administrative Law consists of a patchwork of scattered EC treaty provisions, general principles of European law shaped by the ECJ and its case – law, and secondary norms within special fields of regulation” (Nickel, 2008, 129). It should be noted however that the Lisbon Treaty (Art. 290, TFEU) brings significant changes by introducing the system of „delegated acts” which will delegate the Commission the competence of adopting acts of no legislative character but general application. In fact, these provisions modify the old existing comitology procedure and includes acts of delegation and implementation.
- The general attitude of some of the European administrative law theorists and practitioners, to use the concepts of administration and governance (Craig, 2005; Schwartz, 2005). This happens when, in other areas, the sphere of administrative and regulatory activities was enlarged: the re-regulation of the European internal market in the 80s, of the education, health, social, radio and public transport services in the 90s, as well as of the public order, presently. The attitude in question denotes a certain attachment of several authors to the traditional legal domain, and to a different reality which derives from the evolution of important administrative processes such as the one of decentralization. In this context we need to observe that the „administrative actions in the European realm are increasingly „decentred” in the sense that they are neither rooted in a single legal source or structure, nor are they

formed or implemented by a single administrative entity, be it the European Commission, or the administrations of the Member States, respectively (Nickel, 2008, 132). These processes were called „integration décentralisée” (Chiti, 2004, 402) and „decentralisation intégrée” (Azoulay, 2005, 44). Nedergaard (2007) speaks of the “European Union Administration” from the point of view of two concepts: efficiency and legitimacy. The two concepts are used to assess the functioning of the European administration and its connections to the national administrations and the civil services in the European Union’s Member States. The relevant contributions made by Nedergaard (2007, 1-2) in understanding of the European administration are presented in the several characteristics the author presents at the beginning of his work.

- The unique character of the EU administration, the mode in which it is organized, is a result of the special character of the European Union.
- In some regards, it most like an ordinary international organization while, in others, it resembles a federal state;
- The fact that the European Union has both intergovernmental and federal characteristics influences the framework for the Union and the workings of the administration;
- In the European administration, the national public servants are in a system that encompasses a range of federal characteristics out, at the same time, are superior in some areas to the national administration or civil service;
- The game of power politics in the European administration in many ways resembles what is usually seen in a national administration.

Another approach is offered by Pollack and Rieckmann (2008) who underline the necessity and imminence of an unified administrative space; one being an integrant part of any building process of a political system. The two authors consider that the accelerated agentification of the European Union has created a complex administrative space characterized by simultaneous centralization and fragmentation which may lead towards a crossing point for the European Union. The administrative cooperation inside and outside the primary legislation, establishing a high number of agencies with divergent powers offer the arguments for the assertion Pollack and Rieckmann (2008, 771) made.

In the above context, the concept of European administration is clearly designed, despite the existent differences in employed approaches and methods.

In our view, we will consider that the European administration may be defined in a broader and narrower sense”. In the first instance, the European administration „may be regarded as all administrations that participate in the decision-making process of the European Union, i.e. national and all supranational administrative units of the EU”, while in the second, it is seen as „the administration in Brussels that is permanently employed by the Commission” (Nedergaard, 2008, 3). We should however say that even if the European Commission is the main European institution with administrative competencies defined by the treaties, one should not ignore the administrative influences exercised by

other European institutions, such as: The Secretariat General, the Council, the European Parliament, the Court of Justice, etc.

In his analysis, Nedergaard (2008, 7) concludes that the European administration is a “a political hybrid between a national and international administration”. His argument for this mixed character „is that European cooperation clearly has federalist as well as intergovernmental traits. The mixed traits reflect the basis contrast in the EU between the desire for some degree of supranational governance and the Members States perceived need for control”.

Hofmann and Türk (2006) consider that this “classical” model of European administration, also named “executive federalism” (Laenaerts, 1991, 21) with a distribution of administrative functions on two distinct levels, does not reflect the reality of the administrative action inside the European Union.

True enough, while the existent legal framework up to the Lisbon Treaty sees the Member States as executives of European inputs, currently one can observe “an intense cooperation between administrative actors of Member States in all the phases of the practical cycle, meaning: agenda setting, decision-making and implementation” (Hofmann and Türk, 2006, 107).

Acknowledging the persistency of the inputs the European Union provided, the authors noticed the reality through which the Member States produce inputs. Here, the European Union is involved, thanks to a composite administrative procedure, increasingly more in implementing administrative programs what are nationally defined. The theoretical academic model, as formulated by the political scientists, is that of the “multilevel governance”. Both Hofmann and Türk (2006) and Nickel (2008) ask themselves if that is a correct metaphor. The answer can be traced if we analyze several relevant states and processes of the European administration. Thus, in certain important areas, such as that of European Union’s committees – the comitology – theoretically distinct levels distincte „melt together into a *Verbund*, a compound operation in which the roles of the controllers and the controlled seem to have become twisted and entangled” (Nickel, 2008, 134). The analysis continues by showing that the most remarkable feature of this *Verbund* is the fact that it largely functions outside the borders of the treaties: the European committees and the European agencies are not clearly defined by primary regulations. However, the legal framework that allows them to work (from an administrative point of view) is of secondary nature. Similar issues are raised for the case of ECJ and its interpretations and interventions that are highly targeted.

In this context, Hofmann and Türk (2006) use the concept of “integrated administration” which defines the administration „with the result that it comprises any activity by actors from the EU or Member States, which fulfill public duties and are not directly elected legislators, members of Member States governments (such as Ministers in the Council) or members of the judiciary” (Nickel, 2008, 135). This definition denotes that each action of the European public officials, with the notable exceptions already mentioned, is an

administrative action. The definition includes, also, the preparation of the legal acts and of the regulatory activities under the generous umbrella of the Commission.

Such a large definition implies a very large sphere of administration law that includes all the legal relations between civil servants and between civil servants and the European citizens. „As a consequence, administrative rules and principles are rules which regulate the functioning of the EU and the interaction between its institutions as well as the relations between individual and public bodies in the implementation of EU policies ... if read in this way, the whole legal structure of the EU would add up to „administration”, a definition upon which the strongest critics of the EU and its democratic deficit could easily and happily agree” (Nickel, 2008, 136).

The above mentioned definition cannot generate a clear delimitation between “legislative” and “administrative”, which often appears in the case of national administrations. A better understanding of the concept of “integrated administration” may be achieved by connecting it with what Nickel (2005, 129) names “a modern understanding of European governance”. With the assistance of several valuable contributions (Ladeur, 1997, 41; Somek, 2003, 704; Dehouse, 2002, 207), Nickel (2008, 129) defines the European governance like an „hierarchical compound of Eurocrats who act as policy-planners and makers, organizers, network coordinators and supervisors in countless policy networks does not pre-empt a description of the EU in administrative or bureaucratic terms, at least from a legal point of view”.

The integrated administration will thus be increasingly dominated by something Hofmann and Türk (2006) name as “homogeneous organization phenomenon”, generated by the different patterns of administrative interactions. As such, the European administration moves further away from being the administration of a federal state or of an international organization, for that matter. All the authors quoted above conclude that this hetero-hierarchical and homogenous governing structure is a normative model desired by the European administration under the condition of a larger and more intensive participation of the Member States’ administrations.

The model presented above avoids the creation of a highly hierarchical administrative structure that might threaten the sovereignty of the European Union’s Member States and creates the image of unity in an area where diversity prevails (Hofmann and Türk, 2006, 4).

