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WHAT FUTURE FOR THE EUROPEAN ADMINISTRATIVE SPACE?

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**41ST MEETING OF THE EUROPEAN DIRECTORS GENERAL
RESPONSIBLE FOR THE PUBLIC ADMINISTRATION**

**Opening report by the Head of the Italian
Department of the Public Function
Carlo D'Orta**

WHAT FUTURE FOR THE EUROPEAN ADMINISTRATIVE SPACE?

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I. An interpretative key: economic globalization and “crisis of the State”.

1. This report of mine is entitled “What future for the European Administrative Space?” But wondering about this possible future implies a preliminary question: What do we understand by European Administrative Space? Further on I shall try to formulate a possible definition.
2. The answer to the question I have just asked cannot but take account of the past, the things so far achieved by what we are wont to call “informal European cooperation in public administration matters”. Furthermore, before we can formulate an answer, we have to adopt an interpretative key. The interpretative key I prefer – perhaps obviously so, but probably also the most fruitful – is the one of the relationship between State and Economy.
3. The organizational entity we call State has performed the function of governing social and economic phenomena and keeping them under control for many centuries past. For many centuries society and economy have developed predominantly within territorial ambits corresponding to those of individual States. This made it possible for the state powers to orient, promote, manage and control the changes both in the social and the economic field. In this century-old historical phase even the institutions and administrative systems – which, from a certain moment onwards, were referred to as “public” – were able to develop in a substantial autarchic and protected manner within the selfsame state frontiers that represented the protection of the individual societies and national economies. In other words, for many centuries, certainly throughout the 19th century and also for a goodly part of the 20th, the administrations of the individual states not only were never exposed – from the point of view of organization, efficiency and general capacity of acting – to a confrontation or competition with their counterparts in other countries. The only exception, the sole occasion of a real confrontation/competition between the administrations of different countries was represented, albeit in dramatic and violent form, by the conflicts of war.
4. However, this situation changed in the last quarter of the 20th century. The first rumblings of change had come on the occasion of the worldwide economic crisis in 1929 and then with the powerful development of the economic relationships between the Western countries in the Second World War. But it was, above all, after the oil shock of 1973-74 that the traditional system entered into crisis and there began to take shape – with a gradual acceleration as the end of the century was approached – of what some scholars have called “crisis of the State” or “crisis of the transformation of the sovereignty of the State”¹.

¹ In Italy, for example, see Sabino Cassese, “*La crisi dello Stato*”, Editori Laterza, 2002. In the USA, see K. Jaysuriya, *Globalization, Law and the Transformation of Sovereignty. The Emergence of Global Regulatory Governance*, in “Indiana Journal of Global Legal Studies”, Vol. 6, Spring 1999, No. 2, pp. 425 ss.

5. In the last quarter of the 20th century the questions of the economy and the activities of enterprises assumed ever more rapidly a supranational and, in many cases, a worldwide dimension. This phase saw the economy – and with it also some more general social questions – overstep the territorial confines of the State and to situate themselves beyond the control capacities of individual governments. Hence the “crisis of the State”: the unexpected and unforeseen incapacity of the States to dominate within their own bounds, within the limits of their own spatial dimension, economic and social phenomena that were nevertheless destined to produce very powerful impacts in these selfsame State territories.

