Striving for Coherence: Exploring the Complexities of International Administrative Law

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Abstract

This study endeavours to clear up the terminological ambiguities prevalent within the realm of international administrative law (IAL). It traces the evolutionary trajectory of IAL, discerning its development under the influence of diverse doctrinal perspectives and highlights the challenges associated with use ambiguous terms within the jurisprudence of international administrative tribunals. The paper advocates for a departure from the dualistic terminology, exemplified by the juxtaposition of 'international administrative law' and 'administrative international law' (as observed in Romanian terminology such as 'drept administrativ internațional' and 'drept internațional administrativ', alongside consonant terms in Italian or French), in favour of a more precisely delineated lexicon. It emphasis the imperative need for clearer definitions and argues for the use of 'international institutional law' to accurately reflect the scope of regulations governing international organisations or their administrative structures. Additionally, it advocates for the use of 'law of the international civil service' as an apt descriptor for the relationships within international organisational personnel. Furthermore, the paper addresses the absence of a well-defined framework for the 'principles of international administrative law', used in some international administrative tribunals case law, underscoring the importance of clarity and coherence in legal terminology and doctrine.

Keywords: *international administrative law, administrative international law, international governance, international institutional law.*

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1. Introduction

Alongside the emergence and consolidation of classical international law, various branches of law have 'internationalised' their dimension by adding

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the adjective 'international' to their basic names, sometimes for purely educational purposes, other times asserting or foreshadowing a new (sub) branch of law. Over time, many of these have crystallised, so today we have international private law, international criminal law, international environmental law, international economic law, international banking law, international trade law, and many others, not to mention a myriad of sub-disciplines of public international law. This proliferation underscores the evolving nature of legal scholarship and its responsiveness to global developments.

This trend, recently revitalised, together with extensive globalisation, has not bypassed the field of administrative law – a discipline often characterised by its intrinsic association with state sovereignty and territoriality. In fact, if there are now studies on the 'globalisation' and internationalisation of constitutional law, why would we refuse this capacity to administrative law? Perhaps this is just an episode in a more complex process of unifying the law, in which it dissociates itself from its territorial and state limitations.

There are increasingly frequent approaches by scholars regarding the alteration of state sovereignty or the permeability of borders, which, together with the evolution of means of communication and interaction, lead to the possibility of increasingly 'internationalised' repercussions of decisions in domestic public law. Consequently, administrative law is experiencing a growing interplay with international legal norms, necessitating a nuanced understanding of this dynamic relationship.

'Despite the interest of legal science, which has lasted for more than a century, international administrative law is neither a frequent subject of teaching at law faculties, nor the subject of habilitation or appointment procedures. Administrative law textbooks either cover it only marginally (this is the case of the German legal academy) or (as is the case in our country) they do not cover it at all.'[2] Although Prof. JUDr. Jakub Handrlica's assertion refers to Czech legal scholarship, unfortunately it can readily be attributed to Romanian doctrine as well, where (recent) references to International Administrative Law are very rare.

2. Unveiling the genesis of international administrative law

The term 'international administrative law' (IAL) is not, as one might think, a recent one, but despite the scarcity of doctrine, it is a concept addressed as early as the late 19th century to the beginning of the 20th century.

As noted by Prof. Mircea Duțu[3], beginning in the late 19th century, several types of international administrative phenomena have emerged and been rec-

[2] Handrlica, Jakub, 'Mezinárodní Právo Správní. Skica Právní Disciplíny.' *Pravnik* 161, no. 5 (2022), 468.

[3] Duțu, Mircea. 'Reflecții în legătură cu emergența, natura și trăsăturile definitorii ale dreptului administrativ global.' *Dreptul*, no. 7 (2015), 72

ognised. These have given rise to two main, divergent yet complementary research directions: international administrative law and administrative international law.

Miguel Prata Roque noted[4] that with the onset of the Industrial Revolution and the increasing complexity of international legal relations in the mid-18th century in Germany, there emerged a discourse advocating for state cooperation to promote the common good of humanity. This advocacy, championed by figures such as Gottlob von Justi and Günther von Berger, and later expanded upon by Robert von Mohl in the 19th century, emphasised the necessity of effective international collaboration to address certain administrative tasks.

In the second part of the century XIX, guided by the German unification processes, legal scholars recognised international administrative law as a distinct area, prompting a linguistic transition from terms like 'general' or 'universal' (*allgemeines*) administrative law to 'international' or 'interstate' (*internationales*) administrative law.[5]

In this regard, German scholar **Lorenz von Stein** mentioned already in 1866, the concept of *international administrative law (internationales Verwaltungsrecht)* as a body of legal norms derived partially from international conventions and partially from domestic legislation, regulating administrative activities within the international sphere as a cohesive unit.[6]

He delineates *internationales Verwaltungsrecht* as encompassing administrative activities conducted by States, either through their own administrative entities or via a novel category of international treaties. This delineation excludes traditional treaties of peace or alliance but encompasses agreements with administrative objectives *(Verwaltungsträge)*, facilitating an incipient development of European administration.[7]

Later, in 1896, **Otto Mayer** employs the term International Administrative Law as a concept that is still emerging but nevertheless significant for the era in question[8].

Mayer highlights that while in civil law, the natural boundaries of state territories are transcended, and this phenomenon is designated by the term 'Private International Law', a term he finds 'quite inappropriate'. However, he aims to label similar phenomena in administrative law as International Administrative

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[4] Prata, Miguel. A *Dimensão Transnacional do Direito Administrativo*. Lisboa: AAFDL, 2014, 475–476.

[5] *See:* Howland, Douglas. 'An alternative mode of international order: The international administrative union in the nineteenth century.' *Review of International Studies,* 41, no. 1 (2015), 166.

[6] Vogel, Klaus. 'Administrative Law: International Aspects.' In *Encyclopedia of Public International Law, 9. —International Relations and Legal Co-Operation in General*, 2–7. North – Holland: Elsevier Science Publishers B.V., 1986, 3.

[7] Cossalter, Philippe. « The internationalisation of administrative law: a French perspective, » 2019, 4.

[8] Mayer, Otto. *Verwaltungsrecht*. Vol. 2. 1896, 455–458.

Law.[9]

According to Mayer's analysis, international administrative law is closely intertwined with the application of domestic legal norms within the territory of a foreign state, particularly in governing relations with other states. For instance, consular establishments may undertake certain policing functions, support their nationals abroad, and provide other public services of an international character. Administrative law plays a pivotal role in such scenarios, with the extent of its application being contingent upon the receptivity of the authorities in the host country. Consequently, the issue of applying national administrative regulations in foreign territories is raised.

Mayer also includes within the sphere of international administrative regulation agreements between different states, the provisions of which impact governance. Such agreements compel the adoption of national regulatory acts, thereby refining domestic administration. Moreover, fulfilling these obligations may necessitate the formation of supranational administrative structures (for example, in the field of communications).[10]

Internationales Verwaltungsrecht underwent then significant development through the extensive contributions of the esteemed German scholar **Karl Neumeyer**, who explored the concept of International Administrative Law in various works, notably in a comprehensive four-volume publication spanning from 1910 to 1936. His scholarly endeavours have positioned him as a prominent figure advocating for the advancement of IAL within the Germanic academic tradition.

In his fourth volume, Neumeyer aimed to establish international administrative law as a framework governing conflicts of law in administrative matters, essentially creating a parallel between administrative law and private international law. While private international law was shaped by choice of law principles in international matters, Neumeyer's perspective focused on what he termed 'delimiting rules' (*Grenznormen*[11]). These rules, distinct from substantive law in theory, determine whether substantive administrative law should be applied or not. Neumeyer's theory also encompassed regulations concerning the application of foreign administrative law, which he referred to as 'cross-border effects' (*verwaltungsrechtliche Uberwirkungen*).[12]

Jakub Handrlica outlines[13] that, as Neumeyer contended, the primary and

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[9] *See:* Schmidt-Aßmann, Eberhard. 'Internationales Verwaltungsrecht: Begriffsbildung Im Spiegel veränderter Staatlichkeit.' *Revista Digital de Direito Administrativo* 4, no. 1 (2017), 17–18.

[10] Pobezhimova, Nelly, and Sherstoboev, Oleg. "Genesis of International Administrative Law" *Gosudarstvo i pravo* 11 (2019), 99 [in Russian].

[11] Neumeyer, Karl. *Internationales Verwaltungsrecht. Bd. 4, Allgemeiner Teil*. Zurich; Leipzig (1936), 136–153.