Hoek (2005) describes the “European Union public administration” as an European reality, based upon the European law that represents the synergy of the European institutional development, the creation and functioning of the internal market, of the financial and budgetary policies, and of the external, security and judicial cooperation policies and, last but not least, of the relations between the European Union and the national, regional and local administrations. Practically, this vision represents one of the most complex ones existent, and extends the national idea of a public administration being a social “resonance box” that synthesizes and exteriorizes the effects of different social, political, or economical mechanisms and processes, towards the European level.

Placing these reflections on the role and influence of national administrations and their relationships with the European institutions, and the policymaking process in the political scientists area, Colina and Molina (2005, 341) speak of „the rapid growth of studies explicitly seeking to examine the domestic dimension of the integration process, and the impact of membership on national political systems”.

„From an analytical or conceptual standpoint, national governments position, influence, and interaction with the EU have been the main leitmotifs preoccupying all those who aim at determining the organizational nature of the Union, or at explaining the pace and outcomes of the integration process (Colina and Molina, 2005, 342).

Reviewing the different types of approaches regarding the “organizational nature” of the EU, the authors previously mentioned formulate, for their analysis, a series of premises:

- The EU as a multilevel polity that produces multiple interactions and historically determined constellations of power between national and supranational institutions;
- The latter have acquired their own logic and a certain autonomy, member-states seem to retain the capacity to reform supranational institutions and to some extent to control the pace and scope of integration;
- For under national governments, the political and bureaucratic officials or representative both at the executive and the legislative branch that aggregate member – states interests at home and represent them at the supranational level;
- National governments are not considered unitary actors, or the only gatekeepers between supranational and domestic levels (Colina and Molina, 2005, 343 – 344).

Concluding over the sphere and content of European administration, the contributions presented above reconfirm the difficulty of such an argument. The trials so far diverge from the traditional (national) approach of the public administration, but make use of the mechanisms offered by the so called “blank concepts” (OECD, 1999, 91). As such, in the first instance, we can consider that the European administration is a “blank concept” which offers the capacity to adapt itself according to the evolutions of the social values promoted by the European Union.

In this context, the concept of European Administrative Space remains a metaphor that describes the “evolutive process of convergence of the national administrative laws and the administrative practices of Member States” (OECD, 1999, 6). In this evolutive process, principles of public administration legal framework are commonly found in Member States. As such, the relevant literature speaks of a possible administrative law as a “set of principles and rules that refer to the organization and management of public administrations and to the relationships between the administrations and the citizens” (Ziller, 1993, 18).

A clear definition for the public administration area remains however a difficult problem which may occasionally generate confusion or degenerate in injustice, inconsistency or

even contradiction. For that matter, “for a legal point of view, using “blank concepts” may seem appropriate due to their flexibility in divergent situations” (OECD, 1999, 9).

The systemic approach we refer to in the previous section of the paper needs to valorize the presented contributions and points of view, partially and briefly, in this section. In this context, the European administration includes European and national elements that design it as a system with a mixed architecture, multi-polar in nature, and conceptually and normatively traceable in the constitutive treaties of the European Union, the practice of the national administrations and the literature. Such an attempt for such an architecture is achieved by Peristeras and Tarabanis (2004), who use the conceptual inter-operability of public services at European level for generating the Unitary European Network.

This characterization is necessary but not sufficient, as the European administration appears to several authors as a “curious hybrid, resulted from the continuous interaction between the supranational and national levels” (Kassim, 2003, 142).

To these points, the same author adds several other arguments which consist in:

- The existence of connection between the administration and the political system of the European Union. Here, the administration is determined by the nature of the European Union seen as a political system and by the impact of the European administration on the political system of the European Union.
- Consolidation of the national administrations in the bureaucratic system of the European Union which had major consequences for its functioning.
- National administrations were influences, yet not transformed by the European Union’s development.

At the end of this section we point towards the integrated vision of the European administration, a vision which we support. Thus, in line with the previous analyses, we will consider several hypotheses that will base the systemic approach of the European administration:

- The European Administration may be considered from a formally or organizational standing point and a material or functional one.
- From the organizational point of view, the European administration may be sketched so as to largely bring together all the European and national institutions and structures that are involved in the organization and execution of the provisions set forward in both the European treaties, as well as in other European legal acts and the national legal frameworks. *Stricto sensu*, the European administration would name all the European institutions and structures that bear administrative competencies. These two spheres of European administration are complementary linked in a body-part relationship, one that suggests systemic interactions, including hierarchical ones. The two spheres are to be added to the ones of national administrations of Member States, and are to be considered as parts of the European administration (*lato sensu* defined) and quasi-hierarchic situated in relation to the European administration (*stricto sensu* defined). The two spheres are administratively cooperating with other public administrations of the Member States.

- From a material, functional point of view, the European administration comprises of those activities through which legal norms are organized and executed in the European Union.

Following the idea of a systemic integration of administrative actions in the context of a social environment, and deriving from Mehl (1966), Chevalier (1994) and Timsit (1986) arguments on European administration, we will distinguish between:

- *Axiological activities*, with executive and / or management character, that determines the values of European administration system and their finality. These activities are, essentially, political in nature and belong to the EU institutions, at large, and the Parliament and the Council, in short.
- *Guiding activities*, with roles in counseling, regulation and control, meant to establish the normative, institutional and executive mechanisms necessary to achieving the values of the European administration system. These activities belong to the European Commission as well as to other European or national structures such as the European agencies or the different levels of central national administrations.
- *Executive activities* assure the accomplishment of the effective scopes of the European administration. According to the desired end and the social level at which that is achieved, mostly the European agencies and other administrative bodies as well as the national administrations become involved.

In another approach, the European administration appears to be a subsystem of a social system that belongs to the European Union; its inputs are defined by a system of axiological activities and the outputs are managed by a subsystem of complementary activities.

## **The legitimacy of the European administration**

Long debated in several studies (Nedergaard, 2008; Hoek, 2005; Peters and Pierre, 2007), the legitimacy of the European administration is, most often connected to the more general topic of EU legitimacy. This context helps us to integrate the legitimacy of European administration in a larger theoretical setting that considers legitimacy as: “a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, value, beliefs, and definitions” (Suchman, 1995, 574). Legitimacy is, in fact, an abstract concept, with no material shape. To observe it is a subjective process, more related to a collective assessment of the social mission and impact of an institution or organization. Bearing in mind this definition, and following the leading ideas of several general studies on the issue of legitimacy (Tilling, 2004; Suchman, 1995; Hybels, 1995; Mathews, 1993) we will distinguish between two levels of analysis of the European administration legitimacy (Figure 1):

- A level of institutional legitimacy, based on the acceptance and perception of the administrative character of the EU institutions, and as already presented, of the European Commission.
- A level of organizational legitimacy used by the European administration as a mean for being accepted as an organization by social groups, national

administrations and governments or other important actors of the EU building process.