II. The institutional and administrative responses to the problems of globalization

6. What response has been given to this runaway globalization of the economy and the consequent crisis of the state powers? The response took the form of the creation or strengthening of global public orders, supranational organizations, networks and procedural systems at the international level. In other words: organizations, networks and procedures intended to coordinate the exercise of the powers of the individual States and to promote common actions for governing at the global level economic and social phenomena that had themselves become global. I am thinking, just to give a few examples, of the G8 summits, Mercosur and, of course, the European Economic Community and its gradual transformation into European Union with greater powers.
7. Not unnaturally, when the traditional power of the individual States began to prove unable to govern and control the economic and social processes to the full and supranational bodies or networks were therefore set up to compensate this weakness, it was inevitable that, sooner or later, the traditional autarchy of the States in connection with institutions and public administration should likewise be called into question. At first occasionally and then with ever greater force, there came to the fore the need for exchanging know-how, experiences and operational models as regards both the institutions and the field of the public administrations. Indeed, the States less ready to improve their own internal organization/mode of functioning quickly came to find themselves in difficulty in the face of the challenge of economic globalization. This was underscored also by the United Nations in 2001, on the occasion of the first *World Public Sector Report*, entitled precisely “*Globalization and the State*”. There, in fact, we read that: “*The weakening of state institutions has not allowed people to fully benefit from globalization for a number of reasons. States with weak institutions ... do not create the conditions for the development... ;they are unable to provide social safety nets to those who suffer as a consequence of economic restructuring....*”²
8. There are two phases that we can pinpoint in this tendency of the various Countries to exchange experiences in the public administration field. In the first phase, approximately from the ‘seventies to the end of the twentieth century, everything took place in a logic of absolute spontaneity, informality and voluntariness, yielding also important benefits. Indeed, we can all see what we might jokingly call a “mutual infection” of the orders traditionally based on administrative law and the so-called common law orders, with consequent transplants of juridical and administrative institutes from one system to the other, and this both in the European ambit and at the world level. And, likewise, we can all see the world dimension that has been assumed by the public administration

² Cfr. United Nations, *World Public Sector Report 2001*, “*Globalization and the State*”, Introduction, p. 4, and Chapter II.

reform current that goes under the name of “*New Public Management*”. And, again, we can all see the coming to the fore of an irreversible “European administrative law”, fruit of both written and jurisprudential rules that have matured in the Brussels-Strasbourg-Luxembourg triangle by means of an ascending process of absorption from the administrative and juridical cultures of individual States, subsequent reprocessing and meditation and, lastly, descending dissemination towards the individual States. Let me give just one example, though a truly emblematic one: the standardization and generalization of the procedures for managing the European structural funds.

9. The second phase of the tendency of the various Countries to exchange knowledge experiences in the public administration field can be situated at the beginning of the twenty-first century. In particular, there came to the fore pressure intended to ensure that the dissemination of the best practices and the growth of the administrations of the different Countries should not be left completely to themselves, but that the administrative development process should rather be actively facilitated, promoted and sustained. Indeed, the resolution “*Déclaration du Millénaire*”, adopted by the General Assembly of the United Nations on 8 September 2000, underscored the close relationship between the fight against poverty, the right to development and good government. In July 2002, even more explicitly, the Public Administration Committee set up under the aegis of the UN Economic and Social Council, adopted a report containing the following passage: “*La réalisation des objectifs de développements définis dans la Déclaration du Millénaire des Nations Unies repose pour une part non négligeable sur l’efficacité des systèmes d’administration publique et de la gouvernance en général...Le renforcement des capacités du secteur public ...joue un rôle fondamental qui consiste à...faire en sorte que la mondialisation profite à tous...*”³.

10. In my opinion, four facts bear witness to this transition from a logic of spontaneous confrontation to a logic of active and tendentially coordinated promotion of the initiatives intended to facilitate the strengthening of the administrations of the various Countries.

11. First fact. IN 2001-2002 OECD, within the framework of a reform and modernization process of its own mission and its own organization, unified into a “Directorate for Public Governance and Territorial Development” two small services that had up to then concerned themselves separately with these two thematics. At the same time, the OECD enhanced the mandate of the its Public Management Committee to draw up conceptually solid and empirically supported analyses of the public administration systems as basis for policy orientations that

³ Cfr. United Nations, Economic and Social Council, Public Administration Committee, Report «*Importance du rôle de l’administration publique et de la bonne gouvernance dans l’application de la Déclaration du Millénaire des Nations Unies: renforcement des capacités institutionnelles*», 22-26 July 2002.

could be used by the Countries engaged in the development of their administrative systems.