[12] Vogel, "Administrative Law: International Aspects", 4.

[13] Handrlica, Jakub. 'Two faces of "international administrative law."' *Juridical Tribune* 9, no. 2 (2019), 370.

fundamental origins of delimiting rules lie within the relevant provisions of national administrative law and thus, from his perspective, international administrative law should be considered as a distinct (special) branch within the broader framework of administrative law.

This approach remains distinctive within the German doctrine to this day, with certain authors suggesting, 'International administrative law regulates the application of national administrative law to matters with a foreign element. Thus, it also constitutes a conflict of laws. International tax law falls within the scope of international administrative law.'[14]

As we can see, both Neumeyer and Mayer share a common perspective in characterising International Administrative Law exclusively from the standpoint of the national administration.

In 1906 Italian scholar **Donati Donato** attempted a distinction of two terms – *diritto internazionale amministrativo* and *diritto amministrativo internazionale*. The first, administrative international law, should be seen as a part of international public law, whereas the second, International administrative law, as a part of national (municipal) law. So, international administrative law 'was understood as a particular subdiscipline of municipal law, dealing with those administrative relations where a certain foreign element appears'[15].

While Donati conceptualised this distinction in theoretical terms – endeavouring in his treatise to refute the viability of both concepts – others acknowledged and operationalised both branches of law as practical realities.[16]

Similarly, **José Gascón y Marín**, during his 1930 course titled 'Les transformations du droit administratif international', also draws a parallel distinction – 'I believe I can affirm that, for relations were the origin of the applicable legal rule is domestic law, the designation of *"droit administratif international"* seems more particularly appropriate because it involves rules drawn from the same source as domestic law, but with a purpose beyond purely national rules (due to the nationality and territory of the individuals involved and the place where the relationship is formed). On the other hand, for those rules originating from a different source, namely the will of several States, reacting in their particular administration or creating new entities whose nature is certainly highly debated but evidently different from that of internal entities, the expression "*droit international administratif*", in my opinion, is the most suitable.'[17]

A necessary terminological clarification. Prof. Philippe Cossalter cautions[18] that the terminology used by von Stein, coupled with its translation into

[14] Graf Vitzthum, Wolfgang and Proelß, Alexander. *Völkerrecht*. Berlin, Boston: De Gruyter, 2016, 16-17.
[15] Handrlica, Jakub. 'Burnt by the sun of international administrative law. A sketch of a legal chameleon.' *Persona e Amministrazione* 9 (2021), 564.
[16] Vogel, "Administrative Law: International Aspects", 3.
[17] Gascon y Marín, José. "Transformations of International Administrative Law." Volume 34. In *The Hague Academy Collected Courses/Recueil des cours de l'Académie de la Haye*. 1930, 21.
[18] Cossalter, "The internationalisation", 4.

Italian, undoubtedly perpetuates the confusion between the concepts of *international administrative law* and *administrative international law*.

Prof. Jakub Handrlica also warns us[19] that in contrast to the Italian language, German lacks the lexical precision necessary to accommodate the intricacies arising from legal dualism. As a result, the term 'internationales Verwaltungsrecht' is indiscriminately utilised in German legal scholarship to encompass both the realm of international public law and the domain of administrative law, including relations between the state and individuals.

In Romanian, a Romance language, the distinction also arises – *'drept international administrativ'* and *'drept administrativ international'*, corresponding to the consonant terms in Italian or French.

The differentiation proposed by D. Donato was, in our opinion, welcomed, as it enables a clear demarcation, akin to distinctions found in other legal domains, such as 'international criminal law' versus 'international criminal law', viewed distinctly in Romanian. In this regard, while the former pertains in Romanian literature to 'a body of legal norms governing acts constituting offences under international law, as well as the conditions and repercussions of individual liability upon their commission',[20] the latter denotes aspects related to extraterritoriality or international cooperation and legal assistance within the framework of national criminal law. Regrettably, this differentiation through adjectives, typical of Romance or Slavic languages, remains unfamiliar or less employed among scholars using the English language – a prevailing language in contemporary legal scholarship.

As Otavio Venturini, a Brazilian author, highlights, in the context of the Spanish term *Direito Internacional Administrativo*, 'the juxtaposing of the term "International" reflects an internationalist conception of Administrative Law in the strict sense, structured by a normative complex of necessarily international source'.[21]

In the same vein, J. Handrlica outlines that 'the term "international" (in international administrative law) refers exclusively to the fact, this (sub)discipline of administrative law addresses relations where certain foreign (i.e. "international") element appears. This term is not referring to any international relations between the sovereign States, or any other subjects of international public law.'[22]

We will revisit the delineations noted in legal literature subsequently to articulate an assessment on this matter, but it should be acknowledged that the

[19] Handrlica, Jakub. 'Mezinárodní Právo Správní,' 459.
[20] Nițu, Daniel. *Drept International Penal: Curs Universitar* [*International Criminal Law: University Course*]. Bucharest: Hamangiu, 2021, 14.
[21] Venturini, Otavio. 'O Direito Administrativo e a Globalização: Uma Abordagem Cosmopolita.' In *Direito Administrativo Cosmopolita*, 21–41, 2023, 37.
[22] Handrlica, Jakub. 'A Treatise for International Administrative Law.' *Lawyer Quarterly* 10, no. 4 (2020), 467.

prevailing tendency among most authors thus far has been to eschew strict adherence to such distinctions, frequently employing the term at their discretion.

Returning to the doctrinal concerns of the early 20th century, catalysed by technological and communicative advancements, we are also compelled to address the Russian legal school.

At times, **Fedor Fedorovich Martens** is credited as one of the pioneering systematic analysts of international organisational law. However, this attribution likely stems from a misinterpretation. In his three-volume work, 'Traité de Droit international' (1886), Martens allocated the second volume to a subject he termed 'droit international administratif', but Jan Klabbers notes that 'it turns out that the term, for him, served as shorthand for the special rules of international law in peacetime'[23].

Another representative of the Russian international law scholarship who notably worked at the University of Odessa is **Piotr** (sometimes, Pierre) **Evgenievich Kazansky**. The question of international administration was thoroughly examined by Kazansky in his doctoral dissertation: 'Universal Administrative Unions of States' (3 volumes. Odessa, 1897).

This three-volume investigation extensively examines the issues surrounding international administration as a novel phenomenon within the realm of international law. The first volume elucidates the scholar's theoretical viewpoints on the legal governance of international administration. Subsequently, the second and third volumes undertake an analysis of the legal status pertaining to individual international administrative unions of states.

Subsequent to the publication of his series of treatises in Russian, Kazansky produced two French-language articles that achieved wider international dissemination. In these articles, he expounded upon a theory of international administrative law infused with a fervent dedication to internationalism: 'Les premiers éléments de l'organisation universelle' (1897) and '*Théorie de l'administration internationale*' (1902).

Kazansky opposed the concept of a world state that would completely abolish the sovereignty of existing states. Instead, he advocated for administrative cooperation as a middle ground: collaborative efforts to address common interests under the rule of law, while safeguarding the independence of nations.[24]

Kazansky viewed transnational civic associations as a form of 'international self-government', requiring treaties among states to ensure their support. He believed that international public unions represented a move towards a larger-scale organisation, emphasising collective action and common interests. While advocating for international bureaus to complement national administrations, he recognised that international administrative law would limit national sovereignty.

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[23] Klabbers, Jan. 'The EJIL Foreword: The Transformation of International Organizations Law.' *European Journal of International Law* 26, no. 1 (2015), 39.

[24] Steffek, Jens. *International Organization as Technocratic Utopia* (Oxford University Press, 2021), 53.

Kazansky foresaw these organisations as early elements of a broader political order to extend beyond the state, echoing the ideas of Lorenz von Stein.

Kazansky's proposal for administrative internationalism outlined a path for international reform that aligned with the prevailing state-centric framework, reminiscent of the approach advocated by the American jurist **Paul Samuel Reinsch**, often regarded as 'one of the pioneers of the discipline of international relations'[25]. In 1909, Reinsch published a seminal study titled 'International Administrative Law and National Sovereignty,'[26] which became emblematic of the functionalist approach to international organisations. In this work, he asserted that 'international cooperation is a necessity and thus in everyone's interest, and there can even be an ethical duty to cooperate on the international level'[27].