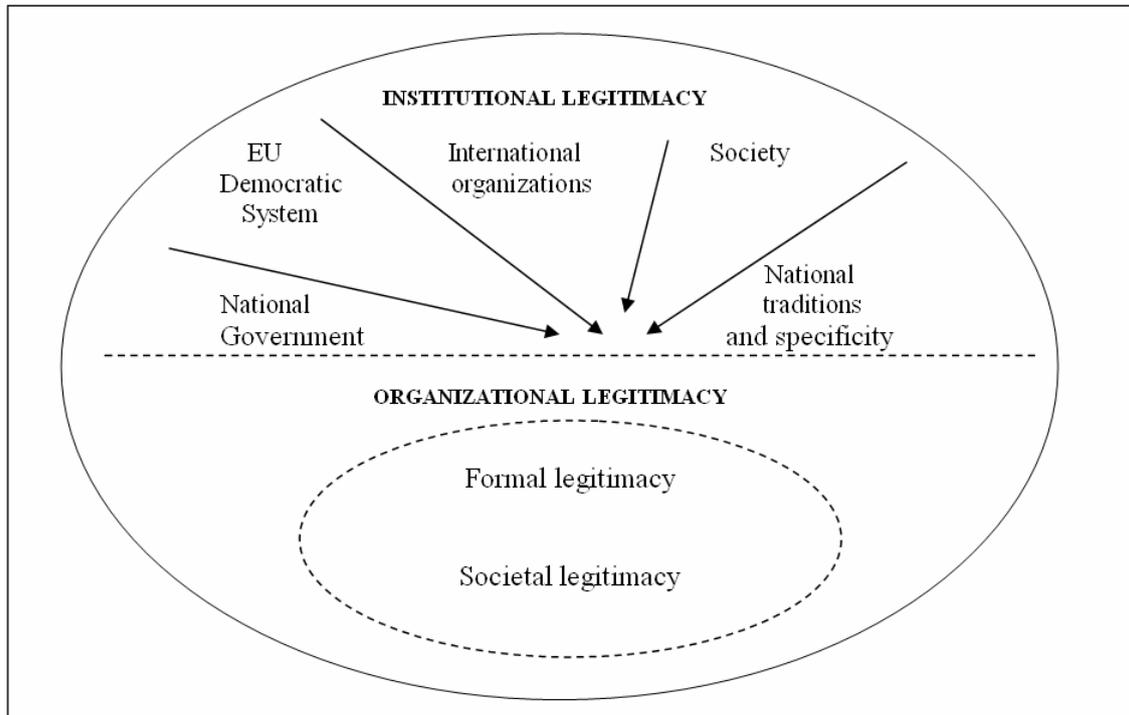


Figure 1: Legitimacy levels in the European administration  
(Adapted after Tilling, 2004, 3)

The institutional legitimacy of the European administration is part of the EU institutions' legitimacy that are based on the EU's rule of law, on the political and democratic processes that support the construction and evolution of the EU and the social perception the EU and foreign citizens have on those European processes.

As far as the organizational legitimacy is concerned, it appears as a dynamic process based on the Treaties' wording, the European administrative law development, the organizational model, the functioning mechanisms and, of course, the organizational efficiency. All these aspects are largely covered by the existent literature, and several arguments, even if contradictory, are presented.

In this context, and adapting Suchman's opinion (1995, 575-6), the administrations seem to try to find the congruence between the associated social values and/or those involved by their activities and the behavioral norms that are accepted in the larger social system where they are integrated. In so far as the two value systems are congruent, one can speak of an organizational legitimacy. Hybels (1995, 243) notices the importance the relevant stakeholders have for each organization. In our case, these relevant stakeholders may be the law – formal legitimacy or the citizens – social legitimacy.

Nedergaard (2008, 8) defines the formal legitimacy as “the situation where the decisions are taken under the direct obedience of a procedures that was predetermined by the governors or their representatives”. He also considers that the societal or popular legitimacy reflects the way “decisions are consonant to the expectations and the majority of the citizens.

We have discussed of formal legitimacy once we have dealt with the legal basis of the European administration. It is remarkable in this regard the interest the EU institutions show for the formulation of legal documents in order to assist the European administration. The statistic of these EU official documents is presented in Table 1.

Institutions	Comitology	European Commission	EU Council	Court of Justice	Economic and Social Committee	European Council	European Investment Bank	Parliament	General	Total
Number of documents	7	30	146	35	5	81	55	79	77	515

Table 1: EU documents on European administration  
 (source: Archive of European Integration (AEI): Institutional Administration, Development & Reform, <http://aei.pitt.edu>)

Regarding the societal legitimacy, the most important stakeholders are the Member States and the EU citizens, both subjects and observers of the societal legitimacy. Nedergaard (2008, 38-39) observes several aspects that influence the societal legitimacy:

- The societal legitimacy of the European administration is continuously transforming due to the fact that the Member States participate in more stages of policymaking and thus contribute to the increase in the EU decisions’ legitimacy.
- The emergence of new modes of participation to policymaking, that have resulted in forming coalitions or cooperation agreements, may block the EU policy process or it may modify it so to better respond to the states’ interests.
- Citizens have fewer possibilities to control and influence the EU decisions.
- The last amendments brought by the Lisbon Treaty extend the traditional political boundaries of policymaking, but the problem remaining refers to the way the EU citizens accept new limits of majority decisions.

The open issue that prevails has to do with identifying new elements to support the societal legitimacy of the European administration when the citizens do not want to fully accept the decisions, and yet are forced to become subjects of the European administration’s decisions.

Weiler (1991, 419) advances two sets of conditions for maintaining the societal legitimacy:

- The existence of a clear and tangible way to allow the citizens' welfare to manifest.
- None of the existent Member States should be neglected with regard to the important political objectives.

From this perspective, in the context of the European integration's deepening process and the EU reform, the relevant literature (Christiansen, 1997; Timsit, 2010; Nedergaard, 2008) reveals the debates on the „legitimacy deficit” or the „legitimacy crisis” of the EU. The EU triangular model of legitimacy has developed based on its three fundamental elements: the democratic values of governance, the actual integration and the national autonomy, which need to be balanced in order to maintain legitimacy.

As such, we can speak of a legitimacy deficit when we have taken into account all the three elements presented above. To these, we add the contradictory stages „between intergovernmental bargaining, functional administration and democracy [which are] embedded in the treaties establishing the European Communities” (Wallace and Smith, 1995, 140).

Next to the necessary balance supposedly offered by the EU constitutive treaties, the economic results play a fundamental role in keeping and increasing the EU legitimacy. Lipset (1994, 1) underlined that: “to attain legitimacy, what new democracies need above all is efficacy, particularly in the economic arena, but also in the polity”.

The European administration – including the EU institutions' administrations and the national administrations, offers the necessary public action support for ensuring the EU legitimacy.

The EU legitimacy deficit transfers to a European administration through its two levels described earlier. Simultaneously, new sources of legitimacy deficit appear, sprung out of mechanisms that belong to public administrations.

A relevant approach may be found at Timsit (2010, 17-22) which analyzes the issue of legitimacy deficit starting from “the crisis of the traditional normativity”. Invoking the two normative models the contemporary society ever knew – the market and the state – the author points towards the two types of normativity that belong to the models presented – spontaneous normativity, for the market and imposed normativity for the state. The crisis of traditional normativity results even from the “ideal”, unrealistic character of the two models, and overcoming it needs a new social normativity, “a dialogue based normativity”, “fondée sur le dialogue de ceux et avec ceux auxquels elle est destinée, puisse retrouver et reinventer sa légitimité face à ceux, et perfors avec ceux – là mêmes qu'elle prétend régir”.

The European integration process transfers and prolongs that analysis at the EU levels where the evolutions regarding the internal market as well as those on European administration might be affected by the two types of normativity Timsit discusses (2010).

