Two faces of "international administrative law"

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Abstract

The term "international administrative law" (diritto amministrativo internazionale, droit administratif international, internationales Verwaltungsrecht) remains an enigma of public law. Since the 1900s, the term has been traditionally understood in two different ways. On one hand, some authors (J. Gascón y Marín, P. Kazansky, A, Rapisardi-Mirabelli) used this term regarding the administrative competencies of those various "international administrative unions". On the other hand, other authors (P. Fedozzi, K. Neumeyer, G. Biscottini) used the term to exclusively refer to the norms of national administrative law, which address certain foreign elements; i.e. as a parallel to the discipline of international private law. This article deals with these two different understandings of "international administrative law" and with their impact for recent developments in legal scholarship. The article also addresses currently renewed interest in the "international administrative law" and its consequences for the newly established doctrine of "global administrative law".

Keywords: *international administrative law, international administrative unions, law of international organizations, delimiting norms, global administrative law*.

JEL Classification: K23, K32

1. Introduction

In international law, the interest of national self-determination is expressed through the principles of *sovereignty* and *non-intervention.* Sovereignty can be understood in this context as the right of a State to exercise public power independently of other States. This public power could take the form of legislation (*jurisdiction to prescribe*), the issuing of administrative decisions, and the carrying out of executive measures (*jurisdiction to decide*). It is only within its territorial boundaries that the state retains the monopoly of the legitimate use of force. The principle of *sovereignty* in this sense means that there is no general duty for the State to cooperate in administrative matters. The principle of *non-intervention* entails a duty of a State to refrain from involving itself in the internal matters of other States.[2]

In the context of administrative law, the two principles mean that one State's legal rules and decisions lack any legal effect beyond the state boundaries, i.e. in another State. Traditionally, such views have been linked to ideas of *territoriality*, meaning that public law (including administrative law) by the natural

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order of things, is linked to the territory of the State. This traditional approach *restricted* any administrative activity to *internal* affairs of the state. Consequently, under this restrictive understanding of administrative law, any *external* actions of the State were perceived as not constituting an integral part of national administrative law and belonging rather to the sphere of international law.

As such, the scholarship used to classify any actions of administrative authorities directed *vis-á-vis* to another State as "*acts of the State*", which do not have exact place in the systematics of the administrative law.

However, this concept of "territorial" administrative law became subject of criticism already in the course of the 19th century. In fact, sovereign States began to enter into international agreements dealing with the arrangements of administrative competencies quite early. It was in 1829, when Austria and Bavaria concluded an international agreement dealing with the execution of safety administration in the mining works of *Dürrenberg*, putting these under the competence of Bavarian mining authorities („*unter der landherrlichen Oberaufsicht Bayerns"*).[3] Increasing number of cases, where administration had to deal with certain foreign element triggered attention of the scholarship in these aspects of administrative law.

It was Lorenz von Stein who dealt with these problems for the first time in his book "*Die Verwaltungslehre. Die Lehre von der Innern Verwaltung*", which was published in 1866.[4] Here, we find the first use of the term „international administrative law" (*internationales Verwaltungsrecht*). Despite the fact, *Stein* is widely regarded to be very early founder of the science of international administrative law by the recent literature,[5] there is also common understanding, that his work was based more on casuistic approach to existing provisions, rather than on identifying main principles of this branch of law.

However, the term "international administrative law" became more frequently used by the scholars of subsequent decades. In 1906, Donato Donati outlined[6] his hypothesis, that two separate branches of law do exist: On one hand, there was international administrative law (*diritto internazionale amministrativo*) as an integral part of the international law. On the other hand, he considered *diritto amministrativo internazionale* as a special part of the national administrative law.

This article will address these "two faces" of international administrative law. Due to the fact, the term "international administrative law" (*diritto amministrativo internazionale, droit administratif international, internationales Verwaltungsrecht*) is witnessing certain renaissance in the current literature[7], this

[3] K. Neumeyer, *Internationales Verwaltungsrecht, Innere Verwaltung III.,* J. Schweitzer Verlag, München, 1926, pp. 17-18.