Reinsch wrote: 'The body of law which is thus being created by the action of the authoritative organs of public international unions, and by cooperation among governments, is distinguished from general international law in that it not merely regulates the relations between national states, but undertakes to establish positive norms for universal action. We may tentatively apply to it the designation of *international administrative law* (sic!), defining it as that body of laws and regulations created by the action of international conferences or commissions which regulates the relations and activities of national and international agencies with respect to those material and intellectual interests which have received an authoritative universal organisation.'[28]

As posited by the author, the aims of international administrative endeavours might encompass safeguarding national principles for foreign entities and regulating intergovernmental relations based on overarching global interests, taking into account their scale and significance.[29]

The work of P.S. Reinsch is characterised by its exploration of enduring issues that retain contemporary relevance. While refraining from advocating for the establishment of a centralised global administration capable of exerting authority over national governments, the author delineates spheres of collaborative state activity grounded in mutual interests. Emphasising the potential simplification of internal regulation, particularly in domains such as economy, infrastructure, and security, the author posits that the harmonisation of legal frameworks involving relevant entities and national administrative organs aligns with the collective interests of 'civilised' states, forming the cornerstone of international administrative law – a domain conspicuously underexplored. Acknowledging the

[25] Orford, Anne, and Florian Hoffmann, eds. *Oxford Handbook of the Theory of International Law*. Oxford: Oxford University Press, 2016, 625.
[26] Reinsch, Paul S. "International Administrative Law and National Sovereignty." *The American Journal of International Law* 3, no. 1 (1909): 1–45.
[27] Ibid, 13.
[28] Ibid, 5.
[29] Pobezhimova, "Genesis", 95.

inherently international nature of this legal domain, the work underscores the imperative for national administrations to adhere to international norms, recognising them as catalysts for modifications in domestic procedural frameworks. It is noteworthy, however, that these perspectives encountered limited endorsement among Reinsch's contemporaries, who tended to favour more circumscribed notions of international administrative regulation.

This historical overview would certainly be incomplete without mentioning Prof. **Paul Negulescu** (1874–1946). As Prof. Mircea Duțu recalls[30], during the interwar period, Paul Negulescu developed the theory of international public administration and its specific legal framework. These ideas have been adapted in the context of current globalisation through the concept of global administrative law, as a response to the new dynamics of international governance.

Thus, considered one of the founding fathers of modern Romanian administrative law, in 1935 he defined international administrative law (*droit international administratif*) (sic!) as 'a branch of public law which, by examining the legal phenomena constituting international administration together, seeks to discover, clarify, and systematise the rules governing these activities'[31]. It is worth noting that the cited study represents the adaptation of a course delivered at the Hague Academy of International Law, entitled 'Principles of International Administrative Law' (*Principes du droit international administratif*), largely dedicated to conceptualising a specific cosmopolitan international administration and, as observed by other authors[32], to arguing the concept of 'international public service' as the object of international administrative law. From this academic perspective, Professor Negulescu raised the question of whether international administrative law represents an autonomous legal science or a branch of international law.

Paul Negulescu asserted[33] that this branch of law deals with institutions designed to address specific interests related to economic life, artistic and literary property, etc., which have an immediate impact on individual life.

As noted by Cătălin-Silviu Săraru, International Administrative Law was seen in the P. Negulescu's work as 'the right of the International Administration, whose main representative was the League of Nations, which could be counted as the International Labor Organization, the European Commission of the Danube, etc.'[34]

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[30] Duțu, Mircea. 'Dezvoltarea științei și culturii juridice românești în ultimul secol. I. Perioada interbelică (1918–1945).' *Studii și Cercetări Juridice* 7, no. 1 (2018), 49.

[31] Negulescu, Paul. « Principes du droit international administratif. » In *Recueil des cours*, vol. 51. 583-715, Paris, 1935, 15 (593).

[32] Duțu-Buzura, Andrei. « Paul Negulescu și dreptul administrativ global *in nuce* » *Revista de Drept Public* 4 (2017), 34–39.

[33] Negulescu, "Principes", 19 (597).

[34] Săraru, Cătălin-Silviu. *European Administrative Space – Recent Challenges and Evolution Prospects*. Bucharest: ADJURIS – International Academic Publisher, 2017, 20.

According to P. Negulescu, in comparison to international law, international administrative law is regarded as 'a specialised legal domain stemming from the latter'[35]. Nevertheless, he posits that international administrative law exhibits a distinct organisational framework compared to public international law, bearing greater resemblance to domestic administrative law. The field of international administrative law serves as a mechanism for coordination, yet in numerous instances, it also operates as a framework of subordination.

In Prof. P. Negulescu's conceptualisation, as synthesised by M. Duțu[36], international administrative law revolves around the concept of international public service, aiming to regulate and constrain certain activities of national public services to coordinate their actions. In contrast, domestic administrative law emphasises national public service, with state interventions focusing on limiting individual activities or obtaining advantages in specific domains. International administrative law addresses institutions serving interests related to the economic, cultural, and artistic spheres, directly impacting individual life and operating with a degree of autonomy in accordance with international conventions.

In the sphere of Romanian interwar scholarship concerning international administrative law, it's significant to note M. Duțu's assertion regarding the Royal Institute of Administrative Sciences of Romania (1930). Duțu posits[37] that the Institute's objective was 'establishing a Romanian administrative doctrine'. A pivotal component of its educational and research curriculum was a course focusing on Elements of International Administrative Law, which specifically delved into subjects like international administration and international public services.

As observed, the common thread between the International Administrative Law and Administrative International Law theories lies in the extraterritorial expression of Administrative Law, albeit with the Nation-State occupying a central role in both frameworks.

3. Recent scholarly discourse on reinvigorating international administrative Law

Fast-forwarding to the 21st century, we can observe a heightened scholarly focus on revitalising the concept of international administrative law. Cautiously, some researchers have referred to this trend as the 'internationalisation of administrative law', which, according to Philippe Cossalter, embodies 'a set of doctrinal currents and phenomena that confront administrative law with certain

[35] Negulescu, "Principes", 20 (598).

[36] Duțu, Mircea. « O contribuție românească majoră la promovarea păcii prin drept : inițiativa creării Academiei de Drept Internațional de la Haga. » *Studii şi Cercetări Juridice* 4, no. 3 (2015), 302–303.

[37] Duțu, Mircea. 'Școala română de drept internațional și provocările unei doctrine naționale în era mondializări.' *Studii şi cercetări juridice* 1 (2020), 21.

foreign elements'[38].

In 2005 German scholar **Franz C. Mayer** published his habilitation thesis entitled 'The internationalisation of administrative law. Modes and structures of influence on national law in times of Europeanisation and globalisation'[39].

Later, **Eberhard Schmidt-Assmann** authored in 2008 an article titled 'The *Internationalisation of Administrative Relations* (sic!) as a Challenge for Administrative Law Scholarship', focusing our attention to internationalisation of administrative relations, rather than internationalisation of administrative law, being a little hesitant to the established meaning of the latter. Also, one can observe the avoid using the term 'international', preferring the neutral 'internationalisation'.

The internationalisation of *administrative activity* is understood by E. Schmidt-Assmann as 'processes of an administrative nature extending beyond national administrative borders, either because they have evolved beyond such borders or because they were, from the outset, conceived without consideration of such borders'[40].

According to him, there is a recognised convergence between international law and administrative law. This stems from the fact that certain administrative legal constructs transcend national boundaries; some evolve into international constructs, while others are initially conceived with a supranational character. Therefore, the concept of 'international administrative law' emerges, which should be conceptualised in terms of domestic administrative law. It aims to safeguard individual rights against administrative actions and establish legal procedures and mechanisms for the effective execution of administrative functions. Consequently, there is a need for a new body of international administrative law. Its core would be legislation concerning the internationalisation of administrative relations, regulating cooperation among executive authorities of different states.

Schmidt-Assmann contends that the understanding of the term 'International Administrative Law' in von Stein's language is outdated, expressing a desire to imbue the term with fresh significance. Instead of interpreting it solely as the national conflict of laws, he proposes to view it as 'the administrative law of action, determination and cooperation established in international law'[41].