12. Second fact. In 2002 UNO inaugurated a new line of analysis entitled *World Public Sector Report*, which has already produced two important studies: the previously cited report on “*Globalization and the State*” in 2001, and the report on “*E-Government at the Crossroads*” in 2003. But, quite apart from studies and analyses, the most significant thing is probably that the United Nations have greatly intensified their commitment in the sector of administrative reform policies, considering them to be a fundamental flywheel for the success of ever support given the economic development of individual countries. This is borne out not only by the strengthening of the United Nations Programme in Public Administration and Development and the “Division for Public Administration and Development Management” charged with its management, but also by the creation within the UN Economic and Social Council of a Permanent Committee for the Public Administration.
13. Third fact. A “*Global Forum on Reinventing Government*” was promoted for the first time in 1999. The Global Forum – which has so far had five editions, respectively, in the USA, in Brazil, in Italy, in Morocco and, in 2003, in Mexico – has been conceived as an inter-government encounter of those responsible for public administration modernization policies. The primary objective is to influence and accelerate the administration innovation processes in the various Countries and to improve the quality of the services provided for citizens and enterprises by an exchange of information and success experiences and active support given to their dissemination.
14. Fourth fact. In 1998, in parallel with the transformation of the European Monetary serpent (EMS) in the European Monetary Union (EMU), the European Union also adopted a derogation of the principle – previously considered to be practically sacrosanct – of the autonomy and independence of the administrative systems of the Member States. Indeed, how could one possibly understand in any other way the creation of European Central Bank and the consequent obligatory transformation of the Central Banks of the individual Member States of the EMU? Here, then, we have an example not of a mere and spontaneous administrative cooperation between the Countries of the EU, but of a common administrative reform, agreed at the European level and obligatorily disseminated in the individual Member States. It is an example *sui generis*, because it is motivated by a unique and exceptional context and, consequently, is tendentially unrepeatable. And yet it is a very important example.

III. EPAN face to face with a growth crisis

15. In my opinion, this *European Public Administration Network* (EPAN) of ours has today come face to face with a growth crisis. On the one hand, there seem to emerge – as is borne out also by the “*Report on the potential impact of UE-enlargement on the EPAN*” presented by the task force coordinated by our German colleagues – of rendering the themes more attractive and giving greater force to the decisions that are the object of the periodic meetings of the Ministers and the Directors General responsible for the Public Functions, and also a certain tiredness as regards demanding activities of confrontation that do not always produce immediate and obvious results. On the other, however, there remains an intense – and in many respects both understandably and justifiably intense – assertion of the traditional autonomy of the Member Countries in organizing their own administrative system. This is probably a contradiction typical of a growth phase.
16. Nevertheless, I believe that we must first and foremost be proud of the important results obtained these twenty years of collaboration. EPAN has played an active part – far more than seems at first sight and we ourselves are prepared to admit – in what I jokingly the “mutual infection” of the administrative institutes of our Countries.
17. Furthermore, even if we wanted to do so, I believe that in the medium/long term (10-15 years) it would be difficult to avoid greater integration and coordination of the administrative reform policies of the UE Member States. The European Union has now practically completed the fundamental and propaedeutic season of the mere elimination of the barriers between the Member States and is entering a new season in which priority will be accorded to the drawing up and implementation of common positive policies. And this fact, together with the “strengthening/enlargement” of European integration will call for ever greater homogenization of the administrative capacities of the Member States. Ever greater importance will attach both to the capacity of the administrations of the Member States to participate in the elaboration of European public policies and their capacity of implementing them fully and efficiently, starting with those concerning the Home Market. Otherwise the EU will run the risk of becoming divided into leader or pathfinder Countries and other Countries, with potential development and well-being gaps and, in the limit, the risk of disagreements and centrifugal forces. Consequently, I am firmly convinced that our network has no choice whatsoever: our growth crisis must be overcome and this can be done only if we set ourselves even more ambitious objectives.
18. Homogenizing the administrative capacities of the Member States of the EU does not mean, however, rendering their institutions and public administrations uniform, betraying the history and the specificity of the individual countries. This

road – necessarily followed for the reform of the Central Banks and, seemingly, both shorter and easier – would in actual practice be unrealistic and probably deleterious. What is more, it would be in contradiction with both the fundamental European principle of subsidiarity and with the tendency in the direction of decentralization and valorization of the autonomies that characterize the present phase of the internal transformation of the administrative systems of many Member States of the EU and also of many extra-European Countries. On the other hand, even the United Nations, in the previously mentioned report *Globalization and the State*”, commented as follows: “*The lessons of the past also point to the basic fallacy of top-down, externally-induced, supply-driven reforms ... Transfers of skills and experience produce sustainable outcomes only when they correspond to an effective demand from the recipient country and when the country’s government remains in control of the process of adjustment, adaptation and reform.*”⁴