A dialogue, based on a new social normativity is necessary and to initiate this dialogue, Timsit (2010) points toward a double effort: that of reinventing the state by creating and multiplying new forms of public action that are meant to stimulate the dialogue we refer to, and the effort to promote the civil society. The context of European administration and of its legitimacy deficit is considered by the same author as more relevant when describing yet a new crisis: “la crise née du défi de la complexité des sociétés et de leur système de gouvernance” (Timsit, 2010, 23).

The social complexity, with its multiple determinants, including the mondialisation phenomenon, lead to overcoming the early mentioned, traditional models. Modern administrations have their specific characters that describe even the opposite from the traditional models, and become, as considered by Béck (2001, 59) „l'étrange mélange entre nature et société”, „la figure hybride du nuage radioactif, cette instance de la civilisation transformée en puissance naturelle” denoting „la dramatique inadéquation de l'Etat traditionnel aux nécessités contemporaines de l'action publique” (Timsit, 2010, 24).

The changes asked by the analyses presented above refer to the transformation of the bureaucratic state into a strategic state with the mission of: re-focusing of the administrations on their knowledge-search and conception functions so as to prepare strategic decisions; decentralization of territorial administrations; delegations and other forms of “agentification”, etc.

The literature on European administration speaks a lot of the same characteristics described above. The operationalization of these objectives will lead soon to decreasing the legitimacy deficit of the European administration.

## **Models of European administration**

### *Valorizing the bureaucratic models*

As we have pointed in the description of the content and sphere of the European administration, both theoretically and practically, the latter is the result of an evolving process incorporating the relevant manifestations of the national administrations. The reasonable ending of these manifestations are the particular objectives of the Union that require administrative actions.

Referring to the concept and theory of the evolving process, the relevant literature (Wessels, 1985; Hoek, 2005; Nedergaard, 2008) points toward older contributions (Wallace, 1973; Bulmer, 1983) and newer ones (Mittag and Wessels, 2003; Bulmer and Lequesne, 2004; Kassim and Menon, 2004).

The possible models of the European administration derive from the macro-political approaches of the EU, using aggregated global data. Wessels (1985a) analyses four dynamic reference points: the neo-functional / neo-federal assumption of linear growth; the realist view of decline; the governance / pendulum view of cyclical up and down; and

the fusion thesis view of structural growth and differentiation. The author uses in his analyses five indicators: binding outputs; scope enlargement of public policies; transfer of competencies; institutional growth and procedural differentiation; and involvement of intermediary groups in channels of influences. Approaching the complexity of the European integration process is systemic in nature and determines the fusions tendencies of public resources at the level of several states; this fact leads to an increase in complexity: “This ever close fusion is explained as a dynamic product of rational strategies of European welfare states faces with growing interdependencies and spillovers, furthered by the institutional logic of EU bodies” (Wessels, 1985a, 271).

From a normative point of view, Wessels (1985b) formulates four series of models on the mode the European administration may be conceptualized and operationalized. Following the descriptions provided by Nedergaard,(2008, 40-42), the four models may be described as below:

- Supranational bureaucracy, which assumes the creation, at European level, of a administration similar to the national one. The impossibility in grounding it constitutionally, the complexity of such a system leads, even in the author’s opinion, to a major deficit of societal legitimacy and a low level of theoretical pertinence.
- Brokerage bureaucracy, as a new form of administration, whose important mission is to reduce the conflicts emerging from the EU policymaking processes, by facilitating the necessary compromises.
- Secretariat bureaucracy, whose functions are limited to the traditional administrative ones. The functions of negotiation, control and strategic planning are left to politicians.
- Political bureaucracy, which reflects and incorporates the hybrid character of the EU. Its organizational form is placed between that of a federal state and that of an international organization. This last model corresponds, in Wessels’ opinion to the model of European administration, understood as an “active, open, integrated and collaborative bureaucracy”.

According to this model, the European administration needs to have the following functions ( Nedergaard, 2008, 41-42):

- Administrative functions: the European administration must be able to manage the normal functions in considering cases, ensuring continuity in the administration, preparing for meetings, etc.
- Technical expertise: the European administration must e able to advice politicians on the content of different policies and possible implications hereof in order to help give basic political goals a concrete form.
- Programmatic functions: the Commission, the Secretariat of the European Parliament and the European Economic and Social Committee must contribute actively to identifying and analyzing problem-areas, proposing innovative methods within the framework of the existing policies and developing programmes with medium and long term perspectives.
- Mediating functions: the European administration must contribute in gathering and integrating different national negotiating positions. This must take place both

- in the single units of the EU's administration and in cooperation between the European Commission, the Secretariat of the European Parliament, and the Secretariat of the Council. Additionally, diplomatic and political skills are needed to work with the influence the different players.
- Crisis management: A special mediating function consists of crisis management inside the EU and in relation to the external challenges where mediating requires quick and well-considered initiatives.
  - Implementation and control functions: In light of the expanded activities of the EU, the importance of implementation and control with the EU's policies will be strengthened. Until now, the EU's administration has had very few implementation powers. This makes control functions even more important to find out if the policies have the intended effects.
  - A self-regulating function: to exercise all of the functions mentioned above the European administration must be able to reform itself continuously with attention to the shifting surroundings. This 'para-bureaucratic' function demands an ability of self-criticism.

"The political bureaucracy" proposed by Wessels (1985, b) creatively valorizes the classical bureaucratic models adding to these the functions that derive from the specificity of the EU construction.

Increasing the efficiency of European administration devolves in an activation of politicians and Eurocrats, and Wessels (1985b, 31) presents that his proposed model "does not assume the fact that Eurocrats are substituting politicians, but that their cooperation is broader and more intense than normally accepted in the traditional Weberian image of bureaucrats". Nedergaard (2008, 42) summarizes that "the model of 'political bureaucracy' that Wessels develops is an attempt to construct an administration with both a high degree of efficiency and legitimacy".

In addition, we conclude that the Wessels model supports the open, dynamic, complex and cybernetic character of an European administration system.

#### *A systemic approach*

The European administration comprises European and national elements that create a multi-polar system having a complex architecture, which is ideally and legally represented by the EAS. From this perspective, the European administration is more and more a reality as the European integration and construction process deepens and extends. Still, the above characterization is not enough since the European administration is currently "*a curious hybrid, a result of the continuous interaction between supranational and national*" (Kassim, 2003, 142).

As a system, the European administration has three important characteristics: it is complex, open, dynamic and cybernetic. It is however possible to add a few more. These continue and develop the specifics of the EAS, thus operationalizing the concepts, principles and beliefs that lay down on the basis of the EAS' construction.

The European administration is a system with many characteristics described in many reference papers of the literature (Kassim, 2003, 140-142). With the correct adaptation of the context, the above may be formulated as follows:

- a) *Lack of an agreed demarcation* of competencies and powers between the EU administration and the national administrations; we add to this that EU as a unified system has a complex structure, based on three pillars with different decisional powers, structures and procedures.
- b) *Fluidity*. Many studies have described the Union as a “fluid, ambiguous and hybrid” since “there is no shared vision or project or common understanding of the legitimate basis of a future Europe” (Olsen, 1997, 165). Of course, these remarks are previous to the Treaty of Lisbon, yet they are still at least partially, pertinent. It can not be argued upon the fact that EU is in a constant becoming step, in which its membership, rules, relationships, authorities and institutions are constantly evolving and its competencies and functions ever-changing.
- c) *Institutional fragmentation*, by means of which the power at the European level is shared between several institutions, and there is no single authoritative legislator. Legislative power is shared by two institutions – the Council and the European Parliament – that form a “classic two-chamber legislature” (Hix, 1999, 56) and executive authority is spread between the Member States (individually and collectively) and the Commission.
- d) *The complexity of the EU policy process* is a consequence of the fact that the decision making into EU involves a multiplicity of actors, including, besides the Member States the EU institutions and other European bodies and agencies, representatives of the regional and local authorities and lobby groups. Each is at once an actor with its own interests, an institution with its own rules, code of conduct and operating style.
- e) *Sectorialization*, which show a specific logic for the construction of the EU. A broad distinction is to be made between constitutional matters, such as treaty negotiations, institutional reform, and enlargement, which involve heads of the state and government and foreign ministries – and routine policy of regulatory, redistributive or distributive nature.