International administrative law encompasses, in E. Schmidt-Assmann's opinion, three main functional circles: (1) it is a body of law governing international administrative institutions, (2) a body of law determinative of national ad-

[38] Cossalter, "The internationalisation", 2.
[39] Mayer, Franz C., *Die Internationalisierung des Verwaltungsrechts: Modi und Strukturen der Einwirkung auf das nationale Recht in Zeiten der Europäisierung und Globalisierung*. Tübingen: Mohr Siebeck, 2005.
[40] Schmidt-Aßmann, Eberhard. 'The Internationalisation of Administrative Relations as a Challenge for Administrative Law Scholarship.' *German Law Journal* 9, no. 11 (2008), 2063.
[41] Schmidt-Aßmann, "Internationales Verwaltungsrecht", 23.

ministrative legal orders, and (3) a body of law on cooperative handling of specific associative problems.[42]

E. Schmidt-Assmann's work offers a thorough overview of international administrative law, extending beyond the internal activities of international organisations. It encompasses administrative cooperation internationally and traditional administrative relations related to human rights protection and economic development. Examples include agreements on double taxation treaty interpretation, data transmission standards in social spheres, and liability in police information systems. This material serves as a foundational resource for further administrative and legal research, aiding in the organisation of relevant norms within domestic legal systems.

Another prolific researcher and advocate of the concept of International Administrative Law, who dedicated several articles[43] to disseminating the concept of IAL, including in the pages of *Juridical Tribune*[44], is Prof. JUDr. **Jakub Handrlica** from Charles University in Prague (where he also teaches a course titled similarly, built upon the concepts he has developed in his works).

As a miscellaneous fact, in line with the aforementioned terminological confusions, it is worth mentioning that in Handrlica's works written in Czech, a shifting in terminology can be observed over time from the term 'Mezinárodní správní právo' (2016[45], 2017[46]), which corresponds to 'droit administratif international' (*drept administrativ internațional*), to 'Mezinárodní právo správní' (2022[47]), which translates closer to '*droit international administratif*' (*drept internațional administrativ*).

Handrlica recently authored an entire monograph in Czech entitled 'Introduction to international administrative law' *('Úvod do mezinárodního práva správního'*[48]). To our knowledge, this is the latest scholarly contribution in this

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[42] Schmidt-Aßmann, Eberhard. 'The Internationalisation,' 2077.

[43] Handrlica, Jakub. 'A Treatise for International Administrative Law.' *Lawyer Quarterly* 10, no. 4 (2020): 462–75; Handrlica, Jakub. 'A Treatise for International Administrative Law, Part II: On Overgrown Paths.' *Lawyer Quarterly* 11, no. 1 (2021): 178–91; Handrlica, Jakub. 'Burnt by the sun of international administrative law. A sketch of a legal chameleon.' *Persona e Amministrazione* 9 (2021): 562–83; Handrlica, Jakub. 'Mezinárodní Právo Správní. Skica Právní Disciplíny.' *Pravnik* 161, no. 5 (2022): 454–68; Handrlica, Jakub. 'Revisiting International Administrative Law as a Legal Discipline.' *Zbornik Pravnog Fakulteta Sveučilišta u Rijeci* 39, no. 3 (2019): 1237–58 and others.

[44] Handrlica, Jakub. 'Two faces of "international administrative law".' *Juridical Tribune* 9, no. 2 (2019): 363–76; Handrlica, Jakub. 'About the international administrative law and other demons. A venture in a "delimiting law".' *Juridical Tribune* 10, no. 3 (2020): 339–63.

[45] Handrlica, Jakub. 'Mezinárodní Správní Právo: Minulost, Současnost a Perspektivy. ' *Studia Iuridica Cassoviensia* 4, no. 3 (2016): 39–52.

[46] Handrlica, Jakub. 2017. *Transteritoriální správní akty: studie z mezinárodního správního práva*. Studie Národohospodářského ústavu Josef Hlávky, 5/2017. Praha: Národohospodářský ústav Josefa Hlávky.

[47] Handrlica, Jakub. 'Mezinárodní Právo Správní. Skica Právní Disciplíny.' *Pravnik* 161, no. 5 (2022): 454–68.

[48] Handrlica, Jakub. *Úvod do mezinárodního práva správního*. Prague: C.H. Beck, 2022.

field, addressing the presence of a foreign element in national administrative law relations. In this book, the author not only covers basic terminology and presents international administrative law as a distinct legal discipline, defining its relations to other areas of administrative law and other legal branches, but also dedicates two extensive chapters to analysing the direct and indirect application of foreign administrative law. Additionally, the book address-related problems such as normative extraterritoriality of administrative law regulations, foreign administrative bodies operating within a country, and domestic administrative bodies operating abroad.

For Handrlica, 'extraterritoriality' is viewed[49] as situations where an administrative authority of one state exercises legal jurisdiction beyond its own territory, specifically within the sovereign territory of another state. Nerveless, he prefers the term 'transterritorial'[50], which still refers to a cross-border interaction. Yet, we believe there exists at times a transnational space, a social realm separated from the national or international, characterised as 'a metaphorical, ideational, not territorial field'[51], and 'deterritorialisation' could be viewed also in this non-dimensional realm. (Some authors[52], speaking of 'transnationality' in administrative law see it like internationality in private international law, involving a foreign element in a legal relationship, differing from internationality in public international law, but we consider this understanding a narrow one. Others state[53] that a transnational legal perspective on administrative law advocates for a theory that spans national and international realms, as well as public and private sectors.)

We will delve into Handrlica's perspective on IAL as a branch of national administrative law in section 4.2.

Given our previous mention on the contribution of Russian doctrine to the theory of international administrative law in the early 20th century, we find it pertinent to examine the current situation, which is quite the opposite.

Although it was mentioned that in contemporary Russian law scholarship, there is still no comprehensive understanding of the legal nature of international administrative law and its position within the Russian legal system[54], Rus-

[49] Handrlica, "A Treatise… Part II.", 181.
[50] *See:* Handrlica, Jakub. 'International Administrative Law and Administrative Acts: Transterritorial Decision Making Revisited.' Czech Yearbook of Public and Private International Law 7, no. April (2016): 86–98.
[51] Bostan, Alexandru. 'Transnational Law – A New System of Law?' *Juridical Tribune* 11 (2021), 354.
[52] Chevalier, Emilie, and Olivier Dubos. 'The Notion of "Transnationality" in Administrative Law: Taxonomy and Judicial Review.' *German Law Journal* 22, no. 3 (2021), 327.
[53] Schill, Stephan W. 'Transnational legal approaches to administrative law: Conceptualising public contracts in globalisation'. *Rivista Trimestrale di Diritto Pubblico*. 1 (2014), 4.
[54] Pobezhimova, N. I. 'International Administrative Law and Its Place in the System of Russian Law.' *The Topical Issues of Public Law* 8, no. 20 (2013), 62.

sian scholars typically exhibit resistance towards the concept of international administrative law. For example, **Valeri Bogatyrev** considers[55] there is one particular feature of international administrative law that makes it quite challenging to recognise its existence – namely the fact that the essence of this law lies in its inter-system nature, which refers to a system of norms consisting of rules from various legal systems and legal branches within a single legal system.

Alexei Afanasievich Demin, professor at MGU, goes further and states that 'globalisation of administrative law is a destiny of weak and compelled to obey'[56] and denies the sole existence of International Administrative Law, arguing that 'international administrative law can be described as neither international, nor administrative, nor the law'[57]. He states that it can't be considered international law because traditionally 'international' implies involvement of sovereign states as primary subjects, while the proposed theory suggests these administrative law norms would apply to both states and individuals, challenging the idea of its true international nature. Moreover, it is not administrative law as the term 'administration' implies a specialised apparatus for enforcing legal norms, which does not exist here. Lastly, it cannot be categorised as law since there is no entity formulating its norms.

This reluctant opinion is pervasive in Russian doctrine, which traditionally rejects any attempt of 'modernising' international law, seeing current trends as a geopolitical subtext aimed at increasing the influence of the US 'hegemon'.

However, we have identified in Russian doctrine a relatively recent and quite original positive opinion. Thus, Professor **Andrey Alievich Mamedov**, advocating for considering global integration processes due to globalisation in the field of administrative law, believes that IAL can be viewed broadly and narrowly.

In his view[58], international administrative law should be conceptualised as a body of norms: 1) governing administrative relations of all kinds that extend beyond the jurisdiction of any single state, encompassing both public and private spheres (broad understanding of IAL); and 2) regulating the organisation of international managerial relations at the macro level (narrow understanding).

We must note that this approach is infused with concepts from Russian doctrine on administrative law, which places a strong emphasis on managerial relations.

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[55] Bogatyrev, V. V. "International Administrative Law: History and Perspectives of Development." *Actual Problems of Public Law: Collection of Scientific Works of the II All-Russian Scientific and Practical Conference with International Participation*, 2021, 64 [in Russian].

[56] Demin, A. A. "Discussion on the Influence of Globalisation on the Emergence of International Administrative Law." *The Topical Issues of Public Law* 1 (June 2018), 29.