19. How, then, is it possible to assure the necessary homogenization of the administrative capacities of the EU Member States without encroaching upon the principle of the autonomy of their respective administrative systems? I personally think that the answer could be as follows: what has to be harmonized are not the administrative systems, the administrative institutions and their procedures, but rather the performances in the relevant administrative sectors, that is to say, the quantitative and qualitative level of the public services that are significant for the policies of the European Union. For the European citizens and for our enterprises what really matters is not from whom or how they receive a given service, but rather the efficiency and the quality of the service. If this reconstruction is correct, the future of the European Administrative Space will have to pass via the definition of objectives of efficiency and quality for the public services to be indicated as overall tendency to all the Member States. It passes via the definition of tendential public service standards of which the attainment could be taken as a reference no matter what the organizational models and the administrative procedures actually used by the individual Countries.

⁴ Cfr. United Nations, “*Globalization and the State*”, op.cit., Introduction, p. 4, and Chapter II.

IV. Some instruments for realizing a more advanced European Administrative Space

20. At this point it becomes possible to attempt a definition of “European Administrative Space” and thus answering the question I formulated at the beginning of my report. The European Administrative Space can be understood as the “Environment – produced European policies and rules that imply an active role of the national administrations – in which the national administrations are called upon, in the name of the uniformity of the rights of citizenship and enterprise within the European Union, to assure tendentially homogeneous levels of service efficiency and quality”⁵.
21. To what instruments should we entrust the realization of this European Administrative Space and the process of improving/homogenizing the administrative capacities of the Member States in the years to come? What positive actions can we activate. These, surely, are the central questions.
22. Undoubtedly, an important contribution will continue to be made by the “open coordination” method indicated by the European Council in Lisbon in March 2000. In the medium term, however, it will probably be necessary to take some steps forward and adopt also other and more efficient instruments. Two initiatives of the European Convention during the preparation of the new European Union Treaty have probably to be read as symptom and admission of the need for making this further effort. The first is the introduction into the text of the Treaty of a special rule (Art.III-185) regarding “Administrative cooperation between EU countries” that – apart from conferring a legal basis upon common training activities, exchange of information and exchange of officials, hitherto put into practice exclusively on an informal basis – introduces, above all, the important principle by virtue of which “the effective implementation of Union regulations by the Member States, essential for the correct functioning of the Union, is considered to be a matter of common interest”. Behind this formulation it is not very difficult to see the recognition of the link between functionality of the administrations of the member Countries and “effective” implementation of the *acquis communautaire*. And, consequently, one also understands that the Union, having abandoned all neutrality on the theme of the administrative capacity of the Member States, claims to have an interest in appropriate actions to render the national administrations capable of effectively implementing Community law. The second initiative of the European Convention was the absorption into the draft of the new European Union Treaty of the Charter of the fundamental rights of the EU, among which there is included also the “right to a good administration”. And

⁵ A suggestion in this sense can be found in the general resolution adopted by the Ministers of the Public Function of the EU Countries on the occasion of their 8th meeting (Strasbourg, 7 November 2000), which recites as follows: “The new open method of coordination recommended by the European Council in Lisbon makes it possible to construct a European quality space of the public administrations.”

here, once again, one can hardly fail to realize the potential of the reception into the new treaty of such a fundamental right.