Of course, all the above do have a close connection to the political system of the EU, yet specific connotations for the European administration. With all these characteristics, the European administration is unique and creates a complex system that points toward achieving the EU missions.

Underlining these characteristics of the European administration leads us to a better understanding of its specificity, one that reflects even in the systemic concept of European administration.

Several remarks are necessary here. Firstly, regarding the structure of the European administration system, unlike any other social systems, is *multiplane* and *tri-dimensional*, in the sense that the administrative actions take place, mostly simultaneously, in parallel plans. These parallel plans refer, on one side to the Member States’ administrations, and

on the other, at the EU administration, concentrated around the European Commission (the main plan) and national or regional administrations (secondary plans). According to both of these plans, a specific typology of the administrative actions of axiological, guidance or executive actions emerges. This means that in each of those plans, one can identify the multi-level systems of administration: European, regional and national, for the European administration plan; or national, territorial and local, for the Member States administrations, the secondary plan.

In so far as the relations between the different subsystems, these may be of different kinds:

- *Quasi-hierarchical relations*, present between EU administrative institutions and the national administrations. Although one cannot speak of a subordination if the national administration in relation to the European ones, there are, however, relations of hierarchical nature, that derive from the Member States obligation to see the Treaties provisions implemented and the preeminence of the European legislation on national rules.
- *Administrative cooperation relations*, active both between the EU administrative institutions and the national ones.
- *Hierarchical relations*, in the traditional way, that one may find both in the European institutions administrations, and the particular subsystems of the Member States' administrations.
- Referring to the *cybernetic character* of the European administrative systems, the latter are active through the specific mechanisms of self-regulation.

Keeping the systemic analysis language, we can note some of the elements that shape the self-regulatory process within the European administration, by looking to the developmental surrounding of the European administration. The partial, legal regulation of the European administration' system is actually one of the characteristics of the administrative systems. This is do to the fact that the European administration has a complex nature and many of the European practices and standards are not imposed by specific regulations, but accepted by the Member States. As such, the self-regulatory process that characterizes the European administration has, beside the law, some other mechanisms, both formal and informal. One of these is the Europeanization process. As a regulatory mechanism, the Europeanization is a synthesis of the connections present between national administrations and the European level of the European administration.

To this we add several other mechanisms, both direct and indirect, that contribute to the formulation of an appropriate feedback for the European administration system. From this perspective, we can point out that the national administrations have a pertinent and complex influence upon the EU's decisional process, being important participants to all the decisional levels and involved in all the stages of the policy cycle.

The influence we are referring to becomes concrete once we analyze the institutional presence, seen from the viewpoint of the permanent representations bodies or lobby groups, present both at the European Commission and the Parliament level and at that of other institutions.

We should note that the national administrations are extremely important to the increase in visibility of the European building and enlargement process, and European identity. There are at least three ways (Kassim, 2003, 153-154) in which EU has influenced the national administrations, thus creating a new form of the Europeanization process.

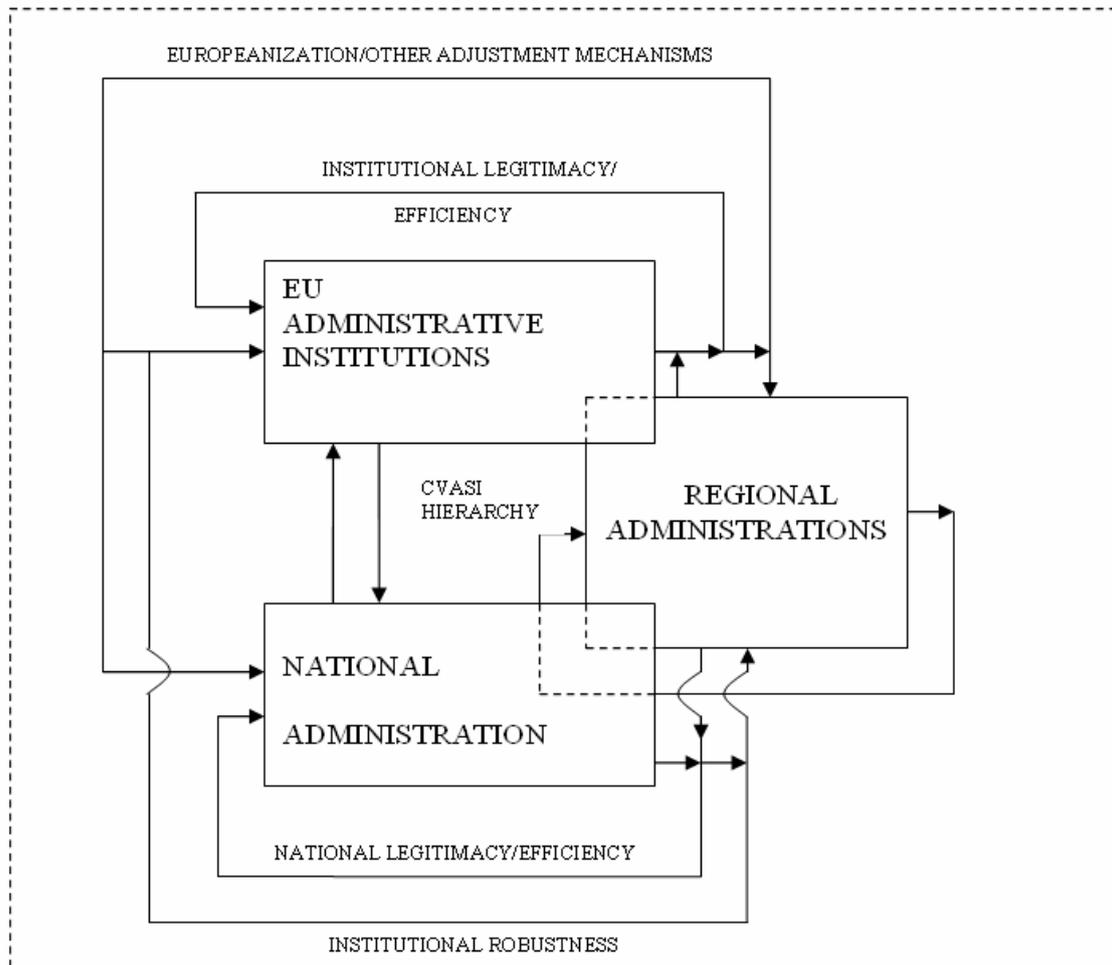
- National administrations, next to their national mission, have assumed a new role as implementation agencies of the EU norms. As part of the European administration, the implementation and obligation to respect the EU legislation may lead to further actions, use of new instruments, not completely familiar and recruit and training of personnel.
- As a consequence of the EU's legislative or judicial decisions, national administrations are determined into modifying or abandoning the existent policies, change or ignore the traditional instruments or reorganize structures and procedures. This fact may lead into diminishing or increase of the administrative capacity or change of the public and private actors' relationships.
- Adaptation of national administrations to European standards as a consequence of the governmental practical implication in European decision making and the assumption of the above.