[4] L. Stein, *Die Verwaltungslehre, Die Lehre von der Innern Verwaltung, Bd. II.,* Verlag der J. G. Cottaßchen Buchhandlung, Stuttgart, 1866.

[5] K. Vogel, K. *Administrative Law: International Aspects*, in: *Encyclopedia of Public International Law*, 9. – International Relations and Legal Co-operation in General, North - Holland, Amsterdam, 1986, p. 3

[6] *Ibid.*

[7] C. Linke, *Europäisches Internationales Verwaltungsrecht*, Peter Lang, Berlin, 2001, E. Kinney, *The emerging field of international administrative law: its content and potential*, "Administrative Law

article aims to further explore the origins and different meanings of this term. Also, it will deal with the impact of the existing scholarship for recent discussions.

2. The law of the "international administrative unions"

Despite the traditional approach to administrative law had been strictly territorial, the scholarship was well aware of territories over which two or more States jointly exercise governmental authority (condominiums). This has been the case of the *Pheasant Island* since the Treaty of Pyrenees of 1659.[8] Other examples of this type of administration included the territories of *Kürnbach*[9] and *Moresnet*[10]. However, this type of administration has been also used to address the issue of border rivers, bridges and roads.[11]

Further, specific forms of administration included cases territorial transfers to another sovereign State (the beneficiary or pledgee) as security for debts or performance of an obligation. This was the case of the "*Wismar Pledge*", existing between 1803 and 1903.[12]

At least, but not at last, the scholarship also paid attention to the cases, the sovereign States granted another States the right to use and exercise control over part of the former's territory (territorial lease). Some leases provide for the complete replacement of the lessor's jurisdiction by the exclusive jurisdiction of the lessee State. Other leases restrict the lessee's powers in accordance with the

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Review" 1/2002, pp. 415-433, S. Battini, *Amministrazioni senza Stato. Profili di diritto amministrativo internazionale*, Giuffré Editore, Milano, 2003, C. Breining-Kaufmann, *Internationales Verwaltungsrecht*, "Zeitschrift für Schweizerisches Recht" 1/2006, pp. 7-46, C. Möllers, A. Vosskuhle, C. Walter, C. (eds.) *Internationales Verwaltungsrecht*, Mohr Siebeck, Tübingen, 2007, N. Ziadé (ed.), *Problems of International Administrative Law*, Brill Nijhoff, Leiden, 2008, O. Elias (ed.), *The Development and Effectiveness of International Administrative Law*, Brill Nijhoff, Leiden, 2012, J. Handrlica, *International Administrative Law and Administrative Acts: Transterritorial Decision Making Revisited*, "Czech Yearbook of Public & Private International Law" 2016, pp. 86-100, J. Handrlica, *Revisiting international administrative law as a legal discipline*, "Zbornik Pravnog fakulteta Sveučilišta u Rijeci" 3/2018, pp. 1237-1258 etc.

[8] The island (*Isla de los Faisanes* in Spanish, *Île des Faisans* in French*)* has been under joint sovereignty of Spain and France, and for alternating periods of six months is officially under the governance of the naval commanders of San Sebastián, Spain (1 February – 31 July) and of Bayonne, France (1 August – 31 January).

[9] The municipality was under joint sovereignty of the Grand Duchy of Baden and the Grand Duchy of Hesse until 1904.

[10] The Neutral Moresnet (or Altenberg) was jointly administered by the United Kingdom of the Netherlands (Belgium after its independence in 1830) and Prussia from 1816 to 1920.

[11] Pursuant to the Agreement between the Kingdom of Prussia and the Grand Duchy of Hesse of 1885, the bridge to be constructed over the river Main was to be administered as a condominium.