23. Let me now try to suggest five measures or actions that, in my opinion, could represent a quality jump in the realization of the European Administrative Space.
24. The first action, absolutely propaedeutic and essential, is the getting under way at the European level of coordinated and comparable systems of collecting and processing data regarding the activity and performance of the administrations of the member States. Systems that will make it possible to define standards, carry out analyses and valuations and formulate credible and shared indications for the improvement of the public services. An example has already been provided by the measurement and valuation of the capacity of employing the European structural funds and the associated mechanisms of incentivating the more efficient managements (premiums) and penalizing the inefficient ones (automatic disengagement). On the other hand, it is worthwhile to recall that a recommendation regarding the importance of activating comparable statistical information systems – both quantitative and, where possible, also qualitative – about the administrations of the various Countries was formulated by the UN Public Administration Committee in their recent report about the administrative measures necessary for implementing the principles of the *Déclaration du Millénaire*⁶. And mentions of the need of instruments for measuring and controlling the productivity and the efficacy of the public administrations are also to be found in the Final Declaration about *reinventing government* of the Vth Global Forum at Mexico City. It would therefore be difficult to understand why the European Union – a solid international body that aspires to a continuous strengthening of its integration – should forego taking the initiatives that have been recommended at the international level with reference to forms of cooperation in public administration matters not by any means as intense as those peculiar of the EU⁷.
25. The second action could consist of activating – within the ambit of the cooperation between the EU Countries in public administration matters and in imitation of what is already being done in the OECD environment – of “country reviews” and “peer reviews”. These reviews seek to stimulate and evaluate the progress made by the performance of the administrations of the individual EU Member States and would also represent a confrontation and mutual learning instrument far more efficacious than the tradition information exchanges.

⁶ Cfr, il rapporto “*Importance du role de l’administracion publique*”, cit., in particolare cap. IV, raccomandazione e).

⁷ An interesting precedent within the ambit of the EU could be represented by the standards defined by the *European Regulator Group (ERG)* for telecommunications. The work of drawing up global standards for the national systems, on the other hand, is being carried forward within the ambit of the *World Trade Organization (WTO)*.

26. The third, fourth and fifth action should concern the themes of training of public employees, e-government and better regulation. Themes not by any means new that, quite the contrary, have attracted a great deal of attention from the institutions of the EU and the cooperation between the Member States in the public administration field. And yet they are themes of which we have perhaps not yet perceived and highlighted their extraordinary valency as transverse integration instruments. As far as the training sector is concerned, I think that there has come the time for getting under way organic initiatives “confrontation and common training”. In other words, initiatives intended to promote not only updating regarding European themes, but also the development of a truly common culture in all the thematic areas that call for homogeneity of behaviour, application and interpretation by the administrations of the Member States. Both EIPA and the national school can play a part in this field: the important thing is to bring the officials of our Countries together around one and the same table, so that there may be generated a learning process based on the confrontation of the respective experiences with a view to bringing about the gradual upward integration of the administrative capacities of our countries. As regards e-government, it seems necessary to act not only on the diffusion side, but also, and perhaps even more so, to reflect more intensely about the legal aspects that could hinder or condition its potential as an instrument for simplifying the relations between public administrations and users and integrating the procedures associated with the various activities of the various Countries. Lastly, as regards the regulation theme, one sometimes has the feeling that there has not yet been fully perceived the potential of inefficiency deriving from the multiplication of regulations and the subjects who produce them. A multiplication that – quite apart from the good intentions of some positive actions that have already been got under way – seems to constitute a concrete possibility in a European Union that at one and the same time experiences the devolution of regulatory power from the individual States both upwards (towards the European institution) and, in the name of decentralization and valorization of the local autonomies, downwards (i.e. versus regional and local authorities).

27. The problems that await us are numerous and not easy to resolve. The realization of a European Administrative Space as the place and instrument of effective union among our countries is anything other than easy or close at hand. Nevertheless, I should like to conclude my remarks on a positive note. For about thirty years – in the last three decades of the twentieth century, that is – the public administration (and, with it, also we as its top executives) has in some way been put on trial. Quite rightly, an accusing finger has been pointed at inefficiencies, costs, wastes and “bureaucratic” slowness. But at times one has also had the feeling that citizens, enterprises, politicians and culture were showing a growing impatience in the face of the public administration as such. In some cases there seemed to come to the fore the myth of a society that would be freer and happier if less administered. Today we are perhaps witnessing an inversion of this process.

Inversion not in the sense of an impossible and unacceptable return to the worst aspects of the public administrations of former days. But rather in the sense of a new recognition of the fundamental role that the public administrations are playing: the role of positive actors of economic development; the role, above all, of promoters and guarantors of an economic development that is not an end in itself, but also socially equitable and sustainable. It seems to me that there are many signals of this trend inversion and the most emblematic among them are the ones I have mentioned in this report, namely the new attention that the great international organizations like UNO, OECD and the European Union are beginning to show for this sector and their awareness that it is, by its very nature, decisive for a socially equitable management of the phenomena of the globalization of the economy.