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Discussion paper on the European Administrative Space – Hungarian viewpoint[1]

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Abstract
The EU Member States are characterised by long and varied institutional history, with different trajectories in their evolution. There is a complex system of relations between the institutions of the European Union and the authorities of the Member States, which are called as the European Administrative Space. This is a multidimensional concept, and it promotes intensive cooperation between administrative actors, and their activities from each level. The European Administrative Space is the area, in which increasingly integrated administrations jointly exercise power delegated to the EU in a system of shared sovereignty. This article explores the reasons for and the consequences of this development.
Keywords: European Administrative Space, OECD, model rules, public administration, administrative law

Głos w dyskusji na temat europejskiej przestrzeni administracyjnej – węgierski punkt widzenia

Państwa członkowskie UE charakteryzują się długą i zróżnicowaną historią instytucjonalną, z różnymi trajektoriami ich ewolucji. Istnieje niezwykle złożony system relacji między instytucjami Unii Europejskiej a organami publicznymi państw członkowskich, który nazywany jest europejską prze-

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strzenią administracyjną. Jest to koncepcja wielowymiarowa, która obejmuje intensywną współpracę między organami administracji oraz ich działania na każdym poziomie. Europejska przestrzeń administracyjna to obszar, w którym organy administracji państw członkowskich we wzajemnej współpracy wykonują uprawnienia przekazane UE w ramach systemu wspólnej suwerenności (ang. *shared sovereignty*). Niniejszy artykuł bada przyczyny i konsekwencje rozwoju tego obszaru.
Słowa kluczowe: Europejska Przestrzeń Administracyjna, OECD, wzorcowe reguły, administracja publiczna, prawo administracyjne

The complex system of relations between the institutions of the European Union and the authorities of the Member States now, like the European Economic Area, takes place in a single, unified space, which the literature has called the European Administrative Space (hereinafter – EAS). Our scientific hypothesis is that in recent decades, in close connection with the Eastern enlargement of the EU in 2004 and 2007, a European Administrative Space has emerged, which has its own characteristics and public law characteristics. The present study – as a discussion paper – outlines the development, concept and main features of the EAS, within the available narrow framework.

1. The first steps in the development of the European Administrative Space

The European Communities/Union took a major step towards the creation of the single European Administrative Space with the European integration treaties, as well as the research carried out in the European Institute of Public Administration (Maastricht) and in the European University Institute in Florence, with the establishment of the so-called „Copenhagen criteria", setting out the conditions for accession. The OECD based in Paris and its SIGMA Programme also played the important role in the development.[2]

The European Institute of Public Administration (EIPA) was founded in 1981. Its basic task was to analyse the system of relations between the institutions of the European Communities and the public administration of the Member States. The directive became increasingly important in Community legislation as a source of law, which gave the Member States sufficient leeway – while, of course, being generally binding. One of the first results of administrative science, comparative and empirical research at the EIPA and the European University Institute (EUI) in Florence was prof. Jürgen Schwarze's monograph on European administrative law[3] (Schwarze 1988: p. 10).

The „Copenhagen criteria" set out the conditions laid down by the European Council in Copenhagen in June 1993 as the criteria for accession to the EU for the countries of Central and Eastern Europe (formerly socialist countries).

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[2] We will discuss the aspirations of the Council of Europe and the European Union for European administration in Chapter 3 of this paper, among the main features of the EAS.

[3] The English version of this monograph became available 4 years later. The volume was published under the title „European Administrative Law" by Sweet and Maxwell in 1992. The second edition of the volume was published in 2005 and its English version in 2006 in Baden-Baden and London.

These criteria include three issues, as follows:

1) Stable democratic institutions, which guarantee the rule of law, the human rights and ensure the protection of the minorities.
2) Functioning market economy that is able to cope with the competition of market forces.
3) Ability to fulfil the obligations deriving from the EU membership: the transposition and application of the *acquis communautaire*, including the requirements of the economic and monetary union, and the political union.

On the other hand, meeting the criteria on the part of the candidate countries meant the possibility of joining not only the European Communities/Union, but also the European Administrative Space, even today.