[12] Pursuant to the Agreement between the King of Sweden and the Duke of Mecklenburg-Schwerin of 1803, the city of Wismar was pledged to Mecklenburg, reserving, however, the right of redemption after 100 years. In 1903 Sweden finally renounced its claims on the town.

purpose of the lease.[13] Consequently, similar to the case of pledge, the "ultimate sovereignty" remains also in the case of lease by the lessor State.[14]

While in all above mentioned cases was the administration of certain territory executed by a sovereign State, cases of administration executed by *international commissions* used to be rare. Consequently, legal scholarship referred[15] to them as to "*experiments*" in international administration. First of these commissions, *L'Administration générale de l'octroi de navigation du Rhin*, had primarily fiscal duties, including the collection of tolls and responsibilities for police and general control.[16] It was succeeded by the *Central Commission for the Navigation of the Rhine*, formally instituted in 1815. Further, the *European Commission of the Danube* (*Commission Européenne du Danube)*, as established by the General Treaty for the Re-establishment of Peace of 1856, had used to represent a salient example of such body.[17] This Commission, composed from the delegates of the United Kingdom, France, Austria, Prussia, Sardinia, Russia and the Sublime Porte, had become "an administrative and judicial as well as an engineering and planning commission, with more extensive powers than have been enjoyed by any other river-regulating commission."[18] The *Spitzbergen Commission*, established to temporary administer this remote Arctic territory between 1912 and 1920 and the *International Commission of Control*, created to

[13] Pursuant to the Convention between Greece and the Kingdom of the Serbs, Croats and Slovenes for the Regulation of Transit via Salonika of 1923, the lease of Salonica port territory by Greece entitled the lessee to exercise only custom administration powers.

[14] Thus, in 1905, Russia transferred its lease over the Chinese territories of Port Arthur and Talien to Japan, but in accordance with the Treaty of Peace between Japan and Russia of 1905, it did so only after the consent of China had been obtained.

[15] E. Krehbiel, *The European Commission of the Danube: An Experiment in International Administration*, "Political Science Quarterly" 1/1918, pp. 38-55, F. Sayre, *Experiments in International Administration*, Harper & Brothers, Boston, 1919, A. Salter, *Allied shipping control, An experiment in international administration*, Clarendon Press Oxford, 1921, G. Kaeckenbeeck, *The International Experiment of Upper Silesia*, Oxford University Press, Oxford, 1942, E. Ranshofen-Wertheimer, *A great experiment in international administration*, Carnegie Endowment for International Peace, 1945 etc.

[16] R. Wolfrum, *International Administrative Unions*, in: Bernhardt, R. (ed.) *Encyclopedia of Public International Law, Vol. 5 – International Organisations in General*, North Holland, Hague, 1983, pp. 1047-1048.

[17] It is a matter of fact, that the General Treaty of 1856 established the European Commission of the Danube as a temporary body, which was to be replaced by a permanent international commission two years later (Article XVIII). The latter had to be composed of delegates of Austria, Bavaria, Württemberg, the Sublime Porte (one of each of those States) to whom were to be added commissioners from the two Danube principalities (Moldavia and Wallachia), whose nomination had to be approved by the Porte. The General Treaty of 1856 provided in its Article XVII for following competencies of this permanent commission: a) to prepare regulations of navigation and river police, b) to remove any impediments preventing the applications of the Treaty to Danube, c) to order any necessary works to be executed throughout the whole course of the river, d) to maintain the mouths of the Danube and the neighbouring parts of the Sea in a navigable state. However, due to animosity of other powers except of Austrian, the permanent commission had never started to execute these powers.

[18] J. Chamberlain, *The Regime of the International Rivers: Danube and Rhine*, Columbia University, Colombia, 1923, pp. 57-58.

administer Albania between 1913 and 1914, did represent another examples of these special bodies.[19]

Notwithstanding the fact, these *commissions* were not considered to be subjects of international law[20], their powers triggered[21] attention of the scholars and became subject of their frequent interest.

