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SUBJECT OF EUROPEAN ADMINISTRATIVE SPACE

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ABSTRACT

The concept of the European Administrative Space occurs as a result of the practical needs of the countries – members of the Union, as well as the countries that strive to be a part of the union to create an individual legal framework in the way of the functioning of the public administration. The contemporary public administration, which is situated as a service of the citizens, is exactly the one that exercises the communitarian law in a complete way, more precisely the one that exercises the European principles and standards in a consistent way. The study itself makes subject determination of the European Administrative space by analyzing its content, determining its characteristics and features, as well as analysis of SIGMA as a mechanism for improvement of the public administration in the European Union. The European Administrative Space basically represents the whole process of Europeanization of the national legislations, in the sector of arrangement and standardization, in order to establish a system of the public administration that would be efficient and effective in the direction of complete fulfillment of the rights and the interests of the citizens.

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INTRODUCTION

An appropriate significance is given to the public administration within the European Union, which could be noticed in the official documents of the Union. The public administration as a department within the European Union represents a sphere which cannot be overpraised with legal arrangement in the normative acts of the Union. In spite of this fact, the several documents that in an immediate way refer to the public administration in the European Union, in which they give an obligation to the countries – members of the Union are worth mentioning. So, in this sense the parts that should be emphasized are: The treaty of Rome that founded the European Economic Community, (Bulmer and Burch, 1998) the Treaty of Rome that founded the European Coal and Steel Community, (Cowles *et al.*, 2001) the Constitutional Treaty on the European Union, (Fournier, 1998) the Treaty of Lisbon on the European Union. (Accession of the Central and Eastern European Countries to the European Union, 1998) The Roman treaties contain two articles that directly refer to the public administration, particularly to the provision of the public services; those are the articles 73 and 86 of the proper agreements. While the significance of the Constitutional agreement on the European Union that did not come into force in the Treaty of Lisbon on the European Union for public administration also, consist of the fact that new and significant provisions directly referring to the public administration are

implemented within the existing ones. The act itself of accessing to the European Union by the countries – candidates in the preceding phase of fulfilling the necessary standards for membership in the Union, as well as subsequently after the accession to the Union itself is a process of administrative modernization of the administrative capacities of the country that strives to be a part of the big European family. The modernization of the public administration is also referred to as Europeanization of the public administration, because it transpires according to the directions given by the European Union itself. Considering the fact that strict rules that refer to the public administration are non-existing within the European Union, we could talk about the European Administrative Space, which represents a whole of documents and principles for public administration. The primary assignment for the European Administrative Space is to establish distinctive standards and practices for operating and functioning of the public administration. Every state that strives to be a part of the big European family must consider these exact unified standards and principles during the shaping and development of the public administration in their own country. About the significance of these principles and standards speaks the fact that the same are used and strictly implemented and applied in the legislation within the countries - members by applying laws in the appropriate area. A fact that should be taken in consideration is that the replacement of the national system of public administration, on contrary, the same makes alignment with the national systems in the area of the public administration, as a supranational system European Administrative Space as it is organized does not commit

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degradation and some authors make subject determination of the European Administrative Space, in the context of an intellectual theory. More precisely, they point out the fact that exactly this type of administrative space, with the help of the institutions establishes a line of significant activities for the entire society and community. (Glodić and Džakić, 2009) All with the purpose of achieving affirmation and emphasizing the importance of the European Administrative Space, within the Treaty on the Functioning of the European Union, as a part of the Treaty of Lisbon on the European Union, the article 197 disposes questions that directly refer to the collaboration in the administrative field. (Musa, 2006) The established collaboration in the correlation between the Union and the countries – members and the countries that strive to be a part of the Union represents an effective application of the law of the Union, because of this the same is determined as a subject of special and common interest. In this direction, a legal groundwork and principle for the collaboration of the countries - members in the area of the public administration is established, different trainings for the state officials in the direction of achievement of an efficient and effective public administration, as well as constant exchange of information in the subject area.