The OECD launched the SIGMA (Support for Improvement in Governance and Management in Central and Eastern European Countries) Programme in 1992 to support six former socialist countries. In 1994, five more countries were included in the programme, and later a whole range of countries. The main task of the programme was to expand and facilitate the administrative (governmental) capacity of the transition countries. In 1999, the European Union joined the programme – through the European Commission – because its PHARE Programme to support Hungary and Poland has the same aim. In the framework of the SIGMA the OECD formulated recommendations for transition countries in order to properly prepare for EU accession and to properly enforce Community's/EU law. Two of these recommendations had paramount importance to our topic. The first is about preparing the (national) administrations for the European Administrative Space, and the second is about the principles of the European administration (see: OECD SIGMA/PUMA 1998, 1999). In the first document, issued in 1998, three principles were defined:

1) The EU institutions cannot be substituted with national institutions, but they are obliged to cooperate.
2) National administrations are responsible for the execution of the EU's decisions.
3) Despite the fact that the EU has no direct power over Member States' administrations, it has a strong influence on them. The expression of the so-called „result obligation" describes it better. National administrations have to be reliable, transparent and have to function in a democratic way (OECD SIGMA/PUMA 1998).[4]

The second document, issued in 1999, states that there are principles of European administration, which have to be enforced by the Member States in order to ensure the application of the EU law. That is why it must also be validated by the candidate countries, at the latest through the administrative reforms to be implemented in order to join. Those principles were defined by the European Court as basic principles, which have to be generally applicable in the national legal systems of the Member States. The document systematises the principles in different groups, such as: (1) reliability and predictability,

[4] The relatively early relationship between the European Community and the administrations of the Member States (for example, see: Cassese 1987).

(2) openness and transparency, (3) accountability (public responsibility), (4) efficiency and effectiveness (OECD SIGMA/PUMA 1999). These principles will be discussed in Chapter 3 of this paper, because they also characterise the European Administrative Space.[5]

2. The concept of the European Administrative Space

With almost seven decades of European integration since the Treaty of Paris (1951) establishing the European Coal and Steel Community, convergence of the national administrations of the Member States has emerged, especially in the aspect of functionality and value orientation, but also from an organisational and procedural. It is no longer controversial that we cannot speak only about European (EU) law, European (EU) environmental law, European (EU) criminal law, but also about the European public administration and European administrative law. Effective and loyal cooperation between the EU institutions and the state bodies of the Member States is the key to the implementation and enforcement of the EU law (Torma 2002).

The Community/Union cooperation carried out for many decades has undoubtedly created a European (common) administrative culture and unified values, which are considered as a part of the *acquis communautaire* by many authors.[6]

For our part, we share the Hungarian position developed in 1999, according to which: theoretically speaking, the European Administrative Space is a harmonised synthesis of values realised by the EU institutions and the Member States' administrative authorities through creating and applying the EU law (Czuczai 1999: p. 446). To this definition we can add that in our opinion the scope of the above-mentioned „administrative authorities" is too narrow, it should be extended to all bodies exercising state public power. Indeed, not only the bodies of the public administrations of the Member States but also all public bodies exercising public power are involved (or at least have the opportunity to be involved) in the preparation, drafting and implementation of EU law, including the body or bodies exercising legislative power and the body or bodies exercising judicial power.

Actually, we can also say that the EAS is a metaphor that had in the early 1990s (and still has) serious practical consequences for the countries applying for the EU membership. It sets out European administrative principles as a condition, which the candidate countries must also take into account. If these states do not take into account these principles, they will not able to fulfil the requirements of the *acquis communautaire* (Józsa 2003: p. 724–725). If the state does not fulfil, it excludes the possibility of accession, as it proves that the level of administration of the candidate country does not reach the level required for the EU membership.

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5 For the sake of historical fidelity, it should be noted that the first OECD's document issued in 1998 was preceded a year before the document entitled *Common Administrative Space* and presented at the beginning of the Dutch Presidency, which was intended to serve as a kind of guideline for European countries wishing to join. The elaboration of the conditions set out therein has essentially become the basis for the two documents mentioned above.

6 For example: Jürgen Schwarze (1998, 2008), Eberhard Schmidt-Assmann (2003), Sabino Cassese (1997), Jenő Czuczai (1999), István Balázs (2013, 2015, 2019), and others.