Further, contemporary authors had also reflected the establishment of a number of organisations, referred to as "international administrative unions" (*International Telegraph Union* in 1865, *International Meteorological Organization* in 1873, *General Postal Union* in 1874, *International Bureau of Weights and Measures* in 1875, *European Railway Freigh Union* in 1876, *International Patent Bureau* in 1885, *International Union for Seismology* in 1899, *International Association for the Legal Protection of Labor* in 1901, *Union for the Exploration of the Sea* in 1902, *International Commission for Air Navigation* and *Sanitary Union* in 1903, *International Institute of Agriculture* in 1905, *International Union of Geodesy and Geophysics* in 1919, *International Railway Union* in 1922) and the powers delegated to them by sovereign States.[22]

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[19] The Paris Peace Treaties provided for establishment of several such *commissions* in order to facilitate divergent interests concerning some rivers, or territories. Some of them were only of temporary nature, such as *International Commission for Upper Silesia*, which was entrusted to execute full administration of the plebiscite territory in 1919-1921. Other *commissions* were intended to be permanent. This was the case of the *commissions* for *Elbe, Oder* and *Niemen* and *the International Commission of the Straits.* However, all these commissions were dissolved in the course of 1930s. See J. Handrlica, *Experiments with International Administration in the Paris Peace Treaties: A Study in International Administrative Law,* "Czech Yearbook of Public & Private International Law" 2018, pp. 81-91.

[20] In this respect, F. Sayre (*Experiments in International Administration,* Harper & Brothers, New York, 1919) provides for overview of various opinions concerning this topic. Here, he also quotes the opinion expressed by A. Hershey in his *The essentials of international public law* (Macmillan Company 1912, at p. 207), that „the Danube Commission appears to form a distinct International Person, having the power of prescribing and enforcing penalties for the violation of its regulations".

[21] U. Borsi, *Carattere e oggetto del diritto amministrativo internazionale*, "Rivista di diritto internazionale" 2/1912, pp. 352-378, J. Gascón y Marín, *Les transformations du droit administratif international,* "Collected Courses of The Hague Academy of International Law" 1/1930, pp. 1-76, S. Gemma, *Prime linee di un diritto internazionale amministrativo,* Libreria Seeber, Firenze, 1902, W. Kaufmann, *Les unions internationales,* "Collected Courses of The Hague Academy of International Law" 2/1924, pp. 177-290, P. Kazansky, *Les premiers éléments de l'organisation universelle*, "Revue de droit international et de législation comparé" 1/1897, pp. 238-247, P. Négulescu, *Principes du droit international administratif,* "Collected Courses of The Hague Academy of International Law" 4/1935, pp. 579-692, A. Rapisardi-Mirabelli, *Théorie générale des unions internationales,* "Collected Courses of The Hague Academy of International Law" 2/1925, pp. 341-393, A. Rapisardi-Mirabelli, *Die Internationale Unionen als Form der völkerrechtlichen Organisation,* "Zeitschrift für Öffentliches Recht" 1/1927, pp. 11-21, P. Reinsch, *Public International Unions: Their Work and Organization - A Study in International Administrative Law*, Ginn & Company, Boston, 1911 etc.

[22] More specific authoritative functions had been entrusted to other organizations. Thus, the *Slave Trade Bureau* at Zanzibar superintended the enforcement of the general anti-slavery act, which gives it a certain power of control over the vessels furnished by the treaty powers for police duty in African waters. The *Sanitary Councils* of Constantinople and Alexandria had exercised a direct

The most common function of international administrative unions was that of furnishing reliable and adequate information:

„This apparently innocent function was the entering wedge for other and more important international attributes, but even considered entirely by itself i tis by no means of small importance. As a basis for national legislation, impartial and reliable information about the subject-matter involved, from the abundant resources of international experience, may best be furnished through the central service of the various bureaus. A direction towards greater unity and rationales may thus be imparted to national legislation, so that it may avoid the difficulties and drawbacks of local variations and local ignorance of the broader conditions of legislative problems. World-wide information is the only sound basis for a growing uniformity of law. The administrative side of governments will, however, find the informational function of the international bureaus of even more constant and general advantage.

