

ITAI APTER<sup>1</sup>

## Yes, Global Minister: Towards Modernization of EU-Global Public Administration

### 1. Introduction

The sitcom “Yes, Minister” portrays public servants as appeasing political masters while aiming for self-serving political and personal interests.<sup>2</sup> Hopefully, real life public servants act differently. Nevertheless, this notion demonstrates the balancing act required in public administration, especially if it truly seeks to serve the public.<sup>3</sup> Adding international law, global governance and modernization to the mix<sup>4</sup>, especially for new and old EU members, renders things increasingly challenging. The European public servant must now not only say yes to the global minister, but do so at new and challenging technological and theoretical levels.<sup>5</sup>

<sup>1</sup> Itai Apter, LL.B, University of Haifa (2006), LL.M. (International Legal Studies), New York University 2008, Ph.D. Candidate, University of Haifa, 199 Aba Khoushy Ave., Mount Carmel, Haifa, Israel. The author would like to thank Nurit Inbal for her everlasting endurance and support, which has made this article, and others, possible.

<sup>2</sup> “Yes Minister” purported to represent a 1980’s perception of the British public service, but is still very relevant in understanding how, unfortunately, public administration, and public servants are sometimes perceived today. <http://www.bbc.co.uk/comedy/yesminister>, (17.01.2015).

<sup>3</sup> Diverting from the model of the generalist “know-it-all” public servant portrayed in “Yes Minister”, the current approach, at least in the global realm, is to employ highly specialized public officials trained for specific tasks. M. Shapiro, “*Deliberative*,” “*Independent*” *Technocracy v. Democratic Politics: Will the Globe Echo the E.U.?*, “Law and Contemporary Problems; The Emergence of Global Administrative Law” 2005, no. 3 & 4, vol. 68, p. 341, 343.

<sup>4</sup> The original definition of modernization is the transformation from agrarian societies to societies based on trade and industry. See: B. Charlton, P. Andras, *The Modernization Imperative*, Imprint Academic, Exeter 2003, p. 3. Implementing the concept to public administration, modernization can be viewed as the contrast between a closed and traditional public service to one that employs modern techniques and is much more open to global influences.

<sup>5</sup> Modernization of public administration in the EU context is not only driven by the recognition that public administration must develop with the times, but also by economic and budgetary pressures. M. Menegozzo, G. Fiorani, C. Mitetelu, L. Matei, A. Matei, G. Cipoletta, *Relevance of “Western European Public Administration Reforms”*

The paper highlights the effects of modernization on EU public service, both in its practical significance as well as on the more theoretical level. On this background, the main argument is that European administrations must recognize this and act accordingly, to optimize, in the best way possible, the advantages in taking steps to modernize public administration while addressing the challenges faced by public administrators in this new world of public service, including not only new theories but also a “new” public with an inherently modern “European” mindset.

Today, the expectation from public administration is to operate on the basis of both advanced technology and advanced thinking. This is necessary in order to withstand the challenges of the modern world, which has dramatically transformed daily life and the needs of the general public.<sup>6</sup> The expectation originates from both domestic and international public administration, aiming to create one common legal and bureaucratic language, reflected in global administrative law.<sup>7</sup>

Following the introductory part, the discussion proceeds to clarify the concepts of global public administration and to explore what international law and globalization components of global governance are relevant to domestic public administrations. This definitional, but substantial, stage is followed by theorizing on how current and modern developments influence EU members’ public administration and legal environments. The paper ends by offering policy proposals for facilitating a smooth transition from traditional public administration to a modern one with advanced regional and global vision and impact.

In the past, the European public servant was subject only to local laws serving local constituencies, with local loyalties.<sup>8</sup> Today, the same public servant is part of a modern EU-Global public administration system serving the globe, undergoing constant renewal process, seeking to create a new and modern, yet unknown and unfamiliar, version of public administration. Admittedly, this creates great uncertainties, especially if an essential part of

---

*on Transition Countries – Who Learns What from Whom*, in: *European Administrative Space. Balkan Realities*, (eds.) D. Vašiček, M. Kaštelan-Mrak, ASsee Online Series, no. 3/2011, [http://aei.pitt.edu/32251/1/ASsee\\_No.3\\_2011.pdf](http://aei.pitt.edu/32251/1/ASsee_No.3_2011.pdf) (27.05.2016), p. 274.

<sup>6</sup> J.I. Charney, *Technology of International Negotiations*, in: (eds.) D. Greisler, R. J. Stupak, *Handbook of Technology Management in Public Administration*, Taylor&Francis, New York 2006, p. 671.

<sup>7</sup> The basic idea is that global law has inherent powers not only to facilitate public administration but also the powers to restrain it, imposing global legal obligations on those with domestic authority. For a discussion of this function of global law see: R. Ureuen, *How to Start Thinking about Conflict of Interest in Global Governance*, in: *Conflict of interest in global, public and corporate governance*, Cambridge University Press, New York 2012, p. 85, 89.

<sup>8</sup> Loyalty is a major component of public service. See: M. J. Mafunisa, *Professionalism: the Ethical Challenge for Superordinate Public Officials*, in: (ed.) M. J. Mafunisa, “Public Service Ethics”, Juta&Co., Kenwyn 2000, p. 78, 84.

the process is to monitor administration offices for attaining modernization goals and utilizing modern tools.<sup>9</sup> At the same time, with proper policies, globalization and modernization, in the form of advanced technological system with public service oriented outlook, can be a true blessing for both public administration and the EU-Global public.

As noted, the paper looks at the issues applying a dual-track approach, at the intersection of international law and political sciences, examining the global legal governance and public administration components.<sup>10</sup> It is important to bear in mind that throughout the analysis, the aim is to see how these concepts work in the process of making public administration compatible with modern developments. At the conclusion of each section, we propose a clear definition of how all the aspects being debated, fit in the modernization picture.

The mission of the Polish Ministry of Foreign Affairs is: *To serve Poland – to build Europe – to understand the world.*<sup>11</sup> Assuming something similar could be said about any other EU member, the paper aims to present basic foundations of a road map to achieve exactly that. Domestic European public administration officials should all strive for this attainable goal, recognizing that each operates in its own unique environment, facing different challenges.

Some work has recently been undertaken concerning the effects of global governance on public administration, focusing mainly on aspects relevant to political science.<sup>12</sup> Acknowledging the importance of this work, the paper attempts to provide a different perspective, focusing on globalization and modernization challenges as well as on the European region. The main hypothesis of the paper is that if governments of EU member states take appropriate steps on the domestic and global levels, on both legal and administrative fronts, recognizing that challenges can become opportunities, modernization and globalization of public service can lead to optimal results for public administration and for the public it serves.

---

<sup>9</sup> The declared aim of the European Commission is to initiate evaluation and monitoring of modernization processes in member states. See for example the evaluation criteria considered in: H. Pitlik, W. Hölzl, Ch. Brandtner, F. Heinemann, F. Misch, M. Yeter, G. Steurs, S. Gagnage, K. Mertens, *Excellence in Public Administration for competitiveness in the EU Member States*, Report for the European Commission, DG Enterprise and Industry by Austrian Institute of Research WIFO, Center for European Economic Research ZEW, 2012, p. 57.

<sup>10</sup> Legal aspects of global governance can be defined as “legal processes, modes and institutions through which...global challenges are dealt with”, in: *The EU’s Role in global Governance. The Legal Dimension*, (eds.) B. Van Vooren, S. Blockmans, J. Wouters, Oxford Scholarship Online, 2013, p. 3.

<sup>11</sup> Mission of Ministry of Foreign Affairs of the Republic of Poland, demonstrated at: <http://www.msz.gov.pl/en/ministry/mission/?printMode=true> (14.01. 2015).

<sup>12</sup> *Public Administration in the Context of Global Governance*, (eds.) S. Kim, S. Ashley, W. H. Lambright, Edward Elgar, Cheltenham 2014.

## 2. Defining global public administration

Prior to venturing out on any journey in the world of international law, the vital first step to take is to understand the conceptual framework. This is important for any kind of legal analysis, but of unique importance for international law as there is much less certainty in common understanding of the concepts, for the lack of truly authoritative legislative or adjudicative bodies.<sup>13</sup>

There is some advantage in the ambiguous nature of international law, and there are some who hail the virtue of constructive ambiguity.<sup>14</sup> However, our aim is to formulate policy proposals for domestic and global bureaucracy. Bureaucrats, at least in theory, follow formal rules<sup>15</sup>, and so it is worthwhile to present a clear definitional framework.

Before expounding upon the possible definitions of global public administration, it is necessary to define the term “public administration” in the context of our analysis. While searching for a precise and all-encompassing definition is matter for life-long study, or at the very least a doctoral thesis, in this paper we opt for the very simple definition of public administration as the professional bodies responsible for formulating and implementing policies.<sup>16</sup> For the purposes of the debate, unlike what the series “Yes, Minister” taught us<sup>17</sup>, we consider such bodies as generally subject to legitimate political direction.<sup>18</sup> The latter concept can also

---

<sup>13</sup> This has not prevented the development of forms of international legislation, alongside case law, although the legislation is often seen as soft law (unless treaties are concerned) rather than the binding form as reflected by domestic law. For a discussion of international law making in the modern era see: R. A. Wessel, *Informal International Law-Making as a New Form of World Legislation?*, “International Organizations Law Review 2011, no. 8. p. 253.

<sup>14</sup> Ch. Bell, *On the Law of Peace. Peace Agreements and the Lex Pacificatoria*, Oxford University Press, New York 2008, p. 166.

<sup>15</sup> Formal and transparent rules are considered one of the main characteristics of Bureaucracies. T. L. Doherty, T. Horn, S. Wotton, *Managing Public Services – Implementing Changes: A Thoughtful Approach to the Practice of Management*, Routledge, 2<sup>nd</sup> edition New York 2014.

<sup>16</sup> This means that public administrators are also formulating and implementing policies, and as we will see going forward in the analysis, the human factor plays a major role both in globalization and modernization. For a discussion of the role of public administration see: G. Sterling, *Managing Public Administration*, Wadsworth, Boston 9<sup>th</sup> edition 2011.

<sup>17</sup> Such a perception might be somewhat naïve, as described by one commentator regarding the situation in Japan, but it facilitates the debate and keeps it focused on the normative level, even if a little bit far from an accurate description of reality. In regards to Japan, see: G. L. Curtis, *The Logic of Japanese Politics Leaders, Institutions, and the Limits of Change*, Columbia University Press, New York 1999, p. 10.

<sup>18</sup> Legitimate political direction is defined by the OECD as one that ensures consistent application of policy by public administration without political bias and without jeopardizing policy making by future governments. A. Matheson, B. Weber, N. Man-

impact modernization, whether there is political guidance on promoting modernity in public service, or political reluctance to be involved in what can be a costly and highly technical issue.<sup>19</sup> As will soon be evident, progress in public administration can be linked to international legal obligations. Political direction can be a significant factor in implementation of international commitments, although it might be the courts who play more of a role in implementing informal international law.<sup>20</sup>

Global public administration can mean two things. First it can be defined as administration of intergovernmental organizations in the form of organizations which a state is member of. Many countries around the world, like Poland, are members of international or regional organizations with enhanced structures of administration and bureaucracy. Examples include the United Nations, European Union, OECD (Organization for Economic Cooperation and Development), WTO (World Trade Organization), ITU (International Telecommunication Union) and others. In many aspects of administration, there are continuous interactions between the administration officials of these organizations and officials of domestic public administrations, creating what some refer to as multilevel governance.<sup>21</sup>

As can be expected, international intergovernmental organizations face the need to engage in reform of their modes of operations to respond to modernity. The process can be described as modernization of multilateralism.<sup>22</sup> Administrations in member states must adapt accordingly if they wish to be responsive to the needs of the international organization;

---

ning, E. Arnould, Study on the Political Involvement in Senior Staffing and on the Delineation of Responsibilities Between Ministers and Senior Civil Servants, OECD Working Papers on Public Governance 2007/6.