In fact, at the end of 2020, the EU institutions did not have their own executive bodies in the Member States. On the other hand, it is also a fact that within the EU legal system – in the sense of substantive law – we cannot even speak about independent administrative law. However, it does not mean that the EU did not lay down requirements and expectations in the last decades concerning the Member States' administrative bodies, procedures and staff. These requirements and expectations can be called as administrative values, because they determine to a large extent the organisational and functional principles of the evolving European Administrative Space and constitute an important guarantee of the effectiveness of the EU law (d'Orta 2003: p. 14).

It is clear that the concept of the EAS determined above and created in the last year of the XX century, has now taken on a broader meaning, because there have been many major legal events in the life of the European Union over the last twenty years. The following are worth highlighting for our topic:

a) In 2001, the Treaty of Nice was signed, which created the legal preconditions and opportunities for the accession of the countries of Central and Eastern Europe (former socialist) through the abolition of the so-called „Amsterdam leftovers"[7].
b) Regulation (EC) No 1059/2003 of the Parliament and of the Council on the NUTS system, which divided the territory of the Member States into NUTS-1, NUTS-2 and NUTS-3 regions, was adopted in 2003. The target area of EU cohesion policy is the NUTS-2 level area, where the number of people living in existing administrative units is between three million and eight hundred thousand.
c) In 2004, the Eastern enlargement of the European Union took place, and the countries of the Eastern and Central Europe (former socialists), including Hungary and Poland, joined EU.
d) Romania and Bulgaria joined EU in 2007 and Croatia soon after.
e) The Treaty of Lisbon was signed in 2007, several provisions of which affected European public administration and – in our view – even put the issue of European public administration on a new base. Article 1 of the Lisbon Treaty amends the Treaty on European Union, established by the 1992 Maastricht Treaty. The name of the single text created by the third amendment – as amended by the Treaty of Amsterdam in 1997, the Treaty of Nice in 2001 and the Treaty of Lisbon in 2007 – is the Treaty on European Union (hereinafter: TEU).

Article 2 of the Treaty of Lisbon amends the Treaty establishing the European Economic Community, established by the Treaty of Rome in 1957. The single text created by the seventh amendment is called the Treaty on the Functioning of the European Union (hereinafter: TFEU). The two treaties have the same legal value and together form the basis of the EU's legal order and functioning.

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[7] In EU jargon, the term „Amsterdam leftovers" suggests that in the Amsterdam Treaty signed in 1997, EU Member States could not agree on three issues: re-weighting of votes, extension of qualified majority voting and composition of the European Commission. Four years later, in 2001, these issues were also agreed in Nice, so the Treaty of Nice resolved the Amsterdam leftovers, removing the legal obstacles to accession for the former socialist countries.

The ten most important for our subject provisions of the two treaties, the TEU and the TFEU, are the following:

e/1) The Union is an area without internal frontiers, based on freedom, security and justice. The Union shall establish an internal market, and economic and monetary union (TEU: art. 3).

e/2) "Pursuant to the principle of sincere cooperation, in mutual respect, the Union and the Member States shall assist each other in carrying out tasks, which flow from the Treaties. The Member States shall take any appropriate measure to ensure fulfilment of the obligations arising out of the Treaties or resulting from the acts of the institutions of the Union. The Member States shall facilitate the achievement of the Union's tasks and refrain from any measure which could jeopardise the attainment of the Union's objectives" (TEU: art. 4, par. 3).

e/3) "The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union […], which shall have the same legal value as the Treaties" (TEU: art. 6). The Article 41 of the Charter sets out „the right to good administration" as one of the fundamental rights of the citizen of the Union: "Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union." This right includes the right to be heard, the right of access to the file, the obligation of the administration to give reasons for its decisions, the right to compensation and the right to use mother tongue.

e/4) "National Parliaments contribute actively to the good functioning of the Union" (TEU: art. 12).

e/5) "The Union's competence in matters of common foreign and security policy shall cover all areas of foreign policy and all questions relating to the Union's security" (TEU: art. 24, par. 1).

e/6) "The Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States", including administrative cooperation (TFEU: art. 6).

e/7) "Effective implementation of Union law by the Member States […] shall be regarded as a matter of common interest. The Union may support the efforts of Member States to improve their administrative capacity to implement Union law" (TFEU: art. 197, par. 1, 2).

e/8) "In order to promote good governance and ensure the participation of civil society, the Union's institutions, bodies, offices and agencies shall conduct their work as openly as possible" (TFEU: art. 15, par. 1).