An administrative office is reluctant to send letters of inquiry to a foreign government. It may prefer, out of political modesty or for other reasons, to rely upon private sources of information – limited, partial, and in many ways inadequate. A thoroughly effective international service of information ought to justify itself primarily through active assistance to administrative offices in the various treaty states. The publications which have from time to time at regular periods been issued by the international bureaus have in most cases been of unquestioned advantage to governments and to the public".[23]

In similar fashion to the *international commissions* referred to above, neither the international administrative unions were considered to represent subject of international law. The qualification of an institution as international administrative union was originally meant to emphasize its non-political (in the meaning of technical, or administrative) nature and that it was merely exercising co-ordinating functions on administrative matters.[24] Thus, the establishment of international administrative unions reflected a general understanding, that the sovereignty of States does not preclude them from cooperating with each other. From this perspective, a certain group of authors understood the whole body of *international administrative law* as being *the law of international administrative unions*:

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administrative control over the various quarantine stations of the Levant and the Persian Gulf. The *Caisse de la Dette* and the *Macedonian Commission* had fulfilled specific functions indicated by their local purposes. More extensive and important administrative functions have been entrusted to the *Sugar Commission,* which had both quasi-legislative function (preparing regulations for the customs administrations with a view of preventing the secret importation of bounty-fed sugars into the treaty states) and decision-making powers (powers to make certain determinations of fact on the basis of which the legislation of the treaty states must be modified under the protection of the convention).

[23] P. Reinsch, *International Administrative Law and National Sovereignty*, "American Journal of International Law" 1/1909, pp. 43-44.

[24] A. Rapisardi-Mirabelli, *Diritto internazionale amministrativo,* Casa editrice dott. Antonio Milani, Padova, 1939, pp. 36-37.

"The general purpose that are being achieved by the creation of an *international administrative law* may be looked at from three different points of view. It is desired, in the first place, that a mutuality of advantages be secured for the citizens of all civilized states. In a portion of international legislative administration, the object therefore is not so much to change the national law as to secure for the subjects of one state the advantages of legislative and administrative arrangements in others. The national law with respect to patents, copyrights, or the admission to liberal professions may continue to differ in the various jurisdictions. (…) Such regulation may create an entirely new law, which the various national administrations bind themselves to respect, or it may involve the modification of a certain extent of national methods of procedures."[25]

Notwithstanding the fact, the international administrative unions were not considered to represent subjects of international law, they were usually established by a corresponding international treaty. Consequently, the term "international administrative law" (*diritto internazionale amministrativo*) was used by the authors of the *belle époque* to refer to a special branch of law, which was understood as a special part of international law.

3. The law of the "delimiting norms"

Other scholars argued that "international administrative law" (*diritto amministrativo internazionale, droit administratif international, internationales Verwaltungsrecht*) represents a special subdiscipline of the national administrative law.[26] With this understanding, scholars paid attention to those provisions of administrative law that addressed legal relations with foreign elements. In legal scholarship, this approach is linked with the personality of Karl Neumeyer, who developed international administrative law as a kind of *parallel* to international *private* law.

If private international law was constituted by the conflict-of-law rules, international administrative law in Neumeyer's view was constituted by *delimiting rules* (*Grenznormen*).[27] These norms determine whether the administrative law of the State is to be applied or not. In contrast to the conflict-of-law rules of private international law, the *delimiting rules* more often than not are embodied in substantive law (*mittelbare Verweisung*)[28], since this delimitation is a prerequisite

[25] P. Reinsch, *International Administrative Law and National Sovereignty*, pp. 6-9.