The institutional system of the Union is significant for the European Administrative Space and the administrative area, so in this sense the Treaty on the European Union as the most significant institution points up the European commission, which through mediation of its units for organization has the role of an executive organ of the Union. (Hrvatskajavnauprava) The role and the activities of the other institutions of the Union shouldn't be ignored as well, like the European Parliament, the European Council and the Council of the European Union and the Court of Justice of the European Union.

Content of the European Administrative Space

The content of the European Administrative Space represents a sum of common principles and postulates that are applied by the countries – members of the Union, as well as the countries that strive to be a part of the Union, in the area of the public administration. The principles and postulates of the administrative space are established and defined by the Law of the Union, and the same are implemented within the national legislatures, with the help of different mechanisms and procedures. The principles and postulates of the solitary European Administrative Space are more often implemented as constitutional principles in the Constitutions of the countries, as well as among the laws in the directorial, administrative area.

The principles that occur within the European Administrative Space, in the section of the public administration are categorized as a set of standards that establish a unity in the public administration within the European Union. So, in this sense it can be discussed about:

- The principle of ruling of the law in the direction of providing legal security and predictability of the operation of the public administration, as well as legal security and predictability of the decisions that are adopted by the organs within the public administration. (Simac, 2002)

- The principles concerning the openness of the public administration and the transparency of the public administration. The primary sense of these principles is about the fact of providing different controlling mechanisms over the job of the public administration by establishing proper surveillance over the job of the public administration and following the rules of distinctive functioning.
- The principle of responsibility of the public administration. This principle actually leads to the necessity of establishing judicial control over the job of the organs of the public administration, more precisely control over the workers themselves, who conduct the administrative jobs within the public administration, as well as control over the acts and decisions that are being established in the administrative procedure and the possible damages of the material and process laws in the subject area.
- The efficiency as a principle of the public administration indicates on the necessity of following the established rules about functioning in this area, with the purpose of achieving the intended objectives and responding to the necessities of the interested subjects.

The European Administrative Space insinuates active role of the national judicial systems in the sector and the area of the public administration, in the direction of improvement of the solutions and practices in the specific matter. This active role of the national judicial systems is adopted with the purpose of providing and securing equal and distinctive level of success and quality of the public services provided by the organs of the public administration. The European Administrative Space occurs through sublimation of the judicial traditions in the countries in the directorial, administrative area on one hand, and the influence of the Union through the politics in the area of the public administration, on the other hand. Through the European Administrative Space the European Union imposes certain obligation on the countries - members and the countries – candidates for membership, more precisely through application of the communitarian law of the union. These obligations primary consist of the demands, which are imposed by the European Commission for the countries in the direction of establishment and providing the appropriate administrative structures. The fulfillment of the judicial obligations and requirements imposed by the European Union in the area of improvement of the public administration are not the only ones for the countries, on contrary they have an obligation of respecting the other politics of the Union in the direction of providing a proper development and in the direction of achievement of the objectives of the Union. About the necessity of obeying these rules and obligations that are imposed by the European Union talks also Fournier, who also highlights the uniqueness of the European Administrative Space with the reminder to consider the traditional solutions of the countries in the judicial systems opposed to the arrangement of the matter that refers to the public administration. (Treaty establishing the European Atomic Energy Community, 1957) The countries – members and the countries striving to be a part of the Union have an absolute institutional autonomy in the way of how they are going to create and organize their administrative model, but regardless the same are obligated to practice the principles that contribute for an efficient and effective public administration. The European Administrative Space contributes for hegemony of the administrative capacities of the countries under the

patronage of the European Union and for the hegemony of the smallest standards and rules that should be implemented in the national legislations, in order to provide contemporary and modern public administration that would fulfill the necessities of the interested parts in an efficient and effective way.

Peculiarities of European Administrative Space

The European Administrative Space responds to the question of what should an administrative model have in organizational and functional sense, to be considered efficient and effective in the aspect of fulfilling the necessities of the legal and natural persons within the administrative area. In the process of accessing to the European Union, the administrative ability of the countries that strive to be members of the Union is compared to the administrative capacities of the countries – members of the Union, in order to get an idea of what the particular countries should undertake in the area of the public administration.