e/9) "In carrying out their missions, the institutions, bodies, offices and agencies of the Union shall have the support of an open, efficient and independent European administration. […] the European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall establish provisions to that end" (TFEU: art. 298).

e/10) "Member States shall coordinate their action aimed at protecting the financial interests of the Union against fraud. To this end they shall organise, together with

the Commission, close and regular cooperation between the competent authorities" (TFEU: art. 325, par. 3).

f) Member States have put the EU budget for the period 2013–2020 on a new footing and adapted EU cohesion (regional) policy and secondary sources of EU law accordingly.[8]

g) For the first time, Member States have „crossed their own shadow" as agreed the EU budget for 2021–2027 by the European Council in July 2020, because more than € 73 billion is planned for „European administration". In other words, the Union is expected to provide a significant amount of budget support for the administrative cooperation mentioned above and for the effective implementation of EU law by the Member States over the next seven years.

In fact, we are now more than fifteen years past the largest, Eastern enlargement of the Communities/Union. In the light of above-mentioned points (a) to (g), it is therefore clear that the European Administrative Space is now much more than a kind of condition for accession, or a metaphor, although it is undoubtedly so! Why and to what extent? We answer in the following way.

In the ten years since the Treaty of Lisbon, the EAS has become a synthesis of values that generally characterises the complex system of relations between the authorities of the European Union and the Member States. The level of convergence has increased significantly in recent years, as required by the effective enforcement of the EU law. As a result, the EAS is no longer a fragmented unit of the results of the activities of twenty-seven types of Member State. Rather, it is an area, in which the EU institutions and the Member States' authorities work together in good faith and, as a network of organisations, „embracing" each other, forming a single entity (the European public administration) to ensure the effective and efficient implementation and enforcement of the EU law (Gil Ibáñez 2000: p. 281). It is no coincidence that the Treaty on the Functioning of the European Union gives an independent title (Title XXIV) to administrative cooperation, in which, as mentioned above, it states that the effective implementation of the EU law by the Member States is a matter of common interest (TFEU: art. 197). Or, as one author writes, from the perspective of the separation and division of branches of state power: „in the functional sense, the EU administration can be characterised as the separation of powers of co-operation, and the subordination of different levels" (Schmidt-Assmann 2003: p 10).

We would like to add that, similarly, the European Union can be placed somewhere between a federal state (such as the United States of Europe) and a classic international organisation (such as the United Nations). That means more than an international or-

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[8] The following documents are worth highlighting: Regulation (EC) No 1059/2003 of the European Parliament and of the Council on the establishment of a common classification of territorial units for statistics (NUTS); Regulation (EU) No 1303/2013 of the European Parliament and of the Council; Regulation (EU) No 1301/2013 of the European Parliament and of the Council (ERDF-Regulation); Regulation (EU) No 1304/2013 of the European Parliament and of the Council (ESF-Regulation); Regulation (EU) No 1303/2013 of the European Parliament and of the Council (CF-Regulation); Regulation (EU) No 1305/2013 of the European Parliament and of the Council (EAFRD-Regulation); and Commission delegated Regulation (EU) No 480/2014 supplementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council.

ganisation, but less than a federal state. As the German Constitutional Court puts it quite precisely, the European Union is an „alliance of nation states".

3. Main features of the European Administrative Space

The scholar literature is relatively united on the peculiarities of the gradual implementation of administrative integration in the European Union (Balázs 2013, 2015, 2019; Józsa 2003). Consequently, there is a broad consensus on the specificities and main features of the European Administrative Space. In our opinion, the main features of the EAS are outlined below.

3.1. Political stability and the enforcement of the democratic rule of law

Maintain and operate a legal order that ensures the separation of powers, the democratic institutional system and its functioning, the free exercise of fundamental rights and freedoms, the rule of law and respect for minority rights (TEU: art. 2).

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

Article 3, paragraph 3 of the TEU states the following: „The Union shall establish an internal market. It shall work for the sustainable development of Europe based on balanced economic growth and price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment. It shall promote scientific and technological advance." The principle of solidarity is realised primarily through the economic, social and territorial cohesion on the basis of Articles 174–178 of the Treaty on the Functioning of the European Union. According to them, in order to promote comprehensive, harmonious development, the Union will continue its activities in such way as to ensure cohesion and an increase in the EU's cohesive strength (e.g. see: Cucic, Davinci 2017).