National administrations have been encouraged in developing support mechanisms for participation and coordination of actions for their representatives at EU level. Undoubtedly, these self-regulatory aspects may be found in the entire elaboration process of the EU policies. In the general context of administrative dynamics, an evaluation of the self-regulatory process and its dynamics is necessary. This dynamics is also influenced by many factors, amongst which the nature of the political system, the centralization degree or the fragmentation of the national administrations dedicated to the integration process, etc.

As such, a conclusion with regard to the European administration stems from its unique character, direct consequence of the EU's unique political system. Being unique, the European administration offers a complex image, marked by national and European interpretations and interrelation. National administrations have reached the EU's decisional bodies; they are present in every European area and determine the functioning of every European institution. In the same time, the national civil services acknowledge adaptations in their structures and practices. We may add to this, the specific character of the coordination mechanisms at EU institutional level, and, with direct link to the national administrations, mechanisms that are permanently articulated and are formally, increasingly consolidated, thus ensuring the foundation for a European public administration system.

Concluding for the three levels of European administration, as observed in Figure 2, the direct feedback, specific to each level, is mainly determined by the degree of legitimacy, as well as by that of efficacy. Loops deriving from the bidirectional effects of the Europeanization appear across the other loops of feedback. A bottom-up feedback generated by the institutional robustness that characterizes each national administration

may also be visible. The intensity of the latter will just as different as each of the EU Member States is.



**Figure 2:** Mechanisms for general adjustment of the European administration

*The decisional systemic of the European administration*

The foundation of the EU is constituted on three solid and well organized pillars. The first pillar is represented by the European Communities that assure the institutional continuity of the Maastricht Treaty and the new Union. The second pillar, the Common Foreign and Security Policy does not have a framework formulated by the Treaties or a policymaking rigueur. It however founds the Common foreign security of the Union and confers the Member States the possibility to speak in one voice on matters related to international politics and security. As such, at least theoretically, the national interests of the states become subordinated to a common, European interest to be determined by permanent consultations between partner states (Gherghina et al, 2008, 12).

The third pillar, of police and judicial cooperation in criminal matters assures the cooperation at EU level on issues that are directly interested for citizens, such as law implementation, justice affairs, asylum and immigration. The EU system has developed in time with the Single European Act, and the Treaties of Maastricht, Amsterdam and Nice, thus adding new interests and constraints to the EU institutional framework (Spence and Edwards, 2008, 209).

The EU activity is concentrated around the three key institutions: the Commission, the Council and the Parliament; the interaction between the three is highly significant for the efficient functioning of the EU. The European administration will have a transversal position in regard to the three pillars, thus integrating (to a great extent), into the third pillar.

The working together of the three institutions leads to the emergence of a triangle or “tricameral” decision-making ensemble. The theorists speak of the existence of several decisional forms in multiple levels:

- *The intergovernmental model* interprets the roles and attributions of the Commission and the European Parliament as less important than those of the Council and the European Council. In this model’s approach, the Commission offers technical answers and pieces of information less obvious politically.

- *The neo-functional model – the Commission of supranational technocrats.* In this perspective, the Commission is a supranational institution holding a greater independence towards the Council in the European policymaking. From a neo-functional point of view, the Commission is an autonomous and politically active institution that has considerable resources for the implementation of European policies. This is about a “legal bureaucracy” that makes the daily basis decisions in the policy key areas such as: agriculture, internal market and competition (Spence and Edwards, 2008, 210).

In the neo-functional opinion, the Commission enjoys legitimacy and a technocrat capacity of solving problems, and its independency towards the Council of Parliament denotes that is a *sui generis* institution, capable of acting on behalf of the EU. Also, the neo-functionalism speaks of a guideline made by the Commission for the Council and Member States to follow, in order to improve the Member States’ capacity to solve problems and benefit from welfare.

- *The federalist model – Commission as a future European government.* The disciples of the neo-federalist consider the Commission to be a not yet fully developed government, and a “union of state and peoples” based on common values. From a legal point of view, the EU should have an institutional architecture that may enhance and enlarge the decision-making power of the Union and lead to the creation of a “parliamentary Europe” or a supranational parliamentary democracy (Spence and Edwards, 2008, 211). The neo-federalists see the Commission as a centre of the European government that acts autonomously from the Member States and the Council, and is yet, politically dependent of the European Parliament’s majority. The model looks very much alike the ratio

between the Commission and the Council in a parliamentary system, where the Council is the second chamber, of the States and their national interests.

- *The neo-institutionalist model of rational choice – Commission as a stability factor and flexible administrator.* In the theoretical realm of European studies, the neo-institutionalism emerged in the late 80s. The neo-institutionalist approaches reject the abstract definition of the inter-institutional relations, but pay particular attention to the special institutional context where European policies are taken. The model suggests the theories of principal-agent and delegation that study the interaction between supranational institutions and Member States. In this view, the model considers the interaction between the Commission, the Council and the Parliament as being integrated in a complex set of rules and decisions of systemic nature, that determine the action path of each institution. In the same time, in the policymaking process, the voting mechanisms and the legal procedures from consultation to co-decision are seen as key-variables. The model takes into consideration the substantial changes that took place for the European Commission: from the European Single Act (that introduced the cooperation procedure), to the Treaty of Maastricht (that introduced the co-decision) and the Treaty of Amsterdam (that modified the co-decision by eliminating the third reading in the European Parliament), up to the Treaty of Lisbon (that promotes an efficient decision-making process and extends the allows the voting by qualified majority, consolidates the role of the Parliament and ensures a greater involvement from the national parliaments). According to this approach, the Commission has a traditional, bureaucratic role in policymaking, and the decisional system of the EU becomes a “bicameral legislature”. Also, theorists argue that the supranational autonomy is a function of the Member States’ mechanisms. The variation of supranational autonomy according to clusters of problems and time is mere an assumption of the model, just as the hypothesis according to which the Commission is strictly controlled by different mechanisms such as supervisory committees, sanctions or mandates’ reviews, is (Spence and Edwards, 2008, 213). The institutional model proclaims the flexible role of the European Commission and notes the downsizing of its powers in setting the agenda and take part in the decision-making process of the Council and the European Parliament.

The complexity of the European administration system is evidenced by this basic structure of EU decisions. An important view in this regard is provided by Hoek (2005, 12). The decisional system of the European administration belongs, largely, to the EU political system. It develops on the relations set between the main European institutions (the Commission, the Parliament and the Council). The structure in Figure 3 reveals a systemic structure of the decision-making system.

The role of the European Commission is determined both in the earlier stages of the decisional process, as well as in achieving the feedback of the administrative system. The description of the significance of relations presented in Figure 3 is presented by Hoek (2005, 11-13).



There are at least two loops of feedback relevant to the European administration:

- The actors of the first loop (1) are the Commission, the Parliament and the Council. The loop aims at drawing the path of the Commission's proposals to the Parliament.
- The actors of the second loop (2) are the Commission, the citizens, the national governments and the Council. The most important role here is played by the European Commission as the "implementation body and police officer".

The figure proposed by Hoek (2005) must be amended with other types of relations that signal the institutional legitimacy deficit (in loop (1)) and the social legitimacy deficit (in loop (2)).