[26] P. Fedozzi, *Il Diritto Amministrativo Internazionale: Nozioni Sistematiche*, Unione Tipografica Cooperativa, Perugia, 1901, P. Fedozzi*, De l'efficacité extraterritoriale des lois et des actes de droit public*, "Collected Courses of The Hague Academy of International" 1/1929, pp. 141-242, E. Issay, *Internationales Verwaltungsrecht*, in: Stier-Slomo, F., Elster, A. (eds.) *Handwörterbuch der Rechtswissenschaft, Vol. 3*, De Gruyter, Berlin, 1928, pp. 344-354, F. Stier-Slomo, *Grundprobleme des internationalen Verwaltungsrechts*, "Internationale Zeitschrift für Theorie des Rechts" 1930/1931, pp. 222-243, K. Neumeyer, *Internationales Verwaltungsrecht, Allgemeiner Teil*, Verlag für Recht und Gesellschaft, Zürich, 1936 etc.

[27] K. Neumeyer, *Internationales Verwaltungsrecht*, pp. 136 – 151.

[28] *Ibid*, pp. 194 – 195.

to the application of substantive administrative law. Such provisions are also more closely connected to the structure and policies of the substantive law in question. It follows from this that it would be impossible to a large extent to treat these provisions separately from substantive law, since they fail to constitute a province of law of their own.

This perception of "international administrative law" did not excluded international treaties as being a source of *delimiting rules.* Neumeyer mentioned several examples of such international treaties, dealing mainly with the execution of administration in relation to border bridges, mining works, train tracks, tunnels under the state border etc.[29] E.g. an international treaty concluded between the Grand Duchy of Baden and Switzerland in 1854 dealt with execution of traffic police on the border bridge in *Thurgau*, an international treaty concluded between Germany and France in 1935 regulated execution of administrative competencies regarding the French mining works situated underground in the territory of *Saarland*, where French mining law and competencies of French mining authorities had to be observed. Further, several instruments of international law provided for *recognition* of foreign licenses in order to execute the corresponding rights also in the territory of another Contracting Party. In this regard, the *Paris Convention on Motor Traffic of 1926* contained administrative, customs, and fiscal rules for cross-border, non-commercial motorized traffic, and rules of the road. It determined the form, size, and contained information of the *International Vehicle Certificate* and *International Driving Permit*. Also, bilateral agreements had laid down legal base for mutual recognition of pilot licenses, certain university diplomas, documents proving the rank of the officers of the international railway traffic, papers issued by the veterinary authorities in order to certificate the health condition of imported livestock, travel passports etc.

However, as Neumeyer argued, the main and basic source of *delimiting rules* rests in the applicable provisions of national administrative law and therefore, international administrative law is to be considered as being a special branch of administrative law.

This perception was subsequently further developed within the legal scholarship.[30] However, when compared with international private law, international administrative law continued to remain in the shadow of its more famous *doppelgänger* and has never obtained its proper prestige and recognition.

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[29] *Ibid*, pp. 519-525.

[30] G. Biscottini, *L'efficacité des actes administratifs étrangers*, "Collected Courses of The Hague Academy of International Law" 5/1961, pp. 638-696, P. Weil, *Le droit administratif international: bilan et tendences*, Institut des hautes études internationales, Paris, 1962, K. König, *Die Anerkennung der ausländischen Verwaltungsakten*, C. Heymann, Köln, 1965, K. Vogel, *Der räumliche Anwenndungsbereich der Verwaltungsnormen*, Alfred Metzner Verlag, Frankfurt am Main, 1965, G. Biscottini, *Diritto amministrativo internazionale, Vol. II*, Antonio Milani, Padova, 1966, F. Matscher, *Gibt es ein internationales Verwaltungsrecht?* in: Sandrock, O. (ed.), *Festschrift für Günther Beitzke*, De Gruyter, Berlin, 1979, pp. 641-649, G. Hoffmann, *Internationales Verwaltungsrecht*, in: Münch, I. (ed.) Besonderes Verwaltungsrecht, De Gruyter, Berlin,1985, pp. 851-862 etc.