3.3. Decrease of the role of national parliaments and increase of the role of national administrations

From an institutional point of view, the winners of the European integration – at least in our judgment – are the administrative authorities of the Member States, especially the governments and particularly the ministers. The Council of Ministers, which consists of the ministers of the Member States, was the exclusive legislator for a long time, and now it is the co-legislator together with the European Parliament. Consequently, the national parliaments of the Member States are not legislators but executors for the implementation of Community/Union law. One author wrote about this topic in 2007 that „by the fact that the Council is the central legislative body at European level and a number of competencies of the national power has been conferred on the EU (at the same time lost by national Parliaments) without the European Parliament's position to be strengthened to a similar extent, we are the witnesses of a kind of de-parliamentarisation" (Calliess 2007: p. 491).

Of course, this has enhanced the role of Member States' ministers and governments at the Community/EU level. This phenomenon is called in the legal literature as „the democratic deficit", which the Union has long sought to reduce (Chiti, Greco 2007). The solution could be to promote the European Parliament as the sole legislator, but the realistic potential for this is quite small in these days (e.g., see: Cioclea 2016).

3.4. Maintenance and operation of a reliable, transparent and democratic administration

With regard to reliability, it must be assumed that the EU Member States are free to organise their public administration, essentially free of external influence. It is indifferent to the EU how the Member States organise the enforcement of EU law: what organisational solutions and methods they use, what kind of civil servants they have, etc. The only point is that the public administrations have to function in such way that the tasks set out in the Treaties and in Union acts have to be fully and correctly implemented in order to achieve the Union's social, economic and political goals. To this end, the EU require, above all, that the structure and function of the administrative system have to be reliable. The provisions of the EU law have to be transposed into the national legal systems in time, the various authorities have to effectively and efficiently apply them as well, and have to allow continuous monitoring thereof carried out at the EU level and have to ensure appropriate means of dispute resolution.

The EU's expectation is that the Member States' administrations should be transparent: the range of those national administrative authorities, which are in communication with the EU institutions and especially with the European Commission, has to be unambiguous, the levels of decision-making and competencies have to be accurately fixed and properly marked off, moreover the powers of the various national institutions have to organically fit with each other, and there should not be „empty space" or jurisdictional overlap.

Finally, the EU's expectation is that the national administrations have to operate democratically. The requirement of democracy includes the rule of law, the respect for human rights and fundamental freedoms, multi-party system, the people's power, the party neutrality of the public officials and other practitioners of public power, the stability of laws, the predictable functioning of the administration.[9]

If the Member States do not fulfil the above Union expectations, the European Commission and the other Member States have got the legal instruments to enforce them especially in the framework of the procedures based on Articles 114, 126, 258, 259 of the Treaty on the Functioning of the European Union.

3.5. Enforcement of the *good governance* principles all over the EU: both at the level of the EU, the Member States, and the local governments

We have to mention here the *White Paper on European governance* published by the European Commission in 2001 (*European Governance, COM(2001)428*). Following

[9] About the Member States' result obligation and criteria of reliability, transparency and democratic functioning – see: Forunier 1997.

a critical analysis, this document states that in order to bring the EU institutions closer to EU citizens, the five principles of *good governance* must be implemented: openness, participation, accountability, effectiveness, and the requirement of coherence (see: *European Governance* 2001).

The principle of *openness* requires that the institutions should work in a more open way. They have to make clear for everyone, what they do, why they act, and what decisions are taken by them. They have to communicate it in appropriate language style and in comprehensible form.

The principle of *participation* creates the validity of the decisions and, at the same time, it increases the citizens' confidence in the institutions since it ensures the right for the citizens, as well as for the various non-governmental and other organisations to have a say in the decision-making. So decision-making is not just the prerogative of the EU institutions involved.

The principle of *accountability* means that, on the one hand, each institution is required to explain and to make everyone understood, what and why it does and, on the other hand, they have to take the responsibility for their actions and omissions too.

The principle of *effectiveness* establishes three requirements for the institutions. On the one hand, the different policies have to be carried out in the light of clear goals, on the basis of past experiences, probable future effects, and in due time (timeliness). On the other hand, it requires that the decisions taken and the consequences of the decisions always have to be proportionate to the objectives set out (principle of proportionality). Thirdly, the decisions always have to be taken at the most appropriate level (principle of subsidiarity).