[57] Demin, A. A. 'Once Again on International Administrative Law' *Public Law Today*, No. 3 (2020), 106 [in Russian].

[58] Mamedov, A. A. « Modern Concept of the Development of Administrative Law. » *Education and Law* 4 (2021), 77 [in Russian].

Important to note, in Russian doctrine, was recently noted about 'integration of administrative law'[59] as a developing component of international administrative law. The integration segment of international administrative law possesses distinct institutional characteristics, reflected in the organisational and managerial activities of integration bodies. This perspective is grounded within a broad approach to international administrative law, which extends beyond the sphere of activity of national bodies.

In the recent resurgence of scholarly interest in international administrative law, we cannot overlook the mention of the **Global Administrative Law** (GAL) movement[60], first proposed and described in a seminal article published in 2005[61], co-authored by a team of researchers affiliated with New York University – Benedict Kingsbury, Nico Krisch, and Richard B. Stewart.

The primary question here is whether there is a distinction between 'global administrative law' and 'international administrative law', or they essentially describe the same phenomenon using different terms?

Sometimes, there is confusion between these two terms. So, while advocating the necessity to develop 'such an unconventional branch of law as international administrative law'[62] Prof. JUDr. Yu. Tikhomirov refers to its subject as the coordinated development and use of principles and norms of international law in the field of governance and the resolution of global challenges, common regulatory frameworks, and typical administrative procedures of foreign states, as well as the systems of national administrative legal regulators, which in essence resembles the Global Administrative Law movement.

Other authors even consider these terms to be synonymous–'To conclude the "international-global-issue", we submit that the notions are practically synonymous and viably interchangeable'[63]. We cannot concur with this viewpoint, as traditionally, the term 'international' pertains to interactions between states (and international organisations established by states), whereas the global domain encompasses both state and non-state actors, including hybrid entities.

Similarly, the proponents of GAL have referred to IAL as a precursor and to authors who have addressed IAL as their spiritual forefathers, drawing mainly

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[59] Agamagomedova, S. A. 'International and Integration Administrative Law: the Problem of Correlation', *Pravovaya Politika i Pravovaya Zhizn'* 2 (2023): 24–33; Agamagomedova, S.A. 'National, Integration, and International Administrative Law: Correlation Issues' *University's Proceedings. Volga Region. Social Sciences*, no. 3 (2023): 148–58. [in Russian].

[60] *See:* Bostan, Alexandru. 'Aspecte introductive privind Dreptul Administrativ Global.' ['Introductory Aspects on Global Administrative Law.'] *Știința juridică autohtonă prin prisma valorilor și tradițiilor europene [Domestic Legal Science Through the Prism of European Values and Traditions]*, 156-164. Chișinău: ULIM, 2018.

[61] Kingsbury, Benedict, Nico Krisch, and Richard B. Stewart. 'The Emergence of Global Administrative Law.' *Law and Contemporary Problems* 68:15, no. 3 (2005): 15–61.

[62] Tikhomirov, Yu A. 'Management Vectors in the Focus of Law'. *Issues of State and Municipal Governance* 1 (2019), 143 [in Russian].

[63] Ruffert, Matthias, and Steinecke, Sebastian. *The Global Administrative Law of Science*. Berlin, Heidelberg: Springer Berlin, Heidelberg, 2011, 21.

three ideas from the concept of IAL.

The first consists of seeing 'transnational governance' as a form of administration, and therefore calls for the application of certain principles to frame its action. Secondly, GAL shares with the aforementioned schools the definition of a branch of law as administrative by the prior identification of an Administration. Finally, GAL is based on the idea that the Administration, in the exercise of its regulatory power, must be framed by principles, mainly those of participation, transparency, and accountability.[64]

Further development of the concept of GAL will be addressed in a separate contribution. For now, it can be stated that while these concepts share considerable similarity in essence, they have undergone distinct evolutionary trajectories, with global administrative law encompassing a significantly broader scope than international administrative law.

Additionally, it is worth noting that some scholars propose the existence of a nascent branch within IAL, referred to as 'EU international administrative law'[65]. This designation should not be conflated with 'EU administrative law'—an established legal field characterised by its own distinct features. Some even treat transnational administrative law to be 'at the same time, European and International Law'[66].

4. Exploring the (dual) frameworks of international administrative law

Therefore, the nascent doctrinal approaches concerning the concept of international administrative law can be encapsulated into two frameworks: (a) the law governing international organisations, frequently denoted as ***international institutional law*** – a constituent of public international law; or (b) administrative law incorporating ***extraterritorial elements***, resembling the structure of private international law.

Prof. Ioan Alexandru considers that IAL and AIL 'have been progressively integrated into their own relevant branches'[67], namely public international law or domestic administrative law.

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[64] Fromageau, Edouard. *La théorie des institutions du droit administratif global : Étude des interactions avec le droit*. Bruxelles: Bryulant, 2016, 16.

[65] Handrlica, Jakub. « Is there an EU international administrative law? A juristic delusion revisited. » *European Journal of Legal Studies* 12, no. 2 (2020), 115.

[66] Agudo, Jorge. 'Regulatory Foundations for Transnational Administrative Law.' *European Review of Public Law* 30, no. 2 (2018), 345

[67] Alexandru, Ioan. *From national administrative law to global administrative law*. Bucharest: Romanian Academy Publishing House, 2017, 209.

4.1. International administrative law as a part of public international law

4.1.1. IAL as international institutional law

International institutional law is considered to be an 'organisational law'[68], 'a sub-discipline within the larger field of public international law'[69] dealing with the international organisations and its members.

The genesis of International Administrative Law's applicability to international organisations is attributed to scholar C. F. Amerasinghe ('international administrative legal system and the law it embodies are really the backbone of international organisation and its successful functioning'[70]), although it traces back to the early 20th century 'international administrative unions' and progresses to contemporary international organisations recognised within the realm of international law.

The designation of an entity as an international administrative union was initially intended to highlight its apolitical nature, emphasising its role in coordinating technical functions rather than engaging in political activities.

According to P. Negulescu, the ultimate aim of international administrative regulations, aligned with the broader interest of the international community of states, can only be realised through the establishment of an adequate international public service. This service represents the pinnacle of action by international administrative structures established in the early 20th century. For instance, the Danube European Commission incorporated organs with exclusively international functions, not necessarily representing member states. As emphasised by Professor Negulescu, the Commission's primary objective is to serve a technical interest of international significance, namely ensuring the navigability of the river. Consequently, it assumes the role of an international administrative body entrusted with a public service mandate.

As P. Reinsch aptly predicted, there is a significant imperative to harmonise the operations of international organisations with state sovereignty. This necessitates downplaying their political dimension. At the same time, as we noted, P. Kazansky was among the earliest to explore institutional inquiries and address institutional concerns. He observed parallels in the organisational frameworks of

[68] Amerasinghe, C. F. *Principles of the Institutional Law of International Organizations*, 2005, 20.
[69] Schermers, Henry G. and Niels M. Blokker. *International Institutional Law*. Vol. 29. Nijhoff, 2011, 27.
[70] Amerasinghe, C. F. "The Future of International Administrative Law." *International and Comparative Law Quarterly* 45, no. 4 (1996), 794.

the identified entities, characterised by plenary and administrative organs, occasionally including a tribunal.[71] He noted the emergence of an evolving 'international administration' which involves states, international societies, and related entities, including congresses, bureaus, commissions, and tribunals. This administration aimed at safeguarding broader international social interests, particularly those of individuals rather than solely states' interests. Kazansky used the concept of 'international administrative law' to describe the legal framework governing this administration, derived mainly from treaties, customary practices, and informal state agreements.[72]

J. Handrlica concludes[73] that despite not being traditionally recognised as subjects of international law, international administrative unions were often established through international treaties, leading scholars during the belle époque era to consider 'international administrative law' as a *specialised branch within international law*.

Some jurists advocate for the recognition of IAL as a distinct branch of international law, defining it as the collection of legal principles regulating interactions between international organisations and their personnel, positing that its aim is international cooperation and asserting that, akin to domestic administrative law, it entails administrative jurisdiction.[74]

Romanian Professor Ioan Alexandru considers that 'the emergence of classic international organisations […] has created legitimacy to talk about international administration and international administrative law, but the vision remains closed to aspects related to the organisation and functioning of the organisation itself'[75].

In this regard, Klaus Vogel observes[76] that components of the administrative law of an international organisation include regulations pertaining to the rights and obligations of its officials and employees, the accountability of the organisation itself, legal recourse against the actions of its organs, as well as the administrative tribunals, boards, and commissions within international organisations.