One may also see the triple mission of the European Commission; it is:

1. Initiator of legislative proposals;
2. Administrator and implementation body for the EU policies and the international trade relations;
3. Guardian of the Treaties.

As such, in the decisional subsystem of the European administration, the Commission is an executive body with numerous competencies in the structure of the Union. It act in cooperation with the Parliament and the Council for formulating and promoting the European decisions.

The European Commission acts as a European institution with executive role according to the provisions of the Treaties. The cooperation and dialogue between the European institutions represent the stability of the European administration system. The Commission is a body with initiative, implementation, management, control and representation roles, guards the Treaties and is the expression of the Union's interests. The main competence the Commission has is to supervise the way the European states and the European institutions apply the Treaties' provisions and the acts deriving from the latter. The institution needs to ensure that the European legislation is well implemented by the Member States and that the citizens and the internal market users fully benefit from the Union's presence. The starting point for each European initiative is to found in the Commission. The European Commission is undoubtedly the most original component of the EU's institutional architecture. There is no other institutional organization or regional integrative structure that has such an institution. In a larger Union, the European Commission has the role to maintain the more desired but difficult to achieve European coherence and unity and to perform the regulator role for the system, just as all the other institutions: the Parliament, the Council, etc.

### *Administrative Dynamics*

In its content, *the administrative dynamics* tries to catch as vivid as possible, the evolution of the social processes and phenomena in the public administration space, as well as those adjacent, such as strategic management, legislative process and connections

with other subsystems of the society. “Administrative dynamics is governed by legislators or announced and enforced by the courts” (Weber, 1978, 311).

Regardless the country, public administration in itself, is hard to change. It is possible to admit convergent structural, content or behavioural transformations, if accepting the existence of a certain yet not necessarily unique or divergent model, when leaving aside the traditional national values or replacing them with ones not really configured to the social realities and physiognomy of a country.

It is for this reason that we believe there is no *acquis communautaire* in the case of public administration. Its existence would assume, *a priori*, the existence of a European model. In contemporary democracies administrative environments are not, however, so simple, coherent and imperative. Older or more recent analyses show that “they seldom provide public administration with clear competences, rules, objectives and incentives. On the contrary, the administration operates in a complex ecology of institutions, actors, goals, rules, interests, powers, principles, values, beliefs and cleavages. Politicians, judges, experts, organized groups, mass media and individual citizens are likely to hold different and changing – not coherent and stable - concepts of ‘good administration’ and ‘good governance’” (Olsen, 2003, 3).

During transition, such as the one encountered in Central and Eastern European countries, conceptions of the administration are challenged and dramatically redefined. “Conventional wisdom becomes heresy: administrative virtues are reorganized; expertise is scrapped and new types of knowledge, skills and training are demanded. Trust in institutions disappear or emerge. Organizational structures, roles and cultures are branded illegitimate and new ones are legitimized. Because tensions are enduring rather than temporary, any prescription based on hegemonic aspirations and the universalization of a concern is likely to foster criticism, countervailing forces and search for a new balance between institutions. Theorizing administrative dynamics requires understanding how balances are struck and administrations find their place in a political order.” (Kaufman, 1956, 1058)

The measures regarding the institutional balance are usually political and constitutional in nature, and are necessarily accompanied by adequate managerial techniques. Organizing public administration involves a power aspect. “The lifeblood of administration is power” (Long, 1949, 257) and Weber (1978) observed that “The political masters could easily become dilettantes facing a professional administration”.

Finally, administrative dynamics assumes the dynamics of the public administration concept that should imply, *a priori*, relations between the specific authority and power. As such, it will determine an analysis in terms of *realpolitik* of the evolution each administration faced, in different contexts, identities and power and autonomy balancing.

## **Fundamental processes in the evolution of the European administration**

“Administrative convergence” is a concept that at first glance is clear, agreed upon and understood; yet convergence towards a common model imply a reduction of the variability and disparities in the administrative agreements (Pollitt, 2002, 473).

Pollitt (2002) argues upon the complexity of this mechanism that makes possible the operationalisation of the EAS, and points out towards the difficulty of introducing similar administrative practices when several durable differences in the public management reform occur. Continuing these ideas, Olsen (2003, 1) discusses two competing, or supplementing, hypotheses: a “global convergence” hypothesis and an “institutional robustness” hypothesis. These approaches are valid for a general model of convergence; when discussing the European administrative convergence several arguments that derive from the process of creation and enlargement of the EU may be brought into debate.

Still, in the general context, recent developments in public administration have been interpreted by means of two generic models: the “classical” or weberian public administration and the “New Public Management” (NPM) (Matei, 2001, 62-64). A favorite diagnosis has been a paradigmatic shift “from Old Public Administration” to “New Public Management” (Dunleavy and Hood, 1994, 13-14). Regardless the standards, NPM stands in contrast to the idea of a unique European convergence. It actually suggests that convergence is global, or at least common to several countries. It also assumes an “inevitable shift rather than a temporary fad and that the change represents progress toward a more advanced administration” (Osborne and Gaebler, 1992, 328).

The vision of a global convergence supplements or may compete with the so-called institutional robustness hypothesis<sup>1</sup>. Here the basic assumption is that the two others overestimate the likelihood, extent and speed of convergence, and that Europe and the rest of the world are likely to continue with a variety of administrative models. Furthermore, both models – the classic one and the NPM, portray the administration as a tool for an external principal - a branch of government controlled by the legislative and judicial branches, or by shifting external circumstances. In contrast, the robustness hypothesis assumes that the administrative institutions are powerful actors in public policy making and administrative change. Likewise, public administration is a collection of partly autonomous institutions with identities, traditions and dynamics of their own.

Global convergence then can follow if administration is a context-free, technical activity with a single best solution, and if the global environment is currently dominant. European convergence can follow if the most important context in the matter is the European one, dominant both within the administration and outside it.

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<sup>1</sup> Their promoters are J.G. March and J.P. Olsen, in their papers regarding the institutional rediscovery, the democratic governance or institutional dynamics, published in New York, Free Press, between 1989 and 1998, and N. Flynn and F. Strehl, in their paper referring to the public sector management in Europe, published in 1996, at Prentice Hall.

Differently, the institutional robustness appears if context is dominant, and the administration has the same degree of autonomy as other different environments and established arrangements. An important issue regarding the convergence is the distinction between *attractiveness*, where convergence emerge because one model is generally seen as superior, and *imposition*, where a model is preferred by a winning coalition and dictated to others.

*Europeanization* is a process closely linked to the European integration, and it intercepts the impact of the latter on the national administrations. Peters(1997) and Page (1998) discuss the link between the Europeanization process and the general tendency of the administration to transit from the traditional model of government to the model of governance, where the authority is diffuse and agencies claim a multiple role, especially in the area of public policies. Governance is generally seen as an alternative to the monolithic and hierarchic concept of government. Governance is orientated towards horizontal networks. In the context of international cooperation, governance is a reaction to the lack of traditional hierarchy.

The White Paper of Governance defines governance as “rules, processes and behaviors that affect the process where powers are exercised particularly at European level, and make reference to *openness, participation, accountability, effectiveness and coherence*” (Schout and Jordan, 2004, 3). Stevens (2002, 1) conceptualizes the Europeanization as “the development and extension of the competencies at European level and the impact of the Community’s action on the Member States.