The principle of *coherence* requires the realisation of consistency and enforcement thereof in the different areas on behalf of the institutions. It must be made clear that the changes occurring in the world are ever more complex, thus the response given to institutions also have to be complex and well-coordinated (coherent).

The *White Paper* also states that the five principles of the *good governance* need to be applied all over the EU, it must be validated by the EU and Member State authorities: both the central authorities and the local governments. It can be seen that this is fundamentally about the expectations placed on the EU institutions and the national authorities of the Member States as organisations. This should be emphasised, because we are speaking about standardising the procedure of the Member States' authorities in connection with the next feature of the EAS.[10]

3.6. Harmonisation of the procedural systems or the application of such procedural rules and institutions, which ensure the enforcement of the EU law

In recent years, there has been a growing consensus that economic integration in the European Union must be followed by administrative integration. It is not permissible

[10] We note that the terms *good governance* and *openness* are also used by the TFEU in Article 15, which states that in order to be effective these principles, the institutions and bodies of the Union shall act in accordance with the principle of openness.

for Member States to implement the Treaties and EU law in twenty-seven ways. Thus, in the European Administrative Space, a kind of unification (Europeanisation) of the national authorities and official procedures of the Member States has begun and continued.

1) The overture was given by the OECD recommendation on the European principles for public administration (see: OECD SIGMA/PUMA 1999). The general principles of public administration in the EU Member States should be divided into four groups: a) reliability and predictability, b) openness and transparency, c) accountability (public responsibility), d) effectiveness and efficacy.[11]
2) Besides the OECD, another European integration organisation, established in 1949 – The Council of Europe – has also sought to contribute to the unification of European nation-state administrations. In the seventy years since its creation, the Council of Europe has drawn up numerous conventions and opened them to the Member States for ratification, as well as issued numerous recommendations for Member States. Among these conventions we have to mention the *European Charter of Local Self-Government*. Without going into detail, we see the importance of this document in setting a European standard for the European states (at least those states, which are members of the Council of Europe and have acceded to the Charter) concerning the minimum requirements they have to enforce as regards their local self-governments (e.g. see: Szente 2014).

Among the recommendations of the Council of Europe (Committee of Ministers), the *Recommendation CM/Rec (2007)7 on good administration* plays an important role in unifying Member States' administrations. This document sees the guarantee of „good administration" in the fact that the governments are all in favour of making the organisation and operation of public administrations more efficient, effective and cost-effective. To this end, the *Recommendation CM/Rec (2007)7* seeks to encourage „harmonisation of procedures" by inviting Member States to follow the *Code of good administration* annexed. This *Code…* sets out the general application of the following administrative (procedural) principles in the Member States, thus establishing a kind of European minimum procedural standard:

- the subordination of public administration to law (Article 2),
- the principle of equal treatment (Article 3),
- decision-making within a reasonable time (Article 7 and 13),
- protection of personal data (Article 9),
- the principle of transparency (Article 10),
- the principle of judicial review (Article 22),
- liability for the damages which were caused by administration powers (Article 23).

As it can be seen, these principles are very similar to that of the OECD principles or they sometimes coincide.

3) The most important steps taken to codify procedural law at EU level have been taken in the Treaty of Lisbon (2007) and in the TEU and the TFEU. The Treaties refer to this in four places: 1) Article 4 of the TEU; 2) Article 197 of the TFEU:

[11] These principles are also analysed in the Hungarian literature (e.g. see: Jenei 2005: chapter 3.2.2; Józsa 2003: p. 724, 725).

administrative cooperation is a „matter of common interest"; 3) Article 298 of the TFEU: the EU institutions rely on an „open, efficient and independent European administration"; 4) Charter of Fundamental Rights, Article 41: „Right to good administration".[12]

Among the EU institutions, the European Parliament played a crucial role in 2013 and then in 2016 because of its resolutions. Work on standardising procedural law began in 2010 with the setting up of a working group on EU administrative law by the European Parliament's Committee on Legal Affairs. The working group reviewed the entire EU *acquis* and found that there is a lack of coherence between individual procedural rules, and complete chaos in the EU administration. This endangers the effective enforcement of the EU law and the legal certainty of the EU citizens. It is, therefore, necessary to create regulatory transparency and coherence of procedural rules, which can only be achieved by issuing a single set of procedural rules at the EU level in the form of a regulation (Balogh-Békési et al. 2017; Boros 2017; Csatlós 2016; Ziller 2015).