Ming-Sung Kuo considers[77] that the concept of international administra-

[71] Klabbers, Jan. 'The Emergence of Functionalism in International Institutional Law: Colonial Inspirations.' *European Journal of International Law* 25, no. 3 (2014), 664-65.
[72] Kingsbury, Benedict, and Donaldson, Megan. 'Global Administrative Law.' *Max Planck Encyclopedia of Public International Law*. March 2012. Oxford University Press. Accessed May 1, 2024. https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e 948.
[73] Handrlica, 'Two Faces', 369.
[74] Khaleel, Safwan Maqsood. 'The United Nations Civil Servant: An Important Role in International Relations.' *JANUS NET E-Journal of International Relation* 2, no. 11 (2020), 132.
[75] Alexandru, *From national administrative*, 198.
[76] Vogel, 'Administrative Law: International Aspects', 3.
[77] Kuo, Ming-Sung. 'Taming Governance with Legality? Critical Reflections upon Global Administrative Law as Small-c Global Constitutionalism.' *New York University Journal of International*

tion (governed by IAL) is expansive, encompassing not just international institutions but also domestic administrative entities when they operate concerning transboundary regulations.

4.1.2. IAL as international civil service law shaped by international administrative tribunals

A growing trend, developed alongside the proliferation of international organisations, involves confining international administrative law to the relationships among international officials, namely the collaborators and agents of international organisations. However, it is imperative to bear in mind that 'only those civil servants whose employment, escaping the direct authority of a sovereign State, is subject to an international legal regime, can only claim an international status, because they exercise functions within the service of a group of States or more commonly of an international institution'[78].

Yu. Kryvoi argues[79] that international administrative law restrains the authority of international organisations over civil servants, ensuring accountability and legitimacy, a perspective echoed by Peter Quayle, who emphasises[80] its role in preserving the independence of international officials.

Esteemed scholar C. F. Amerasinghe, who sees IAL as an employment law of international organisations, asserts, '[t]he law that an international administrative court applies is international administrative law'[81]. The judicial bodies to resolve disputes between employees of IO are often termed international administrative tribunals, which form 'part of the internal systems of administration of justice that international organisations have put into place to settle employment disputes, which would otherwise fall under no jurisdiction'[82].

Thus, the first international administrative tribunal (IAT) was created in 1927, within the framework of the League of Nations – *Administrative Tribunal of the International Labour Organization*.

From 1927 to 1946, the Tribunal adjudicated complaints against the League of Nations Secretariat and the International Labour Office, expanding from 1947 to encompass grievances from current and former ILO personnel and

Law & Politics 44, no. 1 (2011), 64.

[78] Plantey, Alain, and François Loriot. « Chapitre 1. Nature et champ de la fonction publique internationale ». In *Fonction publique internationale*. Paris : CNRS Éditions, 2005, 1.

[79] Kryvoi, Yaraslau. 'The Law Applied by International Administrative Tribunals: From Autonomy to Hierarchy.' *George Washington International Law Review* 47 (2015), 272.

[80] Quayle, Peter. 'Chapter 1 The Modern Multilateral Bureaucracy: What is the Role of International Administrative Law at International Organizations?" In *The Role of International Administrative Law at International Organizations* (Leiden, The Netherlands: Brill | Nijhoff, 2020), 18.

[81] Amerasinghe, "The Future", 774.

[82] Villalpando, Santiago. 'International Administrative Tribunal' In *The Oxford Handbook of International Organizations*. Oxford, 2016, 1085.

other recognised international organisations. It currently serves over 58,000 international civil servants from 58 organisations, with a panel of seven judges representing various nationalities to ensure impartiality.[83]

We have to say, the name administrative tribunal is a bit elusive and probably prompted their consideration as part of an administrative jurisdiction thanks to the consonance with 'administrative tribunals', which in the francophone legal system represents an 'administrative jurisdiction completely separate from judicial tribunals'[84].

There has been lately a notable proliferation of international administrative tribunals, with the establishment of more than 15 new entities of this nature.[85]

Among the recent created significant international administrative tribunals are those within the financial sector, including the *World Bank Administrative Tribunal* (WBAT) and the *International Monetary Fund Administrative Tribunal* (IMFAT).

These administrative jurisdictions have relatively recent origins, attributed in part to historical reservations from the United States. The Statute of the WBAT became effective only on July 1, 1980, with its regulations adopted on September 26 of the same year. The Administrative Tribunal of the International Monetary Fund, established in 1994, represents a more recent addition to this landscape.[86]

A significant role in shaping the concept of international administrative law as relevant to the rights of international civil servants was played by the establishment in 1950 by the United Nations General Assembly of the *United Nations Administrative Tribunal* (UNAT), whose purpose was to 'resolve employment-related disputes between United Nations staff and the Organisation. It is the highest appeals body in the internal administration of the justice system and the only body that issues binding judgments'[87].

Subsequently, in 2009, it was replaced by another system of 'UN internal justice', in which the first instance is represented by the *United Nations Dispute Tribunal* (UNDT). This is 'the tribunal UN system staff members apply to when they decide to challenge an administrative decision made by an entity over which the UNDT has jurisdiction, and which the applicant believes violates their rights as a staff member due to non-compliance with the terms of their appointment or

[83] International Labour Organization. 'ILO Administrative Tribunal.' Accessed May 1, 2024. https://www.ilo.org/ilo-administrative-tribunal.
[84] Iorgovan, Antonie. *Tratat de drept administrativ.* Vol. 1. Bucharest: All Beck, 2005, 104.
[85] Powers, Joan S. 'The Evolving Jurisprudence of the International Administrative Tribunals: Convergence or Divergence?' In *Good Governance and Modern International Financial Institutions*, 108-25. Brill | Nijhoff, 2019, 109.
[86] Forteau, Mathias, Alina Miron, and Alain Pellet. 2022. *Droit international Public*. 9e édition. Paris-La-Défense (Hauts-de-Seine) : LGDJ, 891.
[87] United Nations. 'United Nations Administrative Tribunal.' Accessed May 1, 2024. https://untreaty.un.org/unat/Overview.htm.

contract of employment'.[88]

Regarding the adjective 'internal'. In scholarly literature, the terms 'internal' and 'external' law of international organisations are commonly used to refer to the norms governing the status and activities of these organisations. However, this division is somewhat conditional due to the lack of clear criteria for differentiation. Internal law 'covers more than employment relations'[89]. Internal law of international organisations encompasses 'constitutions, procedural rules, decisions, regulations, and other enactments adopted by the organisation'[90]. These elements are crucial for the effective functioning of international organisations. It is worth noting that the 'internal law' of international organisations is not only a scientific concept but is also actively applied in the practices of international judicial bodies, without delving into discussions on classification of norms regulating international organisations' status and activities.

The jurisdiction of the UNDT extends to applications by UN officials and agents against any administrative decision of UN organs, including the ICJ, which, in their opinion, violates their conditions of employment or their employment contract or which imposes a disciplinary measure (art. 2.2 of the TCANU Statute). It can also extend to appeals filed by officials of specialised agencies, under conditions established by agreement between these organisations and the Secretary General of the UN.

In its **jurisprudence**, the UNDT defines International administrative law as 'the law which regulates the relationship between intergovernmental organisations and their staff members'[91]. In another case, the UNDT stipulated that 'It is an established principle of international administrative law that an applicant's right to review of a contested administrative decision can be pre-empted should s/he, by unequivocal conduct inconsistent with an intention to seek a review, acquiesce in the decision'[92].

Likewise, in a 2011 judgment, UNDT stated, 'International administrative tribunals may rely on, among other sources, general principles of law – including international human rights law, international administrative law and labour law – which may be derived from, inter alia, international treaties and international case law.'[93]

The use of the term 'principles of international administrative law' is quite ambiguous, but it is often encountered in relation to IATs, insofar as 'those

[88] United Nations. 'United Nations Dispute Tribunal.' Accessed May 1, 2024. https://www.un.org/en/internaljustice/undt/.
[89] Amerasinghe, *Principles*, 273
[90] Kryvoi, 'The Law Applied', 281.
[91] United Nations Dispute Tribunal. 'Judgment No. UNDT-2010-019." Accessed May 1, 2024. https://www.un.org/internaljustice/oaj/sites/default/files/documents/undt-2010-019.pdf, para. 20.
[92] United Nations Appeals Tribunal. 'Judgment No. 2020-UNAT-1017.' Accessed May 1, 2024. https://www.un.org/en/internaljustice/files/unat/judgments/2020-UNAT-1017.pdf, para 28.
[93] United Nations Dispute Tribunal. 'Judgment No. UNDT/2011/032.' Accessed April 30, 2024. https://www.un.org/internaljustice/oaj/sites/default/files/documents/undt-2011-032.pdf.

principles are to a significant extent shared among international intergovernmental organisations'[94] and 'develop from the practice of international administrative tribunals'[95].