4. The legacy of "international administrative law"

"It is not always easy to tell with certitude whether the formation of a given union is due primarily to public or to private initiative. We note commonly an interaction of influences. Private associations or groups of individuals may discover the need for international action with regard to a certain interest and may undertake to urge the establishment of international treaties and administrative bodies. (…) In a large number of cases, however, unions have been formed directly by public or state initiative. In individual cases, nations had realized had realized the necessity of treaty arrangements on such subjects as the control of communication by telegraph, railway, or the mails. The individual treaties, multiplying year by year, containing many divergent provisions, had a tendency to render the subject unnecessarily complicated and difficult for the national administrations. Thus, there came about naturally a desire for unification on a general international basis. At other times the technical branches of the national administration discovered in their practical work the need for a general international treaty, and, setting the government in motion, they secured the direct establishment of international conventions and unions."[31]

These prophetic words, written by the Paul Reinsch in 1909, anticipated further development of the "law of international administrative unions". With many international administrative unions being transformed into standard international organizations during the further developments,[32] the term international administrative law started to be used for a particular field of law, governing the administration, executed by the international organisations.[33] At the same time, the scholarship of the "law of international administrative unions" established certain ground for the development of the new doctrine of "global administrative law".[34] This new path of legal scholarship is currently addressing the international administration, executed by other entities, than standard international organizations. In similar faction as the scholars of the *belle epoque* addressed the issues of administration executed by non-subjects of international law (i.e. international administrative unions), the scholars of "global administrative law" pay attention to the administration executed by networks of cooperative

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[31] P. Reinsch, *International Administrative Law and National Sovereignty*, pp. 20-21.

[32] E.g. the General Post Union (later transformed into the Universal Postal Union) has assumed functions which cannot be qualified as being of a purely administrative nature. By becoming a specialized agency of the UN (1948), the UPU is now considered an international organization.

[33] K. Carlston, *International Administrative Law: A Venture in Legal Theory*, Emory University Law School, Atlanta, 1959, O. Elias (ed.), *The Development and Effectiveness of International Administrative Law*, Brill Nijhoff, Leiden, 2012, E. Kinney, *The emerging field of international administrative law: its content and potential*, "Administrative Law Review" 1/2002, pp. 415-433, R. Lavalle, D. Partan, *International Administrative Law*, "American Journal of International Law" 3/1981, pp. 639-685, N. Ziadé (ed.), *Problems of International Administrative Law*, Brill Nijhoff, Leiden, 2008 etc.

[34] B. Kingsbury, N. Krisch, R. Steward, *The emergence of global administrative law*, "Law and Contemporary Problems" 2/2005, pp. 15-61.

arrangements between national regulatory officials,[35] by hybrid intergovernmental–private arrangements[36] and by private institutions with regulatory functions.[37] In this respect, the "global administrative law" is understood as an administrative law, executed without a State.[38]

Also the second path of the scholarship, understanding international administrative law as a law as a kind of *parallel* to international *private* law, gained increasing degree of recognition.[39] In contrast to the to the situation in private law, where norms governing relations with foreign elements had been frequent in the past, such norms were rarely discussed within the normative framework of administrative law. These delimiting norms reflected a number of varied circumstances, such as recognition foreign driver licenses, extraterritorial status of diplomatic personnel and their consequent exemptions from certain obligations and liabilities, as well as delivery of documents to an addressee abroad, etc. Consequently, international administrative norms lacked any formal harmonization. Rather, they were provided by a number of provisions of various acts that governed relations with foreign elements in both an explicit and implicit manner. As a result of these circumstances, international administrative law had long been neglected by the mainstream scholarship of administrative law.