The report of the working group was discussed by Parliament and agreed in 2013 with the *Resolution 2012/2024(INL)*. Based on Articles 225 and 298 of the TFEU, the document called on the European Commission to prepare a draft regulation on European administrative procedure and send it to the two EU legislative institutions (Council and Parliament). As an annex to the Resolution, Parliament has also attached recommendations, thus helping with codification.

However, the Commission has not complied with Parliament's request for years, and on 9 June 2016, the Parliament re-issued the *Resolution 2016/2610(RSP) for an open, efficient and independent European Union administration (P8_TA(2016)0279)*. It again called on the Commission to draft EU procedural legislation and send it to the two legislative institutions. To help with the work, Parliament had also attached a draft regulation. The key features and values of the draft are as follows:

- The rule of law is the most fundamental value of the European Union.
- Acts under Union law must comply with the requirement of proportionality.
- The EU administration should take administrative action in accordance with administrative procedures that guarantee impartiality, fairness and timeliness.
- In the case of an administrative procedure initiated on the basis of an application, the right to good administration imposes an obligation on the Union administration to acknowledge receipt of the application in writing.
- In the interests of legal certainty, administrative proceedings should be initiated within a reasonable time after the events.
- The „right to good administration" requires the EU administration to fulfil a so-called duty of care throughout the procedure.
- The „right to impartial treatment" is a consequence of the right to good administration.

[12] A detailed analysis of these provisions is beyond the narrow limits of this article, so we mentioned them here only as a fact.

However, the European Commission has not reacted this time either and has so far not submitted a Formal Proposal for an open, efficient and independent European administration, so again it has not complied with Parliament's request.

Conclusions

Our hypothesis mentioned in the introductory thoughts – according to which the European Administrative Area exists and has its own specific public law characteristics – has been confirmed. There can be no doubt that our position has been confirmed now in the tertiary sources of the European Union law (in the case law of the European Court of Justice), secondary sources of European Union law (in the acts of the European institutions) and even in the primary sources of European Union law (in the Acts).

To conclude this study, it should be noted that the Treaty of Lisbon and subsequent EU legislation have not resolved the tension between the uniformity of the scope of EU law and the autonomy (diversity) of Member States' public administrations. However, this would sooner or later be important, because the development of the EU and, as a part of it, the European Administrative Space, faces a number of new challenges.

We can refer to uncontrolled migration since 2015, globalisation, energy and environmental problems, the fight against terrorism, the COVID-19 pandemic and its consequences. However, a detailed discussion of these challenges and the EU and Member State responses to them may already be the subject of a new study.

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References:

BALÁZS István (2013), *Az „Európai Közigazgatási Térség" és az európai közigazgatási jog,* in: András Lapsánszky (ed.), *Közigazgatási Jog. Fejezetek szakigazgatásaink köréből,* vol. I, Budapest.

BALÁZS István (2015), *Az európai közigazgatási jog és közigazgatás értelmezéséről,* in: Balázs Gerencsér, Lilla Berkes, András Zs. Varga (eds), *A hazai és az uniós közigazgatási eljárásjog aktuális kérdései,* Pázmány Press, Budapest, p. 13–29.

BALÁZS István (2019), *A magyar közigazgatás az „Európai Közigazgatási Térségben",* „Pro Publico Bono – Magyar Közigazgatás", no.2019/1, p. 68-85. DOI: 10.32575/ppb.2019.1.4

BALOGH-BÉKÉSI Nóra, BALÁZS István, BOROS Anita (2017), *I. Könyv, Általános Rendelkezések,* „Pro Publico Bono – Magyar Közigazgatás", no. 2017/2, Különszám.

BOROS Anita (2017), *Bevezetés,* „Pro Publico Bono – Magyar Közigazgatás", no. 2017/2, Különszám.

CALLIESS Christian (2007), *Demokrácia az európai Állam – és Alkotmány-szövetségben*, „Jogtudományi Közlöny", no. 11/2007, p. 488–496.

CASSESE Sabino (1987), *Divided Powers: European Administration and National Administrations*, in: Sabino Cassese (ed.), *The European Administration*, International Institute of Administrative Sciences and European Institute of Public Administration, Brussels.