The European Administrative Space as a subnational solution in the area of the public administration characterizes with several features, which make the administrative space special and unique. So, in this sense it can be discussed about the following features of the European Administrative Space:

- The same ensures constant obedience and application of the principle of legality as one of the primary principles in the law, including in the directorial, administrative law.
- Undertaking a line of activities and measures that lead to strengthening of the ruling of the law in the national systems of the countries, primary in the directory – legal area
- Development of the professional public administration that implies several components, like the responsibility of the public officials for undertaking administrative jobs, as well as their protection and ensuring independence from the other part of the governance, in the direction of absolute freedom for completing the tasks in the scope of work of the public administration
- Constant commitment for uninterrupted function of the judiciary, more specifically the directional judiciary, in the direction of providing complete protection of the legal and natural persons that come in contact with the administration, with the objective to fulfill their rights and interests.

These features of the European Administrative Space by themselves have an impact on the national legal systems in the sector of the public administration, in the direction of their improvement. The total application of the standards and principles of the European Administrative Space obligatory demands from the countries – members of the Union, as well as the ones that are striving to be a part of the Union continual obedience of the same. Several indicators, which represent a measuring basis that compares the achieved results in the subject area, are established. In this sense, it can be discussed about the following indicators that are taken in consideration during the determination of the achieved improvement, in the area of the public administration in a particular country: the first group of indicators are the ones that refer to the laws in the subject area, specifically the laws that are from the area of the constitutional law and the laws from the area of the state officials, the second group of indicators are the ones that refer to the establishment of financial control over the public sector, financial control over the public administration, the third group of indicators are the ones that refer to the circumstances of

implementation for external revision of the job of the public administration and the final, fourth group of indicators are the ones that refer to activities that include managing the budgeted funds and the public expenditures for the necessities of the public administration. Each one of these four groups of indicators that are used for measuring of the achieved results in the area of the public administration by the countries, in context of the European Administrative Space cover special areas and refers to precisely determined issues. So in this sense, the first group of indicators, the ones referring to the laws in the directory – legal area and the laws that refer to the state officials cover questions like: the ruling of the law, achieving the postulates of the legal state, the equality in front of the law, the connection between the public authorities and the law, the right of appeal of the citizens and protection in a two degrees procedure, the obligation of the state to recompense the damage to citizens as a result of actions and functioning of the public administration, central role of the judiciary in the protection of the rights and interests of the natural and legal persons in a directory – legal aspect. The second group of indicators that refer to the establishing of financial control over the public sector cover questions like: rules for implementation of internal revision within the organs of the public administration, rules for implementation of external revision, defining system and principles that provide and exercise financial control over these institutions, instruction for managing and adopting of proper procedures, systems of grading in context of obeying the laws and timely and legally execution of the working tasks and activities, financial independence, systems for prevention and punishing the possible irregularities. The indicators for establishing an external revision and control over the work of the public administration focus on: legal basis for establishing and application of the external revision over the job of the organs of the public administration, accurate and defined system for implementation of external revision, functional independence and else. The final group of indicators are the ones that refer to issues about managing the budgeted funds and the public expenditures in the context of the needs of the public administration, and the same cover issues like: clear definition of the fiscal relations in the state, providing financial funds for regular execution of the tasks of the public administration, defining the rules about the execution of the budgeted, prediction of an accurate distribution of the money funds for the organs of the public administration and else. (Treaty establishing the European Economic Community (TEEC), 1957)

- SIGMA - as a mechanism for improvement and professionalization of the public administration within the European Union

The establishment of the mechanism known by the name of SIGMA has a special signification for the implementation of the European Administrative Space in the direction of fulfillment of the principles and postulates of the same and providence of efficient and effective public administration. It is used primary for improvement and professionalization of the public administration within the European Union. The SIGMA mechanism for improvement and professionalization of the public administration, under the patronage of the European Union occurs as a result of the common action and collaboration of the Organization for Economic Collaboration and Development (OECD) (Treaty establishing a Constitution for Europe, Constitutional Treat, 2004) and the European Union itself, (Treaty of Lisbon, Reform Treaty, 2007)