However, it was EU law that caused brought on multiplication of these delimiting norms in administrative law. Consequently, facing increasing number of those norms that result from various executions of EU law by national administrative authorities, the scholarship[40] is again addressing those provisions of administrative law, dealing with foreign elements. In this respect, the scholarship is also using the term "European international administrative law"[41] I order to refer to those sources of the EU law, providing for *delimiting rules.*

[35] E.g. the Basel Committee on Banking Supervision.
[36] E.g. Internet Corporation for Assigned Names and Numbers.
[37] E.g. Society for Worldwide Interstate Financial Telecommunications (SWIFT).
[38] S. Battini, *Amministrazioni senza Stato. Profili di diritto amministrativo internazionale*, Giuffré Editore, Milano, 2003.
[39] C. Breining-Kaufmann, *Internationales Verwaltungsrecht*, "Zeitschrift für Schweizerisches Recht" 1/2006, pp. 7-46, A. Lind, J. Reichel (eds.), *Administrative Law beyond the State*, Martinus Nijhoff Publisher, Leiden, 2013, T. Merkli, *Internationales Verwaltungsrecht: das Territorialitätsprinzip und seine Ausnahmen,* in: *XIII. Treffen der Obersten Verwaltungsgerichtshöfe Österreichs, Deutschlands, des Füstentums Liechtenstein und der Schweiz,* Lausanne, 2002, pp. 1-21.
[40] C. Linke, *Europäisches Internationales Verwaltungsrecht,* Peter Lang, Berlin, 2001, J. Handrlica, *Foreign Law as Applied by Administrative Authorities: Grenznormen Revisited*, "Collected Papers of Zagreb Law Faculty" 2/2018, pp. 193-215, C. Ohler, *Die Kollisionsordnung des allgemeinen Verwaltungsrechts: Strukturen des deutschen internationalen Verwaltungsrechts*, Tübingen, Mohr Siebeck, 2005, C. Ohler, *Internationales Verwaltungsrecht – ein Kollisionsrecht eigener Art?* in: Leible, S., Ruffert, M. (eds.), *Völkerrecht und IPR*, Jaener Wissenschaftlicher Verlag, Jena, 2006, pp. 131-148.
[41] C. Linke, *Europäisches Internationales Verwaltungsrecht,* pp. 12-14.

5. Conclusion

The term "international administrative law" (*diritto amministrativo internazionale, droit administratif international, internationales Verwaltungsrecht*) has been traditionally understood in two different ways. On one hand, some authors used this term regarding the administrative competencies of those various "international administrative unions". On the other hand, other authors used the term to exclusively refer to the norms of national administrative law, which address certain foreign elements; i.e. as a parallel to the discipline of international private law.

Both approaches had certain consequences for further development of legal scholarship. The first approach was recently receipted by the newly established doctrine of "global administrative law". The red link is represented here by the feature of executing international administration by *non-subjects* of international law. While the great masters of the "international administrative law" of the *belle epoque* (U. Borsi, S. Gemma, J. Gascón y Marín, P. Kazansky, A. Rapisardi-Mirabelli, P. Négulescu) had addressed the issues arising from the existence of "international administrative unions", the current authors (B. Kingsbury, N. Krisch, R. Steward) deal with the issues arising from the activities of certain entities of similar nature. Consequently, the scholars of the "global administrative law" refer to the authors of the *belle epoque* as to their predecessors.[42]

The second approach, defining "international administrative law" as a *parallel* to international *private* law, gained also some degree of recognition. In particular, with regard to increasing number of sources of the EU law, providing for cases with a foreign element in administrative relations, the concept of *delimiting rules* again attracts attention of legal scholarship. Consequently, despite a rather pessimistic view concerning this branch of law as expressed by F. Matscher in the 1970s[43], the major works of P. Fedozzi, K. Neumeyer and G. Biscottini are recently again considered[44] to provide for sources capable to solve certain difficult problems arising by applying the EU law.

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