For Radaelli (2000, 4), Europeanization is a process that draws in three important elements: construction, diffusion and institutionalization of “formal and informal rules, procedures, policy paradigms, styles, ‘ways of doing things’ and shared beliefs and norms which are first defined and consolidated in the making of EU decisions and then incorporated in the logic of domestic discourse, identities, political structures and public policies”. Europeanization is not convergence, harmonization or equal political integration, but stress, concludes the same author. Radaelli’s definition takes into account the interactivity of several waiting processes, subsequent to the discussion of the phenomenon of Europeanization and expressed, largely, in terms of impact upon Member States.

Page and Wouters (1995) argue that the power in Brussels provide a transfer mechanism both for national administrative best practice, thus influencing by Europeanization, the national administrative policies.

Wessels and Rometsch (1995) also, have argued that a “fusion” of national and EU administrations has taken place. The end of this process is the convergence that may be expressed by the common characteristics of the administrative models. “When we will finally say there is an European model or an ideal type of public service, then, the administrative systems of the EU countries are convergent” (Claisse and Meininger, 1995, 441).

Most of the studies regarding the way the process of Europeanization affect the national institutions and the political approaches draw back to the institutionalist perspective. A clear definition of the Europeanization is presented by Wessels, Maurer and Mittag (2003, 6): “incremental process re-orienting the direction and shape of politics to the degree that EC political and economic dynamics become part of the organizational logic of national politics and policy-making”. The relevant studies of the matter in debate insist on that fact that the Europeanization process is built on the bases of an institutional systematic framework that allow an analysis of the opportunity of the political and administrative structures of the European Union (Keading, 2004, 8).

Kassim et al. (2000) analyze the existing coordination between the use and implementation strategies of the EU policies in ten countries of the European Union. Differences we have already explored came out of that study.

Other authors (Hall and Taylor, 1998) use the concepts of the neoinstitutionalism, making reference to the sociological approaches and rational choice theory. Their result could be convergence or divergence towards a *transposed national model*, obtained by means of adaptation and “*gradual socialization of the norms and practices inside the EU system*” (Harmsen, 1999, 84).

*The sociological approach anticipates the opportunistic administrative structure* within the national administration, able to determine the transposed national model. Convergence thus is realised, in the framework of “*the institutions that frequently interact or are exposed to timely development, of the similarities in the organisational structure, processes, managerial philosophy, resource allocation principles and sound reforms*” (Olsen, 1997, 161). We should also mention that the real situation presents institutionally or culturally unified or fragmented administrations. This is why we talk of gradual adaptation, understood, in the case of national administrations as norms, ideas and beliefs that help into achieving “*the emergence of the similar individual growth for national processes and structures*” (Harmsen, 1999, 84). In this case, as pointed out by March and Olsen (1989), the mechanism is the *imitation* or the act of copying mechanisms and characteristics of other organizations for the benefit of increasing your own organizational efficiency.

The sound national adaptation manages to reflect different administrative cultures namely, the enlargement of the set of values and practices and the conditioned administrative behaviour. The process is lead by the logic of allocation, of reflection of the pre-existent beliefs or legitimate or appropriate political forms.

In the rational choice approach, *the opportunistic political structure* of the EU Member States may affect the transposed national model. The basic structure of a country, with no regard to the federal (Germany, Belgium or Spain), unitary (France, Greece, Great Britain) or somewhere in between organization (The Netherlands), the fundamental intermediary interest no matter their pluralist (Great Britain), corporatist (Germany) or consensualist (The Netherlands) nature, the structure of the executive bodies – collegial as in The Netherlands or Italy, unified as in Great Britain or bicephalous as in France and

the nature of the political system (dominant, with a small or large number of ideologically different parties, or dominant with a small or large number of parties with a *feeble* discipline), horizontally describe the political system. Higher decentralization, with several tiers and bureaucratic actors is involved in the transposition process, a more difficult and hard process. From a consequentialist point of view, the Member States are expected to converge towards a unique transposed model. Similar developments are expected for the organizations placed in the institutional environment and under a common pressure, likely to adopt the agreements proven to be more efficient (Kassim, Peters and Wright, 2000, 27).

The anticipated result is a “global convergence of the national practices around more effective solutions towards [...] common problems (Harmsen, 1999, 84). In this case, the performance standards are a direct function of the opportunistic political structure.

## Conclusions

The research objective that this paper proposed was an extremely ambitious one; it tried to make use of and apply the systemic methods and models for the conceptualization and the analysis of the European administration development. Such a difficulty arises from the fact that until presently, the systemic approach was not frequently used in modeling of social processes and systems of such scale and complexity as the European administration exhibits. Naturally, our definition of European administration is quite extensive here, as we refer not only to the EU’s own administration, but also to the regional administrations and those of the Member States. We must however notice the increasing interest the literature has in describing the administrative phenomena and processes that complement the building and enlargement process of the European Union. As such, a first conclusion refers to the topic of systemic modeling of European Administration that remains open for debate and to the fact that the latter benefits from a series of solid arguments regarding the theoretical pertinence and the consistency of a logical – systemic approach.

The normative fundamentals of the European administration system are mainly traceable in the spirit of the European treaties; the explicit provisions consisting in a mosaic of normative and procedural nature, do not follow the legal, constitutional and administrative custom, to be found in the law systems of Member States. This fact creates serious difficulties for the understanding and the setting of a unitary, methodological framework applicable in the cases of administrative phenomena and processes in the European Union. Brought into discussion by the practical administrative procedures and methods over five decades ago, the European administration has evolved in a rather unique and specific manner that differentiates it from any other administrative system that exists in Europe or elsewhere.

This reality derives from the unique and special character of the building and edification process in the European Union. From this perspective, we note that the affirmation of the European administration, even if insufficiently revealed by the relevant literature, has

overlapped with the emergence of the post-Weberian organizational theories of the 60s, theories connected with the names of major scientists such as Herbert Simon, James March, Anthony Downs, William Buchanan, Gordon Tullock, Vincent Ostrom and others.

“The new public administration” and the “New public management” can both offer theoretical fundamentals for approaching the European administration. Actually, the basic principles of the European Administrative Space denote new orientations of the public organizations towards openness and transparency, efficiency and efficacy, etc.

A relevant comparison from this perspective is offered by Frederickson and Smith (2003, 113). He discusses the traditional and contemporary principles of public administration, easy to find in the European administration.

In the systemic modeling approach, the specific character of the European administration is more pertinent in connection to other existent systemic models of traditional administrations. Still, the entire systemic construction of the European administration may be adapted. We described the same three levels of administrative actions, of axiological, guiding and executive nature, with the single amendment that they have different connotations and meanings, and are multiplied in distinct levers that separately include the Member States administrations.

Another relevant fact for the European administration refers to the complexity of the self-regulatory process. The rule of necessary variation deriving from the general theory of the systems act both by means of legally enshrined mechanisms aimed at ensuring the social control, and different other mechanisms such as the Europeanization, convergence and administrative dynamic are.

The multiple feedback loops are constituted in a complex subsystem of the European administration and confers to the latter the characteristics of a learning system that amplifies the openness of the European administration system and ensures an increasing legitimacy and efficacy. Actually, as presented by the paper, the legitimacy deficit is the one determining the feedback in the European administration system. To this we add the need of an increased efficiency, as provided by the Treaty of Lisbon.

The studies and researches on the systems of the European administration need to be correlated more with the political and democratic European system, as well as with the economic and social evolutions of the European Union that influence in a decisive manner the legitimacy and the self-regulatory processes of the European administration system.



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