The IMFAT has adopted the perspective that 'general principles of international administrative law are among the sources it draws upon in deciding cases. General principles may extend to the universal principles of human rights, such as the principle of nondiscrimination. The Tribunal deploys general principles to buttress the written law […] and to fill *lacunae* in it'[96].

The Statute of the IMFAT states in art. III that 'In deciding on an application, the Tribunal shall apply the internal law of the Fund, including generally recognised principles of international administrative law concerning judicial review of administrative acts'[97]. As it was explained[98], the reference to recognised principles of international administrative law aims to limit the tribunal's powers, ensuring its standards of review align with those of other tribunals and IMFAT must adhere to the same limitations observed by other administrative tribunals when reviewing the Fund's decisions. In essence, its authority to review employment decisions doesn't grant it greater discretion than other tribunals.

In the same vein, it was noted that 'employment disputes between an international organisation and its employees or other internal matters linked to the operations of an international organisation'[99] shall be considered as international administrative acts issued under international administrative law. But an IAT doesn't settle broader administrative disputes, while international administrative law is a 'wide-ranging concept, also inclusive of legal norms, that apply to the administrative acts of international organisations in general'[100].

As observed[101], despite the existence of distinct regulations and rules within each tribunal, a set of general principles of international administrative law has evolved over time. These encompass principles concerning discrimination, equality of treatment, procedural and substantive irregularities, and other employment-related matters.

We may concur with Sinichi Ago (President of the Asian Development Bank Administrative Tribunal), who asserts that *'IATribunals have tended simply*

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[94] Goldman, Celia. 'Administrative Tribunal: International Monetary Fund (IMF).' In *Max Planck Encylopedia of International Procedural Law*. Oxford University Press, 2020, para. 39.
[95] Kryvoi, 'The Law Applied', 285.
[96] Goldman, 'Administrative Tribunal', para. 40.
[97] IMF. 'Statute of the International Monetary Fund.' Accessed April 30, 2024. https://www.imf.org/external/imfat/statute.htm.
[98] IMF. 'Commentary on the Statute Resolutions of the Board of Governors.' Accessed April 30, 2024. https://www.imf.org/external/imfat/pdf/2020_Amended-Statute.pdf, 17.
[99] Senn, Myriam. 'The Recognition of Foreign Administrative Acts in Switzerland.' In *Recognition of Foreign Administrative Acts*, vol. 10, 319–352. Springer, Cham, 2016, 330–331.
[100] Ago, Shin-ichi. 'A Few Thoughts about the Concepts of International Administrative Tribunals and International Administrative Law.' *Asian Journal of International Law* 12, no. 2 (2022), 214.
[101] Kryvoi, 'The Law Applied', 286.

to refer to the concept of IALaw whenever they could not clearly say what they were applying. When the European Bank for Reconstruction and Development (EBRD) Administrative Tribunal states, for instance "The Tribunal also noted that there is no principle in international administrative law that imposes 100% of salary is paid in case of service incurred illness" the Tribunal appears to justify its decision by referring to IALaw because, otherwise, it may be open to a criticism that the Tribunal made its decision in a vacuum. Likewise, when the WBAT states: "According to well-established principles of international administrative law, grades should correspond to position and compensation should correspond to grade," we are left with an uncertainty as to the concrete law with which the Tribunal came to its decision.'[102]

In regard to the principles of IAL, Yu. Kryvoi suggests that 'international Law Commission could codify general principles of international administrative law, similar to the Draft Articles on the Responsibility of International Organizations, as this will explicitly establish the supremacy of such principles over the internal law of international organisations'[103], but in our opinion this scope is quite ambitious and unfeasible, as long as there are disagreements regarding the very nature of IAL.

Peter Quayle emphasis[104] that the statutes of the three major IATs do not provide a legal basis for international administrative law beyond employment contracts or terms of appointment of international organisations, nor do they identify the governing law for this relationship. The functional rationale of IATs is not evident, and there is no indication that their approach to hearing complaints and rendering judgments should involve anything beyond being self-contained, without reference to external legal principles. Thus, the role of international administrative law remains unstated and uncertain.

In a similar context, Sinichi Ago suggests that the use of the term international administrative law by international administrative tribunals is inaccurate. He proposes that a more appropriate term in this context would be 'International Civil Service Law', reflecting the nature of IATs. Ago argues: 'the name for the norms those institutions apply should be more employment law specific rather than using general terminology such as IALaw'[105]. Renuka Dhinakaran also contends[106] we can conceive 'international civil service' as a legal institution and 'international civil service law' as the legal regime of this institution.

Concurring with the inadequacy of using the term 'international administrative law', it should be emphasised that relations with international civil servants, governed by the internal law of international organisations, do not fall within

[102] Ago, 'A Few Thoughts', 213.
[103] Kryvoi, 'The Law Applied', 301.
[104] Quayle, 'Chapter 1', 12.
[105] Ago, 'A Few Thoughts', 211.
[106] Dhinakaran, Renuka. 'Law of the International Civil Service: A Venture into Legal Theory.' *International Organizations Law Review* 8, no. 1 (2011), 172.

the purview of international administrative law regulation.

In our opinion, restricting International Administrative Law solely to relations concerning personnel of international organisations is excessively narrow compared to the scope of any administrative law. The relationships of public officials (even if the international) represent only a small part of the regulatory scope of administrative law of any jurisdiction, 'The public office appears to us obviously as an institution of administrative law'[107]. Usually, the institution of civil service or public office represents only a fraction of administrative law.

4.2. International administrative law as (special) part of national administrative law

As seen in the begging of this paper, there is a school of thought that suggests international administrative law is a specific subdiscipline of administrative law and a branch of its special part. According to this perspective, the special part of administrative law encompasses regulations governing individual areas of substantive law as well as international administrative law, which deals with issues arising from the presence of a foreign element in relationships governed by the aforementioned regulations.

Administrative law in the international context may refer to 'domestic administrative law specifically concerned with international problems or situations'.[108]

Prof. Ioan Alexandru considers that 'international administrative law has been integrated into national administrative laws, as it is no longer possible to study administrative law without measuring the impact of formal sources from public international law or supranational law'.[109]

International administrative law has thus been intertwined with issues of jurisdictional conflicts and the applicability of a specific country's law to a particular case, like in private international law.

There are opinions suggesting that the alignment with private international law arose from a particular use in German legal writing of the term *Internationales Verwaltungsrecht* ('international administrative law'), very similar to *Internationales Privatrecht* ('private international law').

Otto Mayer wrote in 1896: *'In the field of civil law, this natural closure of state territories is comprehensively breached. The doctrine of the principles by which this breach occurs is termed – albeit very inadequately –* internationales Privatrecht*. The corresponding phenomena in administrative law are referred to as* internationale Verwaltungsrecht*. They do not follow the same rules and, nota-*

[107] Iorgovan, Antonie. *Tratat de drept administrativ.* Vol. 1. Bucharest: All Beck, 2005, 584.
[108] Vogel, "Administrative Law: International Aspects", 3.
[109] Alexandru, *From national administrative*, 209.

bly, do not provide an equivalent to what constitutes the core of private international law.'[110]

According to O. Mayer, international administrative law and private law operate on different principles and pursue distinct objectives. Mayer's argument rests on the premise that states prohibit the application of foreign administrative law norms by their courts due to the legal inequality among participants in legal relations and the imperative regulation dictated by national interests. Rather than enforcing foreign administrative acts, Mayer suggests the concept of 'external cooperation', wherein each state 'respect and admits' the legal actions of other states. Therefore, instead of comprehensive collision regulation, international administrative law relies exclusively on intergovernmental cooperation, whereby states supplement mutual agreements with their own regulations, thereby binding their own administrations to these agreements.

Eberhard Schmidt-Assmann also criticised the attempt to draw parallels between international administrative law and private international law, arguing that it was flawed and has resulted in significant disagreement. According to him, these two fields have fundamentally different objectives, and international administrative law, as he sees it, does not concern itself with the choice of law among different legal systems. He further suggests that 'administrative law scholarship should abandon this inaccurate parallel radically reorder the formation of terminology. International administrative law is to be understood as the administrative law originating under international law'[111].

'International administrative law is a newly founded branch of private international law'[112] – asserted **Karl Neumeyer** in 1901 during his habilitation as a lecturer.

Neumeyer leaned toward the view that international administrative law is essentially rooted in domestic legal norms, making it a branch of domestic public law, while also acknowledging the significance of international conventions as sources of its norms, such as in determining state borders or the course of border rivers.

Unlike in other legal domains, these questions have long remained contentious: Can one truly pose the traditional query regarding the applicability of foreign law in a realm overwhelmingly governed by the actions of national authorities, which are primarily constrained by the imperatives of their respective national public law?[113]

Klaus Vogel contends that the choice of law principle is inapplicable in administrative matters. He posits that there is no choice of law issues in public law, particularly in administrative law; instead, there exists a singular general choice of law doctrine wherein administrative authorities are invariably obligated

[110] Mayer, *Verwaltungsrecht*, 454.
[111] Schmidt-Aßmann, Eberhard. 'The Internationalisation,' 2076-77.
[112] Neumeyer, *Internationales Verwaltungsrecht*, III.
[113] Ruffert, *The Global Administrative*, 20.

to apply their own legal framework. Additionally, there may exist legal prerequisites in administrative law that the legislator may deem fulfilled either by invoking the laws of an individual's domicile or by treating administrative actions undertaken under foreign jurisdiction as tantamount to domestic ones. Instances of this include the issuance of a driver's license or authorisation to practise a specific profession. In such circumstances, the formulation of a choice of law principle would be even less suitable. In these instances, unequivocally, there exist substantive legal norms permitting the fulfilment of these prerequisites with reference to both domestic and foreign legislation. Essentially, the situation does not differ fundamentally from that of a substantive rule in private law mandating a specific legal act or authentication.[114]

More recently, **J. Handrlica** likes to speak[115] in the tradition of Neumeyer's *Grenznormen,* about delimiting norms in international administrative law. According to him, delimiting norms in IAL set limits on how administrative actions in one jurisdiction affects others. They are unilateral, meaning they only apply within their own territory unless reciprocity is established. Examples include recognising foreign administrative acts like university diplomas or driver's licenses. Some norms require formal recognition, while others automatically apply. These norms often stem from international agreements or EU directives, but some are based on customary practices. They also affect procedural aspects, like using foreign documents as evidence. Additionally, they can exclude certain individuals, such as those with extraterritorial status, from administrative obligations.

However, Handrlica does not believe that international administrative law is an autonomous discipline, arguing that unlike private international law, which has emerged as a distinct field from private law, IAL has not yet separated from administrative law. As he sees it[116], the process of extracting IAL norms and codifying them separately has not occurred, making it challenging to consider IAL as an independent legal discipline.

At the same time, while admitting[117] international administrative law does not constitute a coherent branch of substantive law, he has also argued[118] that international administrative law represents a specific (sub)discipline within the special part of administrative law, governing administrative relations involving foreign elements. While it shares similarities with both international public

[114] Vogel, "Administrative Law: International Aspects", 4-5.
[115] Handrlica, 'A Treatise', 472–473; Handrlica, Jakub. 'Revisiting International Administrative Law as a Legal Discipline.' *Zbornik Pravnog Fakulteta Sveučilišta u Rijeci* 39, no. 3 (2019), 1241-42.
[116]Handrlica, 'Mezinárodní Právo Správní', 466.
[117] Handrlica, 'A Treatise', 471; Handrlica, 'Is there', 97; Handrlica, Jakub. 'About the international administrative law and other demons. A venture in a "delimiting law."' *Juridical Tribune* 10, no. 3 (2020), 351.
[118] Handrlica, 'About the International', 360; Handrlica, 'A Treatise', 475; Handrlica, 'Mezinárodní Právo Správní', 467-68; Handrlica, 'Is there', 115.

law and international private law, IAL is an integral part of municipal administrative law. Handrlica contends 'We can only barely refer to any universal international administrative law'[119] and views, 'international administrative law as a national project, so we can speak about German, French, Italian and international administrative law and so on'[120] suggesting that a degree of isolationism persists in this branch of law, as the body of international administrative law in each jurisdiction represents distinct norms governing administrative law relations with 'foreign elements'.

Handrlica's perspective underscores the intricate relationship between international administrative law and national legal systems. By highlighting that international administrative law is essentially a national project, he emphasises the unique norms and practices that govern administrative relations involving foreign elements within each jurisdiction. This viewpoint acknowledges the diverse legal traditions and approaches across different countries, suggesting that a universal framework for international administrative law may not be feasible. Instead, it promotes a nuanced understanding of how national laws interact with international norms in shaping administrative processes. Thus, we find merit in Handrlica's assertion that international administrative law can be best understood as a national project, reflecting distinct norms governing administrative relations with foreign elements in each jurisdiction. From this standpoint, it becomes much easier to accept the internationalisation of administrative law in terms of extraneous elements and develop a general framework for interaction between different national jurisdictions.

5. Conclusions

Certainly, in a globalised world, the entire legal system undergoes metamorphoses, and sometimes it is necessary to think out of the box. Providing an identifier is necessary for administrative relations beyond state boundaries.

The phenomenon of international administrative law emerged in the late 19th century, practically concomitant with the shaping of the concept of modern national administrative law; however, its content and meaning have been different, evolving throughout history, including depending on the specificity of doctrinaires – internationalists or administrative law specialists.

Despite the fact that various authors are mentioned as predecessors IAL movement, the focus of this doctrine has traditionally been specific to German or Italian scholars. However, today it is experiencing a rejuvenation among new internationalist researchers, especially with the proliferation of European administrative law.

[119] Handrlica, Jakub. 'A Treatise for International Administrative Law, Part II: On Overgrown Paths.' *Lawyer Quarterly* 11, no. 1 (2021), 178.
[120] Handrlica, 'Is there', 99.

Although Romanian permits us to distinguish between 'dreptul administrativ internațional' *(international administrative law)* and 'dreptul internațional administrativ' *(administrative international law)*, and we could use them separately to define and delineate different legal domains, the lack of terminological precision in Romanian, coupled with the conflation of these terms in English – which is widely used in modern legal research, especially in international law – renders this scholarly pursuit unreasonable. Consequently, it risks marginalisation within Romanian legal research (and certain other Romance languages) and fails to have a global impact.

For these reasons, in order to mitigate confusion and enhance coherence, we advocate for the discontinuation of the dual use of the terms IAL/AIL. Instead, we propose adopting the unequivocal use of the term 'drept administrativ internațional' (international administrative law).

Although we believe the usage of the term 'international administrative law' ('drept internațional administrativ' not 'drept administrativ internațional') to describe a set of rules applicable to the functioning or management of international organisations or administrative structures within them is not entirely wrong, we consider it more appropriate to use the concept of *international institutional law* in this regard. As for the narrower field of relations with the staff of international organisations (the so-called international civil servants), we opt for the use, if needed, by analogy with domestic notions, of the term 'law of the international civil service', bearing in mind civil service is usually just an institution of administrative law. Subsequently, the term international administrative law should be used, in our opinion, exclusively for cases involving a foreign element or application beyond national borders of administrative regulations.

We frequently observe the term IAL or 'principles of international administrative law' mentioned in the decisions of international administrative tribunals, but we consider this approach to be elusive. Furthermore, the use of the jurisprudence of certain IATs of the term '(general) principles of international administrative law', without a well-defined framework for them, seems to occur only in the absence of more solid legal justifications. It is difficult to accept justifying decisions based on the principles of a law that lacks unanimity and does not contain a body of norms.

Certainly, regardless of whether there is acceptance or rejection of the existence of a dedicated normative framework for the application of regulations with extraneous elements, we can still discuss the didactic and doctrinal aspect of international administrative law. This aspect is used to illuminate the areas where different jurisdictions intersect in the field of administrative law.

From this standpoint, the term 'international administrative law' typically denotes a legal domain concerning administrative matters within the context of international relations involving states and international organisations. However, for clarity in teaching, it might be more precise to describe it as 'adminis-

trative law with foreign elements'. This alternative framing emphasises the incorporation of foreign elements within administrative law, making the concept more accessible to a wider audience.

Furthermore, to describe legal phenomena with administrative implications that go beyond national or international boundaries and manifest in a transnational (not territorial) context, the extended concept of 'transnational administrative law' or 'global administrative law' appears to be appropriate.

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