<sup>19</sup> This can be similar to the argument that politicians are not interested in “numbers” or data but rather in “anecdotes”, or to put it more elegantly, overboard ideas. G. Boynes, O. James, P. John, N. Petrovsky, *What of Public Reform Actually Works? The Paradoxical Success of Performance Management in English Local Government in: Paradoxes of Modernization Unintended Consequences of Public Policy Reform*, (eds.) H. Margetts, Perri 6, Ch. Hood, Oxford University Press, New York 2012, p. 203, 216.

<sup>20</sup> In cases of implementation of informal international law, which can be very relevant for the modernization process, judicial branches also play a significant role, even in relation to public administration which is more usually considered as linked to political echelons rather than to the courts. For the relationship between the political branches and the courts in the context of informal international law see: M. Kanetake, A. Nollakemper, *The Application of Informal International Instruments Before Domestic Courts*, “The George Washington International Law Review” 2014 vol. 46, no. 4, p. 765, 803.

<sup>21</sup> R. A. Wessel, J. Wouters, *The Phenomenon of Multilevel Regulation: Interactions between Global, EU and National Regulatory Spheres*, “International Organizations Law Review” 2007, p. 257–289.

<sup>22</sup> J. E. Trent, M. Rahman, *Modernizing the United Nations System: Civil Society’s Role in Moving from International Relations to Global Governance*, Barbara Budrich Publishers, Opladen&Farmington Hills 2007, p. 217.

to play an active role in shaping policies and decision making; and to ensure that domestic agendas are reflected in the international organization's policy.<sup>23</sup> In some cases, international organizations do not only expect domestic administrations to align themselves with the methodology of work in the international sphere, but also to engage in governance reform.<sup>24</sup> Such expectation can result not only from soft law recommendations<sup>25</sup>, as is the OECD example on digital governance<sup>26</sup>, but also from legal obligations like the EU Service Directive. The Directive does not explicitly focus on making the provision of advanced public administration more progressive in form and in substance (modernization) but is seen as such, as it sets up frameworks for adapting domestic public administration systems of member states to modern realities of cross-border professional service.<sup>27</sup> While it is true that officials in international organizations face different issues than those in domestic public administrations, the above analysis shows that modernization of international organization still has relevancy, even if it could be argued that such relevancy can be, at times, more symbolic than practical.

The second and more direct meaning of the global public administration are the global functions of a domestic public administration. The world is turning increasingly global – this in turn enhances the need to provide service to domestic nationals on issues relating to cross-border affairs, and to consider global public interests instead of purely domestic ones.<sup>28</sup> International law, or in some cases similar regional legal frameworks, has in place a variety of private international law mechanisms to facilitate the needs

---

<sup>23</sup> Jonathan G.S. Koppell, *Governing in a Global Context*, in: *Handbook of Public Administration*, (eds.) J. L. Perry, R. K. Christensen, John Wiley&Sons, San Francisco 3<sup>rd</sup> edition 2015, p. 69.

<sup>24</sup> In Turkey, loan agreements with the IMF and the World Banks are associated with reforms in domestic public administrations. S. Sözen, *Recent Administrative Reforms in Turkey: A Preliminary Assessment*, "International Journal of Business and Social Science" 2012, vol. 3, no. 9, p. 168

<sup>25</sup> Even if such recommendations are non-binding in their nature, they can become highly effective, due to the interactions between domestic public officials and international organizations, to the extent that their application can be arguably illegitimate. N. Krisch, B. Kingsbury, *Introduction: Global Governance and Global Administrative Law in the International Legal Order*, "The European Journal of International Law" 2006, vol. 17, no. 1.

<sup>26</sup> *Recommendation of the Council on Digital Government Strategies*, Adopted by the OECD Council, 15 July 2014; C(2014)88; <http://www.oecd.org/gov/digital-government/Recommendation-digital-government-strategies.pdf> (10.02.2015).

<sup>27</sup> *Directive 2006/123/EC of 12 December 2006 on Services in the Internal Market*; E. G. Heidbreder, *Regulating Capacity Building by Stealth: Pattern and Extent in EU Involvement in Public Administration*, in: *Beyond the Regulatory Polity?: The European Integration of Core State Powers*, (eds.) Ph. Genschel, M. Jachtenfuchs, Oxford University Press, Oxford 2014, p. 145, 158–159.

<sup>28</sup> H. A. Khan, *An Introduction to Public Administration*, University Press of America, Lanham 2008, p. 15–16.

of international litigation, cross-border family affairs and documentation.<sup>29</sup> While these legal obligations have been in effect for some time, they too are undergoing drastic modernization processes, particularly the use of electronic communication methodologies<sup>30</sup>, and this requires adaptation.

### 3. Global governance and modern global public administration

To better understand what we mean by the concept of public administration and global public administration, it is a good point now to turn to a brief debate on the question of relevant components of global governance. Today, most scholars understand global governance to be the opposite of the past state-centred international law and international relations, or the opposite of the foreign office model.<sup>31</sup> Separating the discussion between the relevant concepts of global governance and their application to global public administration would be artificial from a methodological and analytical point of view as well as from a conceptual perspective, and so both will be discussed together.

First and foremost, the obvious component of global governance related to global public administration is the concept of networks, an inherent by-product of the global operation of public administration officials as they engage in international activity. Networks can be informal<sup>32</sup>, as a way of exchanging best practices or information<sup>33</sup>, or in more formal setting, un-

<sup>29</sup> The main treaties in this regard are the product of the Hague Conference on Private International Law. See: HCCH website, [http://www.hcch.net/index\\_en.php?act=text.display&tid=26](http://www.hcch.net/index_en.php?act=text.display&tid=26) (13.01.2015).

<sup>30</sup> See for example the initiatives to modernize the application of the 1961 Apostille Convention (Convention of 5 October 1961 Abolishing the Requirement of Legalization for Foreign Public Documents) which facilitates cross-border recognition of public documents. See: Electronic Apostille Program; HCCH website, [http://www.hcch.net/index\\_en.php?act=publications.details&pid=4945&dtid=49](http://www.hcch.net/index_en.php?act=publications.details&pid=4945&dtid=49) (31.01.2015)

<sup>31</sup> Anna Cavnar, *The Foreign Office Model Versus the Global Governance Model: An Introduction* (IILJ NYU Course Material); <http://iilj.org/courses/documents/GlobalGovernancePaper.pdf> (10.03.2015); Itai Apter, *The New International Law Frontier: The Legal Profession and the Challenges of New "International Law" in the New Member State*, *Croatian Yearbook of European Law and Policy* 2014, vol. 10, p. 215, 242.

<sup>32</sup> For the European example, see the European Public Administration Network which is defined as "an informal network of the Directors General responsible for public administration in the Member States of the European Union and the European Commission". See: EUPAN website, <http://www.eupan.org/> (31.01. 2015). For a brief discussion of this body see: W. Drechsler, *Towards a Neo-Weberian European Union? Lisbon Agenda and Public Administration*, *Halduskultuur* 2009, vol. 10, p. 6, 7.

<sup>33</sup> Networks to facilitate exchange of best practices can be institutionally supported or emerge autonomously. For a discussion in the context of procedures on asylum seekers in the European context see: M. Vink and C. Engelman, *Informal European Governance in the Asylum Context*, in: *International Handbook on Informal Governance*, (eds.) Th. Christiansen, Ch. Neuhold, Edward Elgar, Chaltenham 2012, p. 534, 545.

der the auspice of international organizations.<sup>34</sup> Increasingly, resulting from innovative approaches to global cooperation, networks are sponsored by international organizations seeking to facilitate informal cooperation. Such approach is reflected most clearly in the field of international police cooperation, in the examples of EUROPL (in the European region, including strategic agreements with non-EU member states)<sup>35</sup>, StAR (focused on cooperation for recovery of assets gained by corrupted activities)<sup>36</sup>, and CARIN. The latter, a network facilitating cooperation and legal assistance in criminal matters, mostly through a website platform, is an exemplary tool of how modern technology supports global networks of public administration.<sup>37</sup>

The second relevant global governance concept is the institutional one. International institutions today are much more than a platform for state to state interface<sup>38</sup> or networks. They constitute legitimate actors in assessing domestic performance of states as part of a “collective international review”.<sup>39</sup> In this role, they can serve not merely to promote or advance reforms to make public administration more advanced, but also to be responsible for review of their implementation.<sup>40</sup> This can be the case whether the review process is a formal one, based on legally binding treaties<sup>41</sup>, or a voluntary undertaking.<sup>42</sup>

---

<sup>34</sup> The review process of the United Nations Convention against Corruption, for instance, highlights successes in implementing the Convention with the aim of creating a mutual learning process between the more than 170 member states. See for example the Executive Summary for the Implementation Report of Australia highlighting successes in relation to bribery offence, money laundering and non-immunity of public officials. *Executive Summary Australia*, May 2012, CAC/COSP/IRG/1/2/, p. 9.

<sup>35</sup> *EUROPOL Website*, <https://www.europol.europa.eu/content/page/about-us> (31.01.2015).

<sup>36</sup> *StAR website*, <http://star.worldbank.org/star> (31.01.2015).

<sup>37</sup> For a description of the CARIN website facility: Camden Inter-Agency Asset Recovery Network See: *CARIN. The History, statement of Internet, Membership and Functioning of CARIN*, Manual, European Police Office, Hague 2012, p. 11.

<sup>38</sup> Anna Cavnar, “*The Foreign Office Model Versus the Global Governance Model: An Introduction*” (IILJ NYU Course Material); <http://iilj.org/courses/documents/GlobalGovernancePape.pdf> (21.03.2015).

<sup>39</sup> For an example in the environmental context see: K. Raustiala, *Compliance and Effectiveness in International Regulatory Cooperation*, “Case Western Reserve Journal of International Law” 2000, vol. 32, issue 3, p. 387, 415–421.

<sup>40</sup> This seems to be the intention of the European Commission. See: H. Pitlik, W. Hölzl, Ch. Brandtner, F. Heinemann, F. Misch, M. Yeter, G. Steurs, S. Gagnage, K. Mertens, *Excellence in Public Administration for competitiveness in the EU Member States*, Report for the European Commission, DG Enterprise and Industry by Austrian Institute of Research WIFO, Center for European Economic Research ZEW, 2012, p. 57.

<sup>41</sup> In the United Nations Convention Against Corruption we can find, in the text of Convention itself a commitment by the States parties to establish a review mechanism, UNCAC, Article 63(4)(e).

<sup>42</sup> One example in this regard is the agreement of states to subject themselves to the non-binding nature of FATF (Financial Action Task Force) anti-money laundering

In the institutional context, it is important to bear in mind that the review process can produce assessment reports which include specific observations or recommendations for advancing modernization of public administrations<sup>43</sup>, defining issues for follow up.<sup>44</sup> Institutional review processes can sometimes include on-site visits allowing a more in-depth review process and interaction between review teams (comprised of experts from the institutions or reviewing states) and representatives of local public administrations.<sup>45</sup> Such a review process, usually including the requirement to complete answers to lengthy questionnaires about implementation of international obligations<sup>46</sup>, can potentially encourage internal debate and retrospect, contributing to a much more current public administration which is suitable for modern times, and alignment of domestic public administration with advanced international standards.

The work of intergovernmental institutions is characterized by holding discussions on a wide variety of issues, allowing, mostly<sup>47</sup>, for participation of civic, trade and industry organizations<sup>48</sup> in the institutional decision-making process.<sup>49</sup> Considering that the public, alongside the political

---

recommendations, and to subsequent review mechanisms. The true voluntary nature, in this case as in others, is not straightforward as states have much to lose from not participating in the anti-money laundering review mechanisms or from not adhering to the recommendations. For a brief discussion see: K. E. Bravo, *Follow the Money? Does the International Fight against Money Laundering Provide a Model for International Anti-Human Trafficking Efforts?*, "University of St. Thomas Law Journal" 2008, vol. 6, issue 1, p. 138, 174–179.

<sup>43</sup> See for example the OECD recommendations to Poland focusing on e-government: *Poland: Implementing Strategic-State Capability*, "OECD Public Governance Reviews" 217. OECD Publishing 2013

<sup>44</sup> In the context of the review mechanism for the OECD Convention on Combating Bribery of Foreign Public Officials, the review process must identify issues for follow-up and further reporting by reviewed states. See: OECD Anti-Bribery Convention. Phase 3 Monitoring Information Resources, 10 2009; <https://www.oecd.org/daf/anti-bribery/anti-briberyconvention/Phase3InformationResourcesManualENG.pdf> (23.03.2015).

<sup>45</sup> *OECD Anti-Bribery Convention. Phase 3 Monitoring Information Resources*, OECD 2009, DAF/INV/BR(2008)25/FINAL.

<sup>46</sup> For an example of the United Nations Convention against Corruption mechanism including the desktop review which is based on a self-assessment questionnaire see: *Terms of Reference for Review of Implementation of the United Nations Convention Against Corruption*, art. 27, 2011.

<sup>47</sup> There are some exceptions to this principle. For example, Security Council consultations are in many cases held in private between member states, without civil society or others states participation. See: R. Wetz, *War and Governance: International Security in a Changing World Order*, Praeger, Oxford 2011, p. 48.

<sup>48</sup> See for example in the context of the United Nations Commission on International Trade law, where NGOs and trade associations are frequent observers. See: *Report of the United Nations Commission On International Trade Law, A/68/17*, 2013, p. 257–261.

<sup>49</sup> While in some cases this kind of participation can allow civil society to have some influence on decision-making, in many others they are not truly provided with

establishment, is thought of as the main clientele of public administration<sup>50</sup>, this type of external non-state influence can be significant for modernization.

Earlier, we paid some attention to the informal and formal products of international institutions, but it is still worthy to consider that states are willing to allow international institutions to set standards for management and functioning of domestic public administrations. The challenge is to define the line between when it is legitimate for institutions to intervene with the way public administration operates, to make public administration more progressive and advanced, and in contrast, when such intervention encroaches on sovereignty in a way which conflicts with legitimate interest of public administrators.<sup>51</sup>

The institutional discussion is focused on international organizations. At the same time, it is of vital importance to bear in mind that domestic institutions (including public administration) in a globalized world comprised of disaggregated states, are independently interacting with international counterparts outside the networks referred to above<sup>52</sup>, in a way conducive to promoting domestic reform, including modernization. The same can be said about non-public administration organizations such as courts engaging in transnational judicial dialogue<sup>53</sup>, and NGOs engaged in domestic socialization of transnational norms.<sup>54</sup> Both can also significantly influence the way administrations are managed and reformed.

---

the opportunity to be actively involved with the final outcomes. Even if this is also true for modernization of public administration, the very presence of civil society in itself in different forums can encourage development of advanced concepts and rules. For a brief discussion of the involvement of external actors in intergovernmental decision-making process see: R. B. Stewart, *Remedying Disregarding in Global Regulatory Governance: Accountability, Participation, and Responsiveness*, "The American Journal of International Law" 2014, vol. 108, no. 2, p. 211, 237–240.

<sup>50</sup> For the past recent decades it seems quite an entrenched concept that the members of the public are clients or customers of government agencies. D. H. Rosenblum, R. O'leary, *Public Administration and Law*, Marcel Dekker, New York 1996, p. 117.

<sup>51</sup> This question assumes that international organizations influence the way domestic administrations operate. However, this assertion is not without his doubts. For an example of analysis arguing that the assumption is proved by empirical data see: M. Andrews, *Do international organizations really shape government solutions in developing countries?*, "CID Working Paper" 2013, no. 264.

<sup>52</sup> A. McGrew, *Globalization and Global Politics*, in: *The Globalization of World Politics: An Introduction to International Relations*, (eds.) J. Balyis, S. Smith, P. Ownes, Oxford University Press, New York 2014, p. 28.

<sup>53</sup> Transnational judicial dialogues can be seen as a tool which can be used by courts to promote norms in the domestic arena. E. Ulrich, *Judicial Administration of Justice in Multilevel Commercial, Trade and Investment Adjudication* in: *China and International Investment Law: Twenty Years of ICSID Membership*, (eds.) S. Wenhua, J. Su, Brill Nijhoff, Boston 2015, p. 56, 113.

<sup>54</sup> B. Stachursky, *The Promise and Perils of Transnationalization. NGO Activism and the Socialization of Women's Rights in Egypt and Iran*, Routledge, New York 2013, p. 48.

The third most relevant global governance element is that global aspirations inherently override national interests, making domestic institutions subject to global ones.<sup>55</sup> Whilst global cosmopolitan values are usually defined as referring to fundamental human rights<sup>56</sup>, in the context of our debate, we will consider modernity and improvement of service to the public as an undisputed equivalent to such values. It could even be argued that the right to modern and effective public service can be considered as a human right, or at the very least as key to ensuring that human rights are realized.<sup>57</sup>

Challenging in this respect, if we accept the notion that there is a “right to receive modern service” from public administration, is defining the specific content of the aspiration for modernization. Unlike for the human rights movement<sup>58</sup>, or for anti-crime global regulatory frameworks, there has yet to be developed a global framework of what exactly the values of modernization of public governance should be.

There are several resources to begin to create such values. The question is how should global aspiration in this sphere be created, should they be from “the bottom-up”, i.e. domestic values becoming global, as some claim that this is the natural progress of global aspiration for good legal global governance<sup>59</sup>, or “top down”, as seems to be envisioned by the emerging regional or organizational instruments such as the OECD Recommendation and the EU Services Directive.<sup>60</sup> Whatever the process may be, understanding the different ways in which global values take form is significant for public administrators, as they can support, or even create, global values of their own making, reflecting specific needs and requirements, including those of the domestic public they serve.

---

<sup>55</sup> B. Kingsbury, R. B. Stewart, *Legitimacy and Accountability in Global Regulatory Governance: The Emerging Global Administrative Law and the Design and Operation of Administrative Tribunals of International Organizations*, in: *International Administrative Tribunals in a Changing World* (eds.) K. Papanikolaou, Esperia Publications, London: 2008, p. 5; <http://www.iilj.org/aboutus/documents/LegitimacyAccountabilityandgal.unatvolumefinalAug82008.pdf>. (6.02.2015).

<sup>56</sup> S. Sweeney, *Europe, the State and Globalization*, Pearson Education Limited, Essex 2005, p. 417.

<sup>57</sup> A.L. Verma, *Public Administration*, Lotus Press, New Delhi 2006, p. 38.

<sup>58</sup> There are basic treaties reflecting common basic human rights, but the content of global human rights values is continuously developing, and so cannot be conclusively defined. See: J. Owen, *Human Rights as Civil Religion: The Glue for Global Governance* in: *Criticizing Global Governance*, (eds.) M. Lederer, Ph. S. Muller, Palgrave MacMillan, New York 2005, p. 224–225.

<sup>59</sup> Good global governance does not necessarily mean one harmonized global system, but it does require the identification of universal values. Th. de Montbrial, *Action and Reaction in the World System: the Dynamics of Economic and Political Power*, UBC Press, Toronto 2013, xvi.

<sup>60</sup> *Recommendation of the Council on Digital Government Strategies...*; Directive 2006/123/EC of 12 December 2006 on Services in the Internal Market.

Considering that the global aspirations component of global governance can transcend existing treaties, and include many soft law elements<sup>61</sup>, the absence of formal binding international rules on modernization of public administration can be daunting, especially for bureaucrats who, as we remember, love clear rules.<sup>62</sup> At the same time such absence can afford opportunities for domestic administrations to have a global normative influence<sup>63</sup>, which bodes well with the bottom up global governance theory.

#### 4. Challenges and influences of legal-political globalization and modernization on European public administrations

Setting up the conceptual framework, albeit with some practical focus for better illustration, it is now possible to discuss the influence of globalization and modernization on European public administrations. Globalization manifests itself in the current understanding that the world is becoming increasingly global in the sense that political borders become less relevant in the conduct of state and non-state actors. Modernization is reflected in changes and developments in European public administration, from both substantive and technological aspects, when advanced administration concepts support cross-border services and modern IT infrastructures facilitate more efficient public administration and e-services for the general public.

This section seeks to chart out the route which has led us to the situation described in the title of the paper, where the European domestic public administrator becomes an EU-Global public administrator with many “Ministers” (and public) to answer and be loyal to.

Before delving into the analysis it is important first to understand how international law, with its globalization and modernization components (i.e. legal global governance and modern perception of international law), fits within EU law (or EU institutions) with implications for European public administrations. Until now, throughout the discussion, the underlying

---

<sup>61</sup> For a brief discussion of examples of “soft law” international human rights law and its application see: R. Kuttner, *Global Governance of Capital: A challenge for Democracy*, Demos, New York 2014, p. 32; [http://www.demos.org/sites/default/files/publications/GlobalGovernance-Kuttner\\_0.pdf](http://www.demos.org/sites/default/files/publications/GlobalGovernance-Kuttner_0.pdf) (07.02.2014).

<sup>62</sup> T. L. Doherty, T. Horn, S. Wotton, *Managing Public Services – Implementing Changes: A Thoughtful Approach to the Practice of Management*, Routledge, 2<sup>nd</sup> edition New York 2014.

<sup>63</sup> Such a potential influence seems to be as of yet a relatively under explored phenomena, and the progress in the study of public administration in a globalized context would hopefully look into the issue to define opportunities and challenges for domestic public administrations in this regard. For a proposed framework to study global public administration see: Y. Hou, A. Ya Ni, O. Poocharoen, K. Yang, Z. J. Zhao, *The Case for Public Administration with a Global Perspective*, “Journal of Public Administration Research and Theory” 2011, vol. 21.

assumption was that international regulation, at least in its formal form, automatically applies to domestic public administrations.

This assumption assisted the debate and reflects the declared and professed commitment of the EU to international law<sup>64</sup>, as well as the monist nature of most of the European, civil law based, legal systems automatically integrating international law to domestic law.<sup>65</sup> At the same time, EU realities are quite different, especially since the advent of the Lisbon treaty, as the Court of Justice of the European Union (CJEU) has cast doubts on this kind of automatic application.<sup>66</sup> According to some case law, in some instances, such as interpretation of international humanitarian law, EU law can have primacy over international law in cases of conflict.<sup>67</sup>

This question is very complex and far from settled. However, for the purposes of our discussion it seems as though no decisive resolution of the issue is required if we can assume that it is likely that for modernized and globalized public administration there would not be true conflict between EU law and international law. Even if this turns out to not always be the case, it is likely that the CJEU and courts in EU member states can interpret EU law in this regard as consistent with international law, a legal mechanism which is often used to avoid violations of international law by domestic entities.<sup>68</sup>

Aiming to understand influencing factors and modernization and globalization challenges of European public administrations, as briefly explained above, we can think about their different phases of development; past, present and future. This “periodic” discussion illustrates the way perceptions about public administrations have changed<sup>69</sup>, as well as prospects for future conceptual changes. Such a development is not merely

<sup>64</sup> G. de Búrca, *The ECJ and International Legal Order: A Reevaluation*, in: *The Worlds of European Constitutionalism*, (eds.) J.H.H. Weiler, G. de Búrca, Cambridge University Press, Cambridge 2012, p. 144–145.

<sup>65</sup> D. P. Zongwe, *Taking Leaves Out of the International Criminal Court Statute: The Direct Application of International Criminal Law by Military Courts in the Democratic Republic of Congo*, “Israel Law Review” 2013, vol. 46, issue 2, p. 249, 254.

<sup>66</sup> Ch. Eckes, *International Law as Law of the EU: The Role of the Court of Justice*, in: *International Law as Law of the European Union* (eds.) E. Cannizzaro, P. Palchetti, R. A. Wessel, Brill Nijhoff, Leiden 2011, p. 36.

<sup>67</sup> Case C-285/12 *Aboubacar Diakité v Commissaire général aux réfugiés et aux apatrides* (CJEU, 30 January 2014).

<sup>68</sup> G. Betlem, A. Nollakemper, *Giving Effect to Public International Law and European Community Law Before Domestic Courts. A Comparative Analysis of Consistent Interpretation*, “European Journal of International Law” 2003, vol. 14, no. 3, p. 569; R. A. Wessel, B. Van Vorren, *EU External Relations Law: Text, Cases and Materials*, Altius, Brussels 2014, p. 239.

<sup>69</sup> Perceptions of public administration can be academic or perceptions by the political branches, but also, and much relevant to globalization and modernization, by the public. For an extensive study of perceptions of public administration see: S. Van De Walle, *Perceptions of administrative performance: the key to trust in government?*,

academic but is also relevant to the way society, as well as political branches, relates to public administration. Equally it is important to theorize about the relevance of international standards or international law for the operation of European public administrations in each period.

The Past – for non-EU member states before the more or less recent enlargements, public administration was a closed system.<sup>70</sup> In such a system, agencies operated independently from others, but, and more relevant to our discussion, in a manner which is also independent from external factors.<sup>71</sup>

As public administrators focused on providing service to the domestic public, there was hardly a need to consider global issues.<sup>72</sup> In countries under communist rule, globalization (cross-border services) was even less relevant as public administration served the party establishment rather than the public.<sup>73</sup> An aggravating factor was that public administrators did not have any discretion in implementing policy.<sup>74</sup> If there was a need to respond to globalization or to modernize and provide better and advanced services to the public, there was very little likelihood such a response would be realistic.

Alongside these political circumstances, there is also a need to look at the legal aspects. In general, rule of law in communist countries was vastly different from contemporary concepts of law. Law was dictated by the communist party and not by a set of rules, serving political branches rather than limiting their discretion.<sup>75</sup> For public administration this meant that law governing its operation was geared to serve party officials, resulting in rampant corruption.<sup>76</sup> The consequence of this was no real legal motivation for public administration to be publicly accountable, as accountability was mainly to the higher administrative office.<sup>77</sup> There was no political

---

D/2004/8978/5, 2004; [https://lirias.kuleuven.be/bitstream/1979/21/2/Perceptions\\_administrative\\_performance.pdf](https://lirias.kuleuven.be/bitstream/1979/21/2/Perceptions_administrative_performance.pdf) (04.03.2015).

<sup>70</sup> This meant, for example, less involvement of the legislature in processes such as budgeting. P. Posner, Ch.-K. Park, *Role of the Legislature in the Budget Process: Recent Trends and Innovations*, “OECD Journal on Budgeting” 2007, vol. 7, no. 3.

<sup>71</sup> J. Bourgon, *A New Synthesis of Public Administration: Serving in the 21st Century*, McGill-Queen’s Press, Ottawa 2011, p. 17.

<sup>72</sup> Globalization is perceived as adding a new different level of complexity for the domestic public service. W. C. Johnson, *Public Administration: Partnerships in Public Service*, Waveland Press, Long Grove 2014, p. 15.

<sup>73</sup> *Trust in Government: Ethics measures in OECD countries*, OECD 2000, p. 253.

<sup>74</sup> T. Dee Clark, *Beyond post-Communist Studies: Political Science and the New Democracies of Europe*, M.E. Sharpe Inc., New York 2002, p. 51.

<sup>75</sup> D. D. Atchison, *Notes on Constitutionalism for a 21<sup>st</sup> Century Russian President*, “Cardozo journal of International and Comparative Law” 1998, no. 6, p. 239, 289.

<sup>76</sup> The remnants of the past corruptive practices of public administrations can even after the end of the communist regime. A. Mugiu-Ppidi, *Fatalistic Political Cultural Revisited*, in: *Democracy and Political Culture in Eastern Europe*, (eds.) H. Dieter-Klingeman, D. Fuchs, J. Zielonka, Routledge New York 2006.

<sup>77</sup> D. Galligan, *Principle Institutions and Mechanisms of Accountability in: Comprehensive Legal and Judicial Development: Toward an Agenda for a Just and Equitable*

motivation or political direction to promote modernization, and no need for democratic approval, as no true elections took place.

We previously referred to international law as a major component of globalization of public administrations. The Soviet and socialist communist version of international law, focusing on territorial sovereignty<sup>78</sup>, is at odds with international legal regimes supporting globalization, where domestic interests can sometimes take a backseat to global aspirations.<sup>79</sup> Taking this into account, even if there was an attempt in the early years to create the perception that territorial borders have less importance (globalization) and to use legal means to promote a more advanced public administration, it is very unlikely that these would have attained much success.

Socialist era European countries were members of international organizations. At the same time, their involvement in the work of these organization or implementation of standards was, at least according to one approach, controlled by Moscow.<sup>80</sup> Assuming that this potential control prevented positive interaction with international organizations, membership in international organizations presumably did not contribute to achieve progress for public administrations.

In all, public administrations of communist Europe hardly recognized the need to face globalization and modernization challenges. This was mainly because in all likelihood any external factors were considered as irrelevant to preserve state control, thus such challenges were mainly ignored. Any changes in political or public administration perception would need to wait for the future.

The situation and circumstances of pre-accession communist countries is of great interest, especially acknowledging the dramatic transformation expected from public administrations in these states in response to the political changes.<sup>81</sup> Nevertheless, seeking to present a comprehensive picture

---

*Society in the 21<sup>st</sup> Century*, (eds.) R. V. Van Puymbroeck, World Bank, Washington D. C. 2001.

<sup>78</sup> Even if this concept of “territorial sovereignty” was treated with flexibility when it conflicted with Soviet political interests, it was still viewed as a main theme in Soviet perceptions of international law. L. S. Lipson, *The Soviet View on International Law*, in: *Role of International Law and Evolving ocean Law*, (eds.) R. B. Lillich, J. Norton Moore, Naval War College Press, Newport 1980, p. 101, 112.

<sup>79</sup> B. Kingsbury, R. B. Stewart, *Legitimacy and Accountability in Global Regulatory Governance: The Emerging Global Administrative Law and the Design and Operation of Administrative Tribunals of International Organizations*, in: *International Administrative Tribunals in a Changing World*, (eds.) K. Papanikolaou, Esperia Publications, London: 2008, p. 5; <http://www.iilj.org/aboutus/documents/LegitimacyAccountabilityandgal.unatvolumefinalAug82008.pdf>. (6.02.2015).

<sup>80</sup> V. A. Aspturian, *Eastern Europe in World Perspective*, in: *Communism in Eastern Europe*, (eds.) T. Rakowska-Harmstone, Indiana University 1984, p. 8, 23.

<sup>81</sup> This could be viewed as a change in the paradigm of public administration towards public service diverting away from the concept of public administration as a government tool. S. Lilic, *Challenges of Government Reconstruction: Turbulence in*

of reality, briefly exploring the state of affairs in public administrations of Western European countries, members of the European Coal and Steel Community and the subsequent accession countries in the pre-EU days, is also of great interest.

Compared to the communist and socialist public administrations, public administrations of the EEC were more open to external influences, although even for them the process of allowing external intervention by regional institutions was slow and complicated.<sup>82</sup>

Although in present times, and since the 1990's<sup>83</sup>, Community governing bodies were not as involved in the functioning of national public administrations, there was still a need to interact with cross-border counterparts. Even if modernization, in the sense of harmonization of administration, was at first not the main concern, it later gradually became an issue of focus for European Commission institutions.<sup>84</sup> Such development potentially set the ground for the future onset of full blown globalization, including its modernization components.

In what can be observed as a mirror image to the past communist era countries, it can be assumed that the early EU countries were much more open to international law implementation. This can even be the case if we consider that states like Germany and Italy, having more monistic traditions with implementing elevated standards, would not show resistance to modernization. Under this framework, it was also easier for these states to engage in the work of international organizations due to their acceptance of the 1950's idea of a supranational high authority<sup>85</sup>, and to be open to the influence of good governance reforms initiated by international organizations.

The Present – discussing the present and future state of affairs of European public administrations is easier conceptually, because we can look at them as one. This is the case even though in reality there are inherent differences between the stages of development in each member state.<sup>86</sup>

---

*Administrative Transition, (From Administration as an Instrument of Government to Administration as Public Service)*, "Law and Politics" 1998, vol. 1, no. 2, p. 183.

<sup>82</sup> J. Saurer, *The Accountability of Supranational Administration: The Case of European Union Agencies*, "American University International Law Review" 2009, vol. 24, no. 3, p. 429, 435–437.

<sup>83</sup> K.-P. Sommermann, *Towards a Common European Administrative Culture?*, "Jean Monnet Working Paper" 2013, vol. 28/13, p. 2.

<sup>84</sup> H. P. Graver, *National Implementation of EU Law and the Shaping of European Administrative Policy*, "Arena Working Papers" 2002, WP 02/17, the European Commission Resolutions cited therein.

<sup>85</sup> C. Archer, *International Organizations*, Routledge, New York 2001, p. 140.

<sup>86</sup> For elaboration on the development of a European administrative space: A. Matei, *The Development of the European Administration: Fundamental Concepts and Approaches*, "Social Science Research Network" 04.01.2010; <http://ssrn.com/abstract=1531235> or <http://dx.doi.org/10.2139/ssrn.1531235> (20.02.2015).

After the early days of public administration of the Coal and Steel Community, and several enlargements, culminating in 28 different administrations, today the EU domestic national administrations must work together effectively to implement policy, a governance element directly tied to modernization.<sup>87</sup> In essence, even if in many cases public services are provided in the regional EU context, the borderless characteristic is very similar to globalization.<sup>88</sup>

In what some term as the Europeanization of public administration<sup>89</sup>, administrations must adapt to changes and open up to providing cross-border, Pan-European services.<sup>90</sup> This, in addition to the need of developing mechanisms able to deal with the challenges of globalization resulting from EU engagement in the international arena.<sup>91</sup>

The process has two tracks. First – the clients, ranging from EU citizens requiring cross-border service<sup>92</sup>, to non-EU nationals in cases where they have access to domestic services.<sup>93</sup> Second – the right to good administration in European Charter of Human Rights.<sup>94</sup> This right, and its new elevated status in the post-Lisbon era, renders providing service to those who have the right to receive it, a major component of European public administration.<sup>95</sup>

<sup>87</sup> Assises de la Justice: *EU Administrative Law and National Administrations*, 4 (2013), [http://ec.europa.eu/justice/events/assises-justice-2013/files/administrative\\_law\\_en.pdf](http://ec.europa.eu/justice/events/assises-justice-2013/files/administrative_law_en.pdf) (20.02.2015).

<sup>88</sup> EU developments are considered as an integral part of the globalization process. J. Jreiaast, *Governance: Issues in Concept and Practice in: The State of Public Administration: Issues, Challenges and Opportunities*, (eds.) D. C. Menzel, J. D. White, Routledge, New York 2011, p. 427.

<sup>89</sup> S. Kuhlmann, H. Wollmann, *Introduction to Comparative Public Administration: Administrative Systems and Reforms in Europe*, Edward Elgar, Cheltenham 2014, p. 34–36.

<sup>90</sup> For suggestions on implementing cross-border access in the EU. K. Tarabanis, V. Peristars, *Knowledge Management Requirements and Models for Pan-European Public Administration Service Delivery in: Knowledge Management in Electronic Government* (eds.) M. A. Wimmer, Springer Science & Business Media 2003, p. 37.

<sup>91</sup> *The Future of Public Administration around the World: The Minnowbrook Perspective*, (eds.) R. O'Leary, D. M. V. Slyke, S. Kim, Georgetown University Press, Washington D. C. 2010, p. 79.

<sup>92</sup> E-government is often considered as the most appropriate mechanism to address this problem. V. Mumtzi, M. Chasdimetriou, A. Koumpis, *Collaborative E-Gov Networks, The Case of the Semantic-Gov Project*, in: *Integrating E-Business Models for Government Solutions: Citizen-Centric Service Oriented Methodologies and Processes*, (eds.) S. Chhabra, M. Kumar, Information Science Reference, New York 2009, p. 17, 22–23.

<sup>93</sup> This is the case when the EU legal regime provides for rights to non-EU citizens; F. Weiss, C. Kaupa, *European Union Internal Market Law*, Cambridge University Press 2014, p. 23–29.

<sup>94</sup> Article 41, *European Charter of Human Rights*.

<sup>95</sup> P. N. Diamanadouros, *The European Ombudsman and Good Administration in: The European Union after the Treaty of Lisbon*, (eds.) D. Ashiagbor, N. Countouris, I. Lianos, Cambridge University Press 2012, p. 210, 213.

Recalling the elements of legal global governance discussed in previous sections, alongside institutional reform efforts, which European administrations are soon to be evaluated on<sup>96</sup>, we can name a few that are key: 1. Responding to requests from other EU member administrations or networks<sup>97</sup>, as mutual cooperation is a necessary component of any common system, on regional or international level.<sup>98</sup> 2. Complying with requirements to implement institutional European Commission policies and laws, as complicated as they are; answering to European Commission bureaucracy, alongside their own.<sup>99</sup> 3. Aspiring to achieve results using tools, which are alien to the domestic system, as it is the case sometimes with modernization.<sup>100</sup>

The Future – it is always a difficult task to foresee what the future holds for EU public administrations, as well as for globalization and intentional law. In the past, thinking that international law would lead to narrowing legal borders and overriding the very basic, core elements of sovereignty, was inconceivable.<sup>101</sup> The same goes for future, innovative global instruments, and to a much more dramatic effect, technological advances which could have extensive implications for legal regimes, as well as for public administrations.<sup>102</sup> All this, however, does not mean that we cannot

<sup>96</sup> H. Pitlik, W. Hölzl, Ch. Brandtner, F. Heinemann, F. Misch, M. Yeter, G. Steurs, S. Gagnage, K. Mertens, *Excellence in Public Administration for competitiveness in the EU Member States*, Report for the European Commission, DG Enterprise and Industry by Austrian Institute of Research WIFO, Center for European Economic Research ZEW, 2012, p. 57.

<sup>97</sup> This interconnectivity within the EU member states administration can be viewed as key to optimizing the common market and enhancing EU cross-border justice. F. Contini, G. F. Lanzara, *Introduction: The Challenges of Interoperability and Complexity in Civil Proceedings Online* in: *The Circulation of Agency in E-Justice. Interoperability and Infrastructures for European Transborder Judicial Proceedings*, Springer, London 2014, p. xiii.

<sup>98</sup> See for example the emphasis on mutual legal cooperation in Chapters IV and V of the *United Nations Convention against Corruption*, 2003.

<sup>99</sup> D. G. Dimitrakopoulos, A. G. Passas, *International Organizations and Domestic Administrative Reform* in: (eds.) B. Guy Peters, Jon Pierre, *Handbook of Public Administration*, SAGE Publications 2003, p. 440, 441.

<sup>100</sup> E-government also comes up in this context where there is great importance to adaptation to the national systems. K. Lenk, *E-Government in Europe: Uniform Solution for all Countries?*, "Information Polity" 2006, vol. 11, no. 3–4, p. 189, 196.

<sup>101</sup> The perception of a lack of international cross-border cooperation and enforcement and application of international jurisdiction, for example, was thought of as a significant impediment for the establishment of the International Criminal Court in the 1950's reflecting the disbelief in a working international system. P. D. Marquardt, *Law Without Borders: The Constitutionality of an International Criminal Court*, "Columbia Journal of Transnational Law" 1995, no. 33, p. 73, 85.

<sup>102</sup> For a discussion on the potential impact of technology on international law. J. W. Dellapenna, *The Internet and Public International Law: Law in a Shrinking World: The Interaction of Science and Technology with International Law*, "Kentucky Law Journal" 1999–2000 (88), p. 809.

consider possible future developments, as in any futuristic studies, or to use a more “public administration” friendly term, foresight.<sup>103</sup>

If the future follows current trends, we can assume that further enlargement of the EU is imminent, potentially including accession of states from the former Soviet Union, including current CIS countries, with different perceptions about public administration. Like all other new members, these countries will be required to show implementation of good governance mechanisms and administrative reform<sup>104</sup>, but the challenge will be for current EU administrations to cooperate with them as an integral part of the service they provide.

Concurrently, resulting from the increasing involvement of the EU in international affairs, as EU competence in international arenas increases, EU domestic administration will be required to provide service to more and more global citizens, to realize the EU’s newly formed international obligations.<sup>105</sup> In that vein, national administrations will also potentially be required to abide by elevated standards of transparency, as this concept is gaining more and more ground in global discourse.<sup>106</sup>

These potential future developments, along with others, can affect the most basic elements of substantial modernization of public administration, i.e. flexibility in implementing policy and providing service to the public.<sup>107</sup>

<sup>103</sup> Distinct from futuristic studies foresight is used to describe assessment of drivers for change to facilitate possible processes (as done by public administrators) rather than an attempt to predict future events. I. Roberge, D. Bethan, *Foresight: Constructing Futures in Public Administration* in: (eds.) Ch. Conteh, I. Roberge, *Canadian Public Administration in the 21<sup>st</sup> Century*, CRC Press Taylor&Francis Group New York New York 2014, p. 189, 191–192.

<sup>104</sup> T. A. Börzel, Y. Pamuk, A. Stahn, *Good Governance in the European Union*, “Berlin Working Paper on European Integration” 2008, no. 7, p. 23–25.

<sup>105</sup> This could be the case even if international agreements which the EU is a party to do not create any formal legal bonds between third parties and EU member states. R. A. Wessel, *The EU as a Party to International Agreements: Shared Competences, Mixed Responsibilities*, in: *Law and Practice of EU External Relations – Salient Features of a Changing Landscapes*, Cambridge University Press, Cambridge 2008, p. 152, 159–160.

<sup>106</sup> See for example the recent adoption by the United Nations General Assembly of the Transparency Convention. The Convention will require states parties to disclose information in an investment treaty arbitration proceeding. According to the Convention regional economic integration organization, such as the EU, can also become members. EU accession to the Convention might lead to a demand to EU member states to join it. General Assembly Adopts the United Nations Convention on Transparency in Treaty-based Investor-State Arbitration, <http://www.unis.unvienna.org/unis/en/press-rels/2014/unisl210.html> (28.02.2015). Article 7(1) to the Convention, <http://www.uncitral.org/pdf/english/texts/arbitration/transparency-convention/Transparency-Convention-e.pdf> (28.02.2015).

<sup>107</sup> Unsurprisingly, clients of European public administrations expect flexibility from national administrations. *Promoting good governance. European Social Fund thematic paper*, European Commission Directorate-General for Employment, Social Affairs and Inclusion, European Commission 2014.

Viewing the issue from a technological perspective is somewhat more difficult but still possible. E-government is often perceived as an appropriate mechanism to address challenges of Europeanization and globalization of EU domestic public administrations (giving rise to the need for EU administrations to provide services beyond EU borders). It is safe to assume that as technology facilitates enhanced service to the public progresses, public pressure to put it to use will correspondingly increase.<sup>108</sup>

Unlike in the past, or even the present, future public pressure for a better, improved modern public service is likely to play a more significant role in political decision making. Evidence for this potential development can be deduced from the relative success of European popular protest and demands for changes in the economic sphere<sup>109</sup>, which might gradually spread to demands for optimal, technologically advanced public service. In that context, it is interesting to see that modernization, in the form of social networks supporting popular protests<sup>110</sup>, can play a key role in both the promotion of changes in political policy, and the advancement of public administrations.

Overall, the key challenge for European public administrations in the future will be the need, or even the requirement, to incorporate openness as an integral part of their function. Openness will have to be on the substantive or technical level, as closed public administration systems, such as in the past or, to a lesser extent, in the present, might no longer be acceptable to the public in the future.<sup>111</sup>

Overviewing the past, present and future of European public administration in the framework of globalization and modernization, we can see the complexities of the issues. In the past, European public administrations could operate as closed systems or only be required to be flexible, open and modern in a limited number of common market areas such as energy, coal & steel, and agriculture.<sup>112</sup> There was little or no intervention from international organizations, not even from European

---

<sup>108</sup> For a discussion of the effects of innovative technology on public administration and service to the public and on public expectations see: M. Batalli, *Impact of Public Administration Innovations on Enhancing the Citizens' Expectations*, "International Journal of e-Education, e-Management and e-Learning" 2011, vol. 1, no. 2, p. 156.

<sup>109</sup> C. Stratulat, C. Dhéret, *A tale of modern-day capitalism and democracy: in view of the European protests*, European Policy Centre, Policy Brief, 2012.

<sup>110</sup> See for example in the context of demonstration in Spain: *Networks of Outrage and Hope: Social Movements in the Internet Age*, (eds.) M. Castells, Polity Press, Cambridge 2012, p. 112.

<sup>111</sup> EU institutions perceive openness of public administration as a way to address citizens' demands, also linking the concept to efficiency and progress. A Strategy For ICT R&D and Innovation in Europe: Raising the Game, Commission Staff Working Document 2009, p. 42.

<sup>112</sup> *European Union: Brief Background and History*, <http://www.usfca.edu/fac-staff/boaz/pol357/jan27.htm> (01.03.2015).

Commission institutions.<sup>113</sup> Today, the state of affairs is dramatically different. European public administrations must be flexible, open and modern in all areas.

Assuming that the conclusion reflects realities on the ground, the question is: what can be done about it? The next section attempts to sketch a possible roadmap, understanding that implementation of the proposals for each of the 28 relevant public administrations would necessitate adaptation to unique local domestic circumstances, much like proposals of a more technical nature.<sup>114</sup>

## 5. Reform proposals – suggestions for the way ahead

The situation presented thus far demonstrates the vast complexities and challenges faced by European national public administration as they face the need to provide global services (globalization), and growing demands from the public for better and enhanced services. Until now we considered these two concepts as somewhat distinct, and not without merit. Globalization is usually meant to describe the process of an increasingly borderless legal and political world, while modernization is a term describing advancement in adaptation to the modern era.

In discussing reform suggestions, the analysis takes a different turn, also plausible, viewing globalization and modernization as interlinked and intertwined.<sup>115</sup> Viewed through this lens, the aim is to look at both not as a process or a challenge, but rather as a goal to strive for. European public administrations which seek to become global and modern, will inherently provide a better public service, at same time serving as a conduit to political branches seeking progress and development. Ultimately, taking significant steps in this direction will enable public administrators to voice a truthful and convincing “yes” to the public and to their ministers in 24 different languages, coming full circle to the question posed in the introductory part of the paper.

Establishing the end-goal of the process is of great importance, but the way to get there is equally, if not more, vital to understand. There are many

---

<sup>113</sup> K.-P. Sommermann, *Towards a Common European Administrative Culture?*, “Jean Monnet Working Paper” 2013, vol. 28/13, p. 2.

<sup>114</sup> Considering technological solutions there is importance not only for national adaptations but also for adaptations of e-government services for different sectors of the public clients with different needs. B. Lörincz, D. Tinholt, N. van der Linden, G. Colclough, J. Cave, R. Schindler, G. Cattaneo, R. Lifonti, L. Jacquet, J. Millard, *Digitizing Public Services in Europe: Putting Ambition into Action*, European Commission, Directorate General for Information Society and Media 2010, p. 13.

<sup>115</sup> Modernization is perceived by some as integral to resolve challenges of globalization faced by nation states. A. Ahmad, *New Age Globalization: Meaning and Metaphors*, Palgrave Macmillan, New York 2013, p. 11.

actors involved in public administration reform, but as identified throughout the paper, the political branches (or the political authorities) and public administrators are the main two components. Reform proposals, therefore, mainly focus on them, although important external factors will also be discussed.

Political direction is a vital component in the management of public administration, if we agree that “Yes, Minister” does not represent the typical European national administration. Arguably, it would be difficult for European domestic politicians to support opening up national administration to the rest of Europe and to the globe and to modernize public administration, which can be costly and too technical.<sup>116</sup> Consequently, a change in mindset is required to facilitate actual change, distinct from sporadic initiatives, and overhaul of European domestic administration. Only such change in perception could result in a change of policy.

There are many possible ways to consider to attain this objective, but we focus on those that seem to be the most practical and foreseeable.

First, the need for domestic legal and policy advisers to continuously emphasize to politicians, as they assumingly do, that today there is no escaping from the effects of transnational global legal and economical elements, and that public administrations must adapt.<sup>117</sup> Second, European politicians, in a way which could not have been imagined only three decades ago, and perhaps surprisingly so, as accession processes have been finalized, are today democratically accountable.<sup>118</sup> Assuming that modernizing and globalizing public administration is a potential *cause celebre*, and that the recent emergence of public protest as a way to facilitate social change was not a passing phenomenon, European domestic civil societies can take up the issue and put it high on political agendas.

Complementing the two suggested domestic elements, and corresponding to the external-internal theme which characterized our debate, it is plausible that external actors can play a substantial role in influencing domestic European political branches. This can be done in two interlinked

---

<sup>116</sup> The cost issue is often related to how reform, or modernization, is implemented. J. Diamond, *Performance Budgeting: Managing the Reform Process*, in: *Globalization and new challenges of public finance: Financial management, transparency and accountability*, United Nations, New York 2002, p. 78.

<sup>117</sup> Such globalization requires what is termed as “adaptive governance” now required to perform its role in the context of international phenomena ranging from international monetary markets and regulation to terrorism *Public Administration and the Modern State Assessing Trends and Impact*, (eds.) E. Bohne, J. D. Graham, J. C. N. Raadschelders, Palgrave Macmillan UK 2014, p. 9.

<sup>118</sup> Research indicates that overall democratic values remain stable in post-accession former communist EU member states. Ph. Levitz, G. Pop-Eleches, *Why No Backsliding? The European Union's Impact on Democracy and Governance Before and After Accession*, “Comparative Political Studies” 2010, vol. 43, no. 4, p. 457.

methods, which we term “three” and “four” in order to streamline the proposals.

Third, the EU should continue to enhance its directives and guidelines on globalization and modernization of public administration. As previously noted, some measures have already been taken. However, such steps are not regimes focused on public administration, but rather by-products of regulation of other fields.<sup>119</sup>

In formulating the regime, several key aspects must be considered; simple straightforward framework provisions<sup>120</sup>; flexibility to allow for domestic sovereign adaptation; and a technologically neutral regime, to minimize the need for future amendments.<sup>121</sup> Any other kind of legal regime can be understandably difficult for the politicians to fully understand, endorse or support.

Putting forward a strong European globalization and modernization agenda in itself would be insufficient, and here we arrive at our next, fourth suggested element: member states should be evaluated on their implementation of the proposed legal regime. The EC seems to be moving in that direction for public administration performance, but as things seem right now, the evaluation will be based on an expert EC assessment or monitoring of implementation, based on state self-reporting.<sup>122</sup> Both methods can be valid, but it seems that European peer review monitoring of public administration, based on the models discussed earlier<sup>123</sup>, rather than the current EU peer review soft models<sup>124</sup>, is most appropriate. Such a process will not only allow for a learning curve but also, and more importantly, for better adaptation of more advanced and user-friendly public service standards to the unique, national circumstances of every administration. It is

<sup>119</sup> Directive 2006/123/EC of 12 December 2006 on Services in the Internal Market

<sup>120</sup> Simple rules and procedures for managing public administration can be associated with a process of modernization. J. Bonkougou, *From Modernization of the Administration to Governance: Burkina Faso*, in: *Civil service reform in Francophone Africa: proceedings of a workshop*, Abidjan, January 23–26, 1996, p. 103, 118.

<sup>121</sup> Technological neutrality could however be not enough to respond to future technological developments, and in some cases there will be a need to specifically address new technologies in the context of legal regulation. See: L. B. Moses, *Recurring Dilemmas: The Law's Race to Keep Up with Technological Change*, “UNSW Law Research Paper” 2007, no. 21.

<sup>122</sup> H. Pitlik, W. Hölzl, Ch. Brandtner, F. Heinemann, F. Misch, M. Yeter, G. Steurs, S. Gagnage, K. Mertens, *Excellence in Public Administration for competitiveness in the EU Member States*, Report for the European Commission, DG Enterprise and Industry by Austrian Institute of Research WIFO, Center for European Economic Research ZEW, 2012.

<sup>123</sup> See the examples in the context of the *OECD Anti-Bribery Convention and UNCAC*, 43–46.

<sup>124</sup> *Peer Reviews Social Affairs and Inclusion*, [http://ec.europa.eu/social/main.jsp?catId=1024&\(05.03.2015\)](http://ec.europa.eu/social/main.jsp?catId=1024&(05.03.2015)). The basic framework is that a host country initiates a discussion with other EU member states on its practices in certain fields.

also likely that if the officials of national public administrations personally participate in the evaluation process as evaluators, such as with the wider models of peer review<sup>125</sup>, they will view it as legitimate, potentially utilizing the process as a platform for reform. Peer reviews can also be instrumental in identifying technical assistance needs<sup>126</sup>, a vital component in efforts to promote modernization and globalization of struggling European public administrations. Having said all that, caution should be exercised to avoid an overburdened review process, sometimes termed as questionnaire or monitoring fatigue<sup>127</sup>, and cases where administrators spend more time in participating in the review process than providing public service.

Reforming political direction can be a difficult task – even if the recommendations are implemented, the officials may have to attend to other, more pressing matters, especially in times of economic crises. At the same time, changing the mindset of public administrators could be even more challenging. Unlike democratically accountable politicians, public administrators are not elected and even though there is an emerging practice of work performance evaluation<sup>128</sup>, this could be insufficient to encourage administrators to promote reform.

Similar to the proposals of change in a political direction, here, too, the discussion can be aided by proposing clearly delineated, albeit interlinked, steps.

First is training of administrators, inherent to any kind of public administration reform, including training supported externally.<sup>129</sup> While it is clear that training is necessary for any use of new technology, it is also important to train European national administrators on thinking globally, i.e. that they are now also global administrators in both practical and legal

---

<sup>125</sup> For examples in the context of UNCAC Expert reviewers, which include many public officials of wide variety see <http://www.unodc.org/unodc/en/treaties/CAC/IRG-experts.html>, (03.03.2015).

<sup>126</sup> In the UNCAC context, reviewed states are specifically asked about technical assistance required in implementation of the Convention as part of the review process. [http://www.unodc.org/documents/treaties/UNCAC/SA-Checklist/Sample\\_Question\\_flow\\_final\\_English\\_ver\\_2.0.6.0.pdf](http://www.unodc.org/documents/treaties/UNCAC/SA-Checklist/Sample_Question_flow_final_English_ver_2.0.6.0.pdf) (03.03. 2015).

<sup>127</sup> *Developing an EU Competence in Measuring Corruption*, The Center for the Study of Democracy, Policy Brief 27 (November, 2010), p. 2.

<sup>128</sup> In Canada, the aim of such evaluations is described as follows: “Performance management is a tool for improving the work performance and productivity of individuals, teams and organizations. It is increasingly important in the public sector in responding to budgetary and fiscal pressures, increasing demands for public services, and the need for more transparency in reporting on the use of government funds”. *Performance Management Program for Employees*; <http://www.tbs-sct.gc.ca/pmc-dgr/index-eng.asp> (03.03.2015).

<sup>129</sup> See for example in the context of EU assistance to training of public administrators in Lithuania before its accession to the EU. *Public Administration Reform in Lithuania*, [http://ec.europa.eu/europeaid/public-administration-reform-lithuania\\_en](http://ec.europa.eu/europeaid/public-administration-reform-lithuania_en), (03.03.2015).

ways.<sup>130</sup> Such understanding, even of the very basic applicable legal regimes, can prove to be very useful to change perceptions and conceptions, sometimes inherent to administrators. This approach can be conducive to creating the groundwork for expanding modern and global services to align administration with the highest standards, responding to the changing nature of cross-border legal regimes.

Second, enhancing the engagement of administrators in policy making on modernization and globalization. Translating the component of global discourse to the domestic level, consultation with administrators who have not previously taken an active role in policy making, including those on lower levels interfacing with public clients, should be an integral part of the process. Pursuing this path could not only lead to better results, as those with hands-on experience are involved, but also to strengthen the commitment of administrators to reforms, in the shaping of which they took part.<sup>131</sup>

Based on the enhanced engagement at the domestic level, a natural progression will be to facilitate participation of national European administrators in European, semi-regional (OECD) and global networks, focused on developing public administrations. This could mean that alongside directors-generals participating in high-level meetings and networks<sup>132</sup>, also domestic officials, who on a daily basis work together as EU counterparts, should also take part in transnational deliberations. Potentially, such networking can result in the creation of a European legal regime to support and address the needs of European administrations faced with challenges of globalization and modernization. Such bottom up creation of law by professionals is a frequent characteristic of global governance. There is no reason why a similar process cannot occur in our case.

Third, conducting surveys of public administration clients to assess the quality of service. Public opinion plays a role not only for political branches, but also in assessing public administration performance.<sup>133</sup> This could be utilized as an incentive for reform to enhance the capabilities of a 21<sup>st</sup> century public administration. Of course, there will be a need to approach

<sup>130</sup> National European administrators can play an important role in the overall enhanced capacity of the EU in the global context. L. Tsoukalis, O. Cramme, R. Liddle, *An EU "Fit For Purpose" in the Global Age – Can we Rise to the Challenge?*, Policy Network, London 2009.

<sup>131</sup> Lack of motivation and commitment of administrators to reform is sometimes thought of as one of the causes associated with failure in advancing public administrations. See: N. Awortwi, *Building new competencies for government administrators and managers in an era of public sector reforms: the case of Mozambique*, "International Review of Administrative Sciences" 2010, vol. 76, no. 4, p. 723, 730.

<sup>132</sup> EUPAN website, [http://www.eupan.org/...](http://www.eupan.org/)

<sup>133</sup> For a relatively early discussion of the issue see: *Public Opinion Surveys as Input to Administrative Reform*, "SIGMA Papers" 1998, no. 25, OECD Publishing. <http://dx.doi.org/10.1787/5kml611pccxq-en> (04.03.2015).

the results of such surveys carefully, as they can sometimes be based on misconceptions<sup>134</sup>, and refrain from using them as a measure for assessing performance of specific public administrators. At the same time, the mere knowledge of European administrators that surveys are conducted could create a sense of accountability for maintaining their image<sup>135</sup>, a substantial step forward.

Complementing the suggested steps of reform geared towards creating a conceptual platform for addressing globalization and modernization, developing and implementing new and advanced technologies is essential and integral to any contemporary governance of public affairs.<sup>136</sup> Technology can play a big part in ensuring the efficiency of a Europeanized public administration that talks in 24 languages. It is also of vital importance that the technology be as simple as possible, not overly costly and user-friendly for administrators and the public.<sup>137</sup>

The proposals suggested are formed as a menu of options to choose from or to use as a basis for further development or research. Like any other type of reform, they can turn out to be expensive and complicated to implement, which might deter the European Commission or domestic European political branches or public administrators from using them. Acknowledging this practical barrier, there is still merit in considering whether initial funds invested can turn out to be beneficial down the line to reap the benefits of a modern and globally open European national public administration. Moreover, and despite the fact that some external EU funding might be required to support changes and reforms, the preferred option should be funding from a domestic national budget. This can signify domestic political commitment which is always a vital component to ensure success.

---

<sup>134</sup> This could result from the tendency of the public to see the situation as worse than it really is, as for example concerning the performance of a domestic justice system. M. Hough, J. V. Roberts, *Public Confidence in Justice: an international review*, London 2004.

<sup>135</sup> The positive image is important to facilitate public confidence in public administration. For a brief reference in the context of agricultural inspections in Poland see: “*Doing the Rights Things Right*” – *Towards a More Result-Oriented Public Sector in Europe*, 6<sup>th</sup> Quality Conference, 29–30 September 2011, Warsaw, Poland, [http://www.eupan.eu/files/repository/20111025113603\\_6th\\_Quality\\_Conference.pdf](http://www.eupan.eu/files/repository/20111025113603_6th_Quality_Conference.pdf) (04.03.2015).

<sup>136</sup> *Digital Democracy and the Impact of Technology on Governance and Politics*, (eds.) Ch. M. Akrivopoulou, N. Garipidis, IGI Global 2013, p. xv.

<sup>137</sup> For a discussion of the importance of cost-efficient and user-friendly delivery of public services and Polish experience with technology in public administration see: E. Ziemia, I. Obłąk, *The Survey of Information Systems in Public Administration in Poland*, “*Interdisciplinary Journal of Information, Knowledge, and Management*” 2014, vol. 9, p. 31.

## 6. Conclusion

As indicated by the paper's title, European public administrations face a unique challenge. Not only are they inherently faced with the need to balance their own interests with the need to work under political direction and the interest of the domestic public clientele, but they are also required to adapt to Pan-European demands. Such demands become even more challenging in the age of globalization and modernization.

The paper sought to illustrate the different relevant aspects of the issue, with a particular focus on the influences of international institutions, global governance and "global" features of the EU common market. In this context, the analysis also emphasized EU engagement in the international arena provided for by the Lisbon treaty, as a key element in shaping the new global role that EU public administrations must fulfil.

Globalization and modernization of European public administrations are no easy feat. Both public administration and political branches must be active in pursuit of optimal modern public service in a globalized world. Understanding globalization and the role international intergovernmental institutions play in this regard is essential in pursuit of this goal.

Discussing modernization and globalization, the emerging picture seems to be comprehensive and general in nature. At the same time, we must not ignore the need for domestic local adaptation of reform proposals. Domestic translation is critical for the success of a domestic public administration in adapting to the rapid changes, as a one-size-fits-all solution is likely to fail.

Ultimately, the paper sought to present the complex and intriguing matrix of developments faced by European public administration. The hope is that the platform will be utilized practically as a starting point to consider changes in thinking about advancing reform and theoretically, as a basis for further research and study of the effects of globalization and modernization on EU public administration, a unique experience in a hybrid global-regional public service.

## Bibliography

- Ahmad A., *New Age Globalization: Meaning and Metaphors*, Palgrave Macmillan, New York 2013.
- Akrivopoulou Ch. M., (eds.), *Digital Democracy and the Impact of Technology on Governance and Politics*, IGI Global 2013.
- Andrews M., *Do international organizations really shape government solutions in developing countries?*, "CID Working Paper" 2013, no. 264.
- Apter I., *The New International Law Frontier: The Legal Profession and the Challenges of New "International Law" in the New Member State*, "Croatian Yearbook of European Law and Policy" 2014, vol. 10.

- Archer C., *International Organizations*, Routledge, New York 2001.
- Aspturian V. A., *Eastern Europe in World Perspective*, in: *Communism in Eastern Europe*, (eds.) T. Rakowska-Harmstone, Indiana University 1984.
- Atchison D. D., *Notes on Constitutionalism for a 21<sup>st</sup> Century Russian President*, "Cardozo Journal of International and Comparative Law" 1998, no. 6.
- Awortwi N., *Building new competencies for government administrators and managers in an era of public sector reforms: the case of Mozambique*, "International Review of Administrative Sciences" 2010, vol. 76, no. 4.
- Batalli M., *Impact of Public Administration Innovations on Enhancing the Citizens' Expectations*, "International Journal of e-Education, e-Management and e-Learning" 2011, vol. 1, no. 2.
- Bell Ch., *On the Law of Peace. Peace Agreements and the Lex Pacificatoria*, Oxford University Press, New York 2008.
- Betlem G., Nollakemper A., *Giving Effect to Public International Law and European Community Law Before Domestic Courts. A Comparative Analysis of Consistent Interpretation*, "European Journal of International Law" 2003, vol. 14, no. 3.
- Bohne E., Raadschelders J. C. N. (eds.), *Public Administration and the Modern State Assessing Trends and Impact*, Palgrave Macmillan UK 2014.
- Bonkougou J., *From Modernization of the Administration to Governance: Burkina Faso*, in: *Civil service reform in Francophone Africa: proceedings of a workshop*, Abidjan, January 23–26, 1996.
- Börzel T. A., Pamuk Y., Stahn A., *Good Governance in the European Union*, "Berlin Working Paper on European Integration" 2008, no. 7.
- Bourgon J., *A New Synthesis of Public Administration: Serving in the 21st Century*, McGill-Queen's Press, Ottawa 2011.
- Boynes G., James O., John P., Petrovsky N., *What of Public Reform Actually Works? The Paradoxical Success of Performance Management in English Local Government* in: *Paradoxes of Modernization Unintended Consequences of Public Policy Reform*, H. Margetts, Perri 6, Ch. Hood (eds.), Oxford University Press, New York 2012.
- Bravo K. E., *Follow the Money? Does the International Fight against Money Laundering Provide a Model for International Anti-Human Trafficking Efforts?*, "University of St. Thomas Law Journal" 2008, vol. 6, issue 1.
- CARIN. *The History, statement of Internet, Membership and Functioning of CARIN*, Manual, European Police Office, Hague 2012.
- Castells M. (eds.), *Networks of Outrage and Hope: Social Movements in the Internet Age* Polity Press, Cambridge 2012.
- Cavnan A., "The Foreign Office Model Versus the Global Governance Model: An Introduction", (IJL NYU Course Material); <http://ijl.org/courses/documents/GlobalGovernancePape.pdf> (21.03.2015).
- Contini F., Lanzara G. F., *Introduction: The Challenges of Interoperability and Complexity in Civil Proceedings Online* in: *The Circulation of Agency in E-Justice. Interoperability and Infrastructures for European Transborder Judicial Proceedings*, Springer, London 2014.
- Curtis G. L., *The Logic of Japanese Politics Leaders, Institutions, and the Limits of Change*, Columbia University Press, New York 1999.

- de Búrca G., *The ECJ and International Legal Order: A Reevaluation in: The Worlds of European Constitutionalism*, (eds.) J. H. H. Weiler, G. de Búrca, Cambridge University Press, Cambridge 2012.
- de Montbrial Th., *Action and Reaction in the World System: the Dynamics of Economic and Political Power*, UBC Press, Toronto 2013.
- Dee Clark T., *Beyond post-Communist Studies: Political Science and the New Democracies of Europe*, M.E. Sharpe Inc., New York 2002.
- Dellapenna J. W., *The Internet and Public International Law: Law in a Shrinking World: The Interaction of Science and Technology with International Law*, Kentucky Law Journal 1999–2000.
- Diamanadourous P. N., *The European Ombudsman and Good Administration in: The European Union after the Treaty of Lisbon*, (eds.) D. Ashiagbor, N. Countouris, I. Lianos, Cambridge University Press 2012.
- Diamond J., *Performance Budgeting: Managing the Reform Process*, in: Globalization and new challenges of public finance: Financial management, transparency and accountability, United Nations, New York 2002.
- Dimitrakopoulos D. G., Passas A. G., *International Organizations and Domestic Administrative Reform* in: (eds.) B. Guy Peters, Jon Pierre, *Handbook of Public Administration*, SAGE Publications 2003.
- Doherty T. L., Horn T., Wotton S., *Managing Public Services – Implementing Changes: A Thoughtful Approach to the Practice of Management*, Routledge, 2<sup>nd</sup> edition New York 2014.
- Drechsler W., *Towards a Neo-Weberian European Union? Lisbon Agenda and Public Administration*, Halduskultuur 2009, vol. 10.
- Eckes Ch., *International Law as Law of the EU: The Role of the Court of Justice* in: *International Law as Law of the European Union*, (eds.) E. Cannizzaro, P. Palchetti, R. A. Wessel, Brill Nijhoff, Leiden 2011.
- Galligan D., *Principle Institutions and Mechanisms of Accountability* in: *Comprehensive Legal and Judicial Development: Toward an Agenda for a Just and Equitable Society in the 21<sup>st</sup> Century*, (eds.) R. V. Van Puymbroeck, World Bank, Washington D. C. 2001.
- Graver H. P., *National Implementation of EU Law and the Shaping of European Administrative Policy*, “Arena Working Papers” 2002, WP 02/17.
- Hou Y., Ya Ni A., Poocharoen O., Yang K., Zhao Z. J., *The Case for Public Administration with a Global Perspective*, “Journal of Public Administration Research and Theory” 2011, vol. 21.
- Hough M., Roberts J. V., *Public Confidence in Justice: an international review*, London 2004.
- Charlton B., Andras P., *The modernisation Imperative*, Imprint Academic, Exeter 2003.
- Charney J. I., *Technology of International Negotiations*, in: (eds.) D. Greisler, R. J. Stupak, *Handbook of Technology Management in Public Administration*, Taylor&Francis, New York 2006.
- Johnson W. C., *Public Administration: Partnerships in Public Service*, Waveland Press, Long Grove 2014.

- Jreiaast J., *Governance: Issues in Concept and Practice in: The State of Public Administration: Issues, Challenges and Opportunities*, (eds.) D. C. Menzel, J. D. White, Routledge, New York 2011.
- Kanetake M., Nollakemper A., *The Application of Informal International Instruments Before Domestic Courts*, "The George Washington International Law Review" 2014, vol. 46, no. 4.
- Khan H. A., *An Introduction to Public Administration*, University Press of America, Lanham 2008.
- Kim S., Ashley S., Lambright W. H. (eds.), *Public Administration in the Context of Global Governance*, Edward Elgar, Cheltenham 2014.
- Kingsbury B., Stewart R. B., *Legitimacy and Accountability in Global Regulatory Governance: The Emerging Global Administrative Law and the Design and Operation of Administrative Tribunals of International Organizations*, in: *International Administrative Tribunals in a Changing World* (eds.) K. Papanikolaou, Esperia Publications, London 2008.
- Koppell J. G. S., *Governing in a Global Context*, in: *Handbook of Public Administration*, (eds.) J. L. Perry, R. K. Christensen, John Wiley&Sons, San Francisco 3<sup>rd</sup> edition 2015.
- Krisch N., Kingsbury B., *Introduction: Global Governance and Global Administrative Law in the International Legal Order*, "The European Journal of International Law" 2006, vol. 17, no. 1.
- Kuhlmann S., Wollmann H., *Introduction to Comparative Public Administration: Administrative Systems and Reforms in Europe*, Edward Elgar, Cheltenham 2014.
- Kuttner R., *Global Governance of Capital : A challenge for Democracy*, Demos, New York 2014.
- Lenk K., *E-Government in Europe: Uniform Solution for all Countries?*, "Information Polity" 2006, vol. 11, no. 3–4.
- Levitz Ph., Pop-Eleches G., *Why No Backsliding? The European Union's Impact on Democracy and Governance Before and After Accession*, "Comparative Political Studies" 2010, vol. 43, no. 4.
- Lilic S., *Challenges of Government Reconstruction: Turbulence in Administrative Transition, (From Administration as an Instrument of Government to Administration as Public Service)*, "Law and Politics" 1998, vol. 1, no. 2.
- Lipson L. S., *The Soviet View on International Law*, in: *Role of International Law and Evolving ocean Law*, (eds.) R. B. Lillich, J. Norton Moore, Naval War College Press, Newport 1980.
- Lörincz B., Tinholt D., van der Linden N., Colclough G., Cave J., Schindler R., Cattaneo G., Lifonti R., Jacquet L., Millard J., *Digitizing Public Services in Europe: Putting Ambition into Action*, European Commission, Directorate General for Information Society and Media 2010.
- Mafunisa M. J., *Professionalism: the Ethical Challenge for Superordinate Public Officials*, in: (eds.) M. J. Mafunisa, "Public Service Ethics", Juta&Co., Kenwyn 2000.
- Marquardt P. D., *Law Without Borders: The Constitutionality of an International Criminal Court*, "Columbia Journal of Transnational Law" 1995, no. 33.

- Matei A., *The Development of the European Administration: Fundamental Concepts and Approaches*, "Social Science Research Network" 04.01.2010; <http://ssrn.com/abstract=1531235> or <http://dx.doi.org/10.2139/ssrn.1531235> (20.02. 2015).
- Matheson A., Weber B., Manning N., Arnould E., *Study on the Political Involvement in Senior Staffing and on the Delineation of Responsibilities Between Ministers and Senior Civil Servants*, OECD Working Papers on Public Governance 2007, no. 6.
- McGrew A., *Globalization and Global Politics*, in: *The Globalization of World Politics: An Introduction to International Relations*, (eds.) J. Balyis, S. Smith, P. Ownes, Oxford University Press, New York 2014.
- Menegozzo M., Fiorani G., Mitetelu C., Matei L., Matei A., Cipoletta G., *Relevance of "Western European Public Administration Reforms" on Transition Countries - Who Learns What from Whom*, in: *European Administrative Space. Balkan Realities*, (eds.) D. Vašiček, M. Kaštelan-Mrak, ASsee Online Series, no. 3/2011, [http://aei.pitt.edu/32251/1/ASsee\\_No.3\\_2011.pdf](http://aei.pitt.edu/32251/1/ASsee_No.3_2011.pdf) (27.05.2016).
- Moses L. B., *Recurring Dilemmas: The Law's Race to Keep Up with Technological Change*, "UNSW Law Research Paper" 2007, no. 21.
- Mugiu-Ppidi A., *Fatalistic Political Cultural Revisited*, in: *Democracy and Political Culture in Eastern Europe*, (eds.) H. Dieter-Klingeman, D. Fuchs, J. Zielonka, Routledge New York 2006.
- Mumtzi V., Chasdimetriou M., Koumpis A., *Collaborative E-Gov Networks, The Case of the Semantic-Gov Project*, in: *Integrating E-Business Models for Government Solutions: Citizen-Centric Service Oriented Methodologies and Processes*, (eds.) S. Chhabra, M. Kumar, Information Science Reference, New York 2009.
- O'Leary R., Slyke D. M. V., Kim S. (eds.), *The Future of Public Administration around the World: The Minnowbrook Perspective*, Georgetown University Press, Washington D. C. 2010.
- Owen J., *Human Rights as Civil Religion: The Glue for Global Governance* in: *Criticizing Global Governance*, (eds.) M. Lederer, Ph. S. Muller, Palgrave MacMillan, New York 2005.
- Park Ch.-K., *Role of the Legislature in the Budget Process: Recent Trends and Innovations*, "OECD Journal on Budgeting" 2007, vol. 7, no. 3.
- Pitlik H., Hölzl W., Brandtner Ch., Heinemann F., Misch F., Yeter M., Steurs G., Gagnage S., Mertens K., *Excellence in Public Administration for competitiveness in the EU Member States*, Report for the European Commission, DG Enterprise and Industry by Austrian Institute of Research WIFO, Center for European Economic Research ZEW, 2012.
- Raustiala K., *Compliance and Effectiveness in International Regulatory Cooperation*, "Case Western Reserve Journal of International Law" 2000, vol. 32, issue 3.
- Roberge I., Bethan D., *Foresight: Constructing Futures in Public Administration* in: (eds.) Ch. Conteh, I. Roberge, *Canadian Public Administration in the 21<sup>st</sup> Century*, CRC Press Taylor&Francis Group New York, New York 2014.
- Rosenblum D. H., O'leary R., *Public Administration and Law*, Marcel Dekker, New York 1996.
- Saurer J., *The Accountability of Supranational Administration: The Case of European Union Agencies*, "American University International Law Review" 2009, vol. 24, no. 3.

- Shapiro M., "Deliberative," "Independent" Technocracy v. Democratic Politics: Will the Globe Echo the E.U.?, "Law and Contemporary Problems; The Emergence of Global Administrative Law" 2005, vol. 68, no. 3 & 4.
- Sommermann K.-P., *Towards a Common European Administrative Culture?*, "Jean Monnet Working Paper" 2013, vol. 28/13.
- Sözen S., *Recent Administrative Reforms in Turkey: A Preliminary Assessment*, "International Journal of Business and Social Science" 2012, vol. 3, no. 9, p. 168.
- Stachursky B., *The Promise and Perils of Transnationalization. NGO Activism and the Socialization of Women's Rights in Egypt and Iran*, Routledge, New York 2013.
- Sterling G., *Managing Public Administration*, Wadsworth, Boston 9<sup>th</sup> edition 2011.
- Stewart R. B., *Remedying Disregarding in Global Regulatory Governance: Accountability, Participation, and Responsiveness*, "The American Journal of International Law" 2014, vol. 108, no. 2.
- Stratulat C., Dhéret C., *A tale of modern-day capitalism and democracy: in view of the European protests*, European Policy Centre, Policy Brief, 2012.
- Sweeney S., *Europe, the State and Globalization*, Pearson Education Limited, Essex 2005.
- Tarabanis K., Peristars V., *Knowledge Management Requirements and Models for Pan-European Public Administration Service Delivery in: Knowledge Management in Electronic Government* (eds.) M. A. Wimmer, Springer Science & Business Media 2003.
- Trent J. E., Rahman M., *Modernizing the United Nations System: Civil Society's Role in Moving from International Relations to Global Governance*, Barbara Budrich Publishers, Opladen&Farmington Hills 2007.
- Tsoukalis L., Cramme O., Liddle R., *An EU "Fit For Purpose" in the Global Age - Can we Rise to the Challenge?*, Policy Network, London 2009.
- Ulrich E., *Judicial Administration of Justice in Multilevel Commercial, Trade and Investment Adjudication in: China and International Investment Law: Twenty Years of ICSID Membership*, (eds.) S. Wenhua, J. Su, Brill Nijhoff, Boston 2015.
- Ureuen R., *How to Start Thinking about Conflict of Interest in Global Governance*, in: *Conflict of interest in global, public and corporate governance*, Cambridge University Press, New York 2012.
- Van De Walle S., *Perceptions of administrative performance: the key to trust in government?*, D/2004/8978/5, 2004; [https://lirias.kuleuven.be/bitstream/1979/21/2/Perceptions\\_administrative\\_performance.pdf](https://lirias.kuleuven.be/bitstream/1979/21/2/Perceptions_administrative_performance.pdf) (04.03.2015).
- Van Vooren B., Blockmans S., Wouters J. (eds.), *The EU's Role in global Governance. The Legal Dimension*, Oxford Scholarship Online, 2013.
- Verma A.L., *Public Administration*, Lotus Press, New Delhi 2006.
- Vink M., Engelman C., *Informal European Governance in the Asylum Context*, in: *International Handbook on Informal Governance*, (eds.) Th. Christiansen, Ch. Neuhold, Edward Elgar, Chaltenham 2012.
- Weiss F., Kaupa C., *European Union Internal Market Law*, Cambridge University Press 2014.
- Weltz R., *War and Governance: International Security in a Changing World Order*, Praeger, Oxford 2011.

- Wessel R. A., *Informal International Law-Making as a New Form of World Legislation?*, "International Organizations Law Review" 2011, no. 8.
- Wessel R. A., *The EU as a Party to International Agreements: Shared Competences, Mixed Responsibilities*, in: *Law and Practice of EU External Relations – Salient Features of a Changing Landscapes*, Cambridge University Press, Cambridge 2008.
- Wessel R. A., Van Vorren B., *EU External Relations Law: Text, Cases and Materials*, Altius, Brussels 2014.
- Wessel R. A., Wouters J., *The Phenomenon of Multilevel Regulation: Interactions between Global, EU and National Regulatory Spheres*, "International Organizations Law Review" 2007.
- Ziemia E., Obłąk I., *The Survey of Information Systems in Public Administration in Poland*, "Interdisciplinary Journal of Information, Knowledge, and Management" 2014, vol. 9.
- Zongwe D. P., *Taking Leaves Out of the International Criminal Court Statute: The Direct Application of International Criminal Law by Military Courts in the Democratic Republic of Congo*, "Israel Law Review" 2013, vol. 46, issue 2.

## Tak, globalny panie ministrze: w stronę modernizacji unijno-światowej administracji publicznej

### Streszczenie

Urzędników administracji państwowej pokazuje się niekiedy jako dobroduszych ministrów polityki, którzy jednak dążą do realizacji bezprawnych interesów politycznych i osobistych (jednym z przykładów jest bohater brytyjskiego serialu komediowego pt. „Tak, panie ministrze”). Takie błędne postrzeganie pozwala zrozumieć, jak wielkiego wyczucia wymaga administracja publiczna, zwłaszcza gdy naprawdę dąży do służenia obywatelom. Jeśli dodamy do tego prawo międzynarodowe, globalne zarządzanie oraz modernizację, sprawy się poważnie komplikują. W artykule autor analizuje praktyczne i teoretyczne podejście do wymienionych wyżej problemów.

Tekst rozpoczyna się od analizy składników globalnego zarządzania dotyczących prawa międzynarodowego oraz globalizacji istotnych dla krajowej administracji publicznej, w tym globalnego prawa międzynarodowego. Po części poświęconej definicjom następuje część teoretyczna dotycząca wpływu zmian na administrację publiczną państw członkowskich UE. Przechodząc od teorii do praktyki, artykuł porusza następnie wpływ nowego globalnego zarządzania oraz podmiotów pozapaństwowych na strukturę administracji publicznej, otoczenie prawne oraz ich wzajemne powiązania. Dyskusję kończą propozycje programowe, tematy do przemyśleń oraz sugestie na temat kierunków przyszłych badań.

Dawniej europejscy urzędnicy administracji państwowej podlegali jedynie przepisom lokalnym służącym lokalnym mieszkańcom. Obecnie ci sami urzędnicy stanowią integralną część nowoczesnej unijno-globalnej administracji publicznej obsługującej cały świat. Zmiana ta jest przyczyną dużej niepewności, jednak przy odpowiedniej polityce może okazać się prawdziwym błogosławieństwem zarówno dla administracji publicznej, jak i dla obywateli.

**Słowa kluczowe:** administracja publiczna, Unia Europejska, globalne zarządzanie, modernizacja, prawo międzynarodowe

## Yes, Global Minister: Towards Modernization of EU-Global Public Administration

### Abstract

Public servants are at times portrayed as appeasing political masters while aiming for illegitimate political and personal interests (an example that was featured in the British comedy “Yes, Minister”). This misperception demonstrates the balancing act required by public administrations, especially if they truly seek to serve the public. Adding international law, global governance and modernization to the melting pot of EU members renders matters particularly challenging. The paper explores the issues’ theoretical and practical perspectives.

Debate begins by examining international law and globalization components of global governance relevant to domestic public administration, including global administrative law. This definitional stage is followed by theorizing on how developments affect EU members’ public administration. Moving from theory to practice, the paper next discusses influences of the new global governance, non-state actors on public administration structures, legal environments and interrelationships. We end the discussion by offering policy proposals, food for thought and proposals for future research directions. In the past, European public servants were subject only to local laws serving local constituencies. Today, the same public servants are an integral part of an EU-Global modern public administration serving the globe. This development creates great uncertainties, but with proper policies it can be a true blessing for both public administration and the EU-Global public.

**Keywords:** public administration, European Union, global governance, modernization, international law