CHARTER of Fundamental Rights of the European Union, OJ C 326, 26.10.2012.

CHITI Mario P., GRECO Guido (2007), *Trattato di Diritto Administrativo Europeo,* Milano.

CIOCLEA Alexandra Ema (2016), *Principles of the European Administrative Space and their Impact on Performance in Public Organisation*, "CES Working Papers".

CUCIC Vuk, DAVINCI Marco (2017), *The European Administrative Space – Instrument for Transforming the Serbian Administrative Law System,* in: Ani Matei, Cristina Sandu (eds), *Enlargement of the European Administrative Space: Public Administration Reforms on the road to E.U. Membership*, Scholars' Press.

CZUCZAI Jenő (1999), *Public Administration and European integration,* in: Lajos Ficzere, Imre Forgács (eds), *Magyar Közigazgatási Jog Különös Rész*, Budapest

CSATLÓS Erzsébet (2016), *Az európai közigazgatási eljárási jog kodifikációja és a hatóságok együttműködése,* „Eljárásjogi Szemle", no. 2016/2.

D'ORTA Carlo (2003), *What Future for the European Administrative Space?*, "EIPA Working Paper" 03/W/05.

EUROPEAN GOVERNANCE (2001), *A White Paper*, Commission of the European Communities, 25.07.2001, Brussels, COM(2001) 428.

EUROPEAN PARLIAMENT RESOLUTION (2012/2024(INL)) of 15 January 2013 with recommendations to the Commission on a Law of Administrative Procedure of the European Union, https://www.europarl.europa.eu/doceo/document/TA-7-2013-0004_EN.html (15.01.2013)

EUROPEAN PARLIAMENT RESOLUTION (2016/2610(RSP)) of 9 June 2016 for an open, efficient and independent European Union administration (P8_TA(2016)027), https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52016IP0279 (09.06.2016)

FORUNIER Jacques (1997), *Reliable Public Administration,* "Magyar Közigazgatás", no. 1997/10.

GIL IBÁÑEZ Alberto J. (2000), *The execution and control of the common law*, Budapest.

JENEI György (2005), *Public Administration – management,* Századvég Kiadó Budapest.

JÓZSA Zoltán (2003), *About the European Public Administrative Space,* "Magyar Közigazgatás", no. 2003/12.

OECD SIGMA/PUMA (1998), *Preparing Public Administrations for the European Administrative Space,* "SIGMA Papers", no. 23.

OECD SIGMA/PUMA (1999), *European Principles for Public Administration*, "SIGMA Papers", no. 27.

RECOMMENDATION CM/Rec(2007)7 of the Committee of Ministers to member states on good administration, adopted by the Committee of Ministers on 20 June 2007 at the 999bis meeting of the Ministers' Deputies, Council of Europe.

SCHMIDT-ASSMANN Eberhard (2003), *Az európai közigazgatás együttműködési és alá-fölé rendeltségi modellje,* "Európai Jog", no. 3.

SCHWARZE Jürgen (1988), *Europaisches Verwaltungsrecht*, Baden-Baden.

SCHWARZE Jürgen (2008), *Bestand und Perspektiven des Europaischen Verwaltungsrechts*, Baden-Baden.

SZENTE Zoltán (2014), *Az önkormányzatiság standardjainak ellenőrzése Európában. A Helyi Önkormányzatok Európai Chartája,* in: András Patyi, András Lapsánszky (eds), Ünnepi Kötet Verebélyi Imre 70. Születésnapjára. *Rendszerváltás, demokrácia és államreform az elmúlt 25 évben*, Budapest.

TORMA András (2002), *Adalékok az EU-közigazgatás fogalmához,* „Magyar Közigazgatás", no. 2002/1.

TEU, Treaty on European Union, OJ C 202, 07.06.2016.

TFEU, Treaty on the Functioning of the European Union, OJ C 202, 07.06.2016.

TREATY OF LISBON amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007, OJ C 306, 17.12.2007

ZILLER Jacques (2015), *The ReNEUAL Model Rules on EU Administrative Procedure: Method, Contents and Prospects,* in: Balázs Gerencsér, Lilla Berkes, András Zs. Varga (eds), *A hazai és az uniós közigazgatási eljárásjog aktuális kérdései,* Pázmány Press, Budapest, p. 247–250.

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