precisely in this area. SIGMA, or the full name of this organization, "Support for Improvement in Governance and Management in Central and Eastern European Countries", (<https://www.oecd.org>) is founded in 1992, as a part of the service for public management in the Organization for Economic Collaboration and Development (OECD). SIGMA as a mechanism for improvement and professionalization of the public administration under the patronage of the European Union and OECD is trying to encircle all demands that are being set in front of the public administrations of the countries – candidates for membership in the Union, demands based on solutions accepted by the countries – members of the Union in the part of the public administration. The support provided by Sigma, in the beginning of year 1992, covered five countries from Central and East Europe in their efforts for reformation and professionalization of the public administration. Over the years the numbers of the countries that are provided with the support of SIGMA is constantly increasing in accordance with the increasing number of countries that become states – members of the Union, as well as countries that are in the process of stabilization and association, striving to have a full membership in the Union. The line of countries that have used the support from this organization are the following: Cyprus, Czech Republic, Estonia, Latvia, Lithuania, Bulgaria, Croatia, Albania, Bosnia and Herzegovina, Republic of Macedonia, Serbia and others.

SIGMA provides support for the countries – members of the Union and the rest of the countries by using different mechanisms, like counseling for accessing to reforms in the area of the public administration and counseling during the reforms themselves, preparation and implementation of strategic and development plans for the public administration, periodical monitoring of the situation on field, analysis, valuation of the legislation, analysis of the institutional system, preparation of different manuals, as well as left material that has an educational character and else. (https://europa.eu/european-union/index_en <http://www.sigmaweb.org/>) The partnership that is established between SIGMA on one side and the countries provided with support in the direction of improvement of the public administration contributes for proper managing and governing in the exact area. In this sense SIGMA as an organization is competent to perform constant evaluation in the countries in the sector of the public administration and to give proper recommendations in accordance with the existing rules of the Union, the proper practices, as well as with the constant legislation in the Union. SIGMA also provides help for the countries in the direction of establishing organizations for achieving the European standards and the proper practices within the public administration, as well as improvement of the donor help coming from the European Union, as well as outside in the direction of improvement and professionalization of the public administration in a particular country. The activities managed by SIGMA are strictly focused on the improvement of the legal framework in the area of the public administration, improvement of the legal framework when it comes to the regulation of the status of the public officials, the systems for public integrity, the financial control and the external revision. More precisely, management of the funds of the Union and the public consumption, the budget and the treasury, the systems for public procurement, as well as the capacities for creating politics, coordinative activities and the regulatory reform. The activities taken by SIGMA are based on groundwork of documents that are adopted in the organization with the same

name. As creators of these documents that have a strategic significance for the improvement and professionalization of the public administration, different practitioners of the countries – members of the Union have meetings, also practitioners of Central and East Europe, represented by an academic community working in the area of the management, administrative law and experts working within the framework of SIGMA and the Organization for Economic Collaboration and Development (OECD). The documents of SIGMA cover different subjects referring to the reforms in the administrative – legal area, considering the areas where this organization has a direct operation, it can be discussed about issues referring to the reformation of the public administration, the way of establishing and implementation of public politics, the way of disposing of expenditures, the way of providing public services by the public administration, the administrative - legal supervision, as well as providing the necessary information about the work of the public administration.

Conclusion

The European Administrative Space is inextricably connected to the contracts that refer to the European Union, as well as with the actual law of the Union itself. When we talk about the European Administrative Space as a mechanism for establishing an efficient and effective public administration, we should consider the fact that the same does not establish a distinctive model of the public administration. On contrary, under the significant influence of the European Union, approximations of the legal solutions of the countries that refer to issues in the area of the public administration are encouraged. The process of approximation of the national legal systems, in the sector of regulation of the issues in the public administration is achieved through an intensive process of collaboration of the countries, exchange of experiences, perception of the best practices, constant development and definition of the common administrative principles, standards and values. Even though the European Administrative Space, by itself does not provide individuality in the aspect of the solutions about the public administration. In spite of this fact it is extremely important, more precisely the principles and standards of the European Administrative Space represents groundwork for creation of European, contemporary, efficient and effective